

1960.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

CRIMES' BILL 1960.

MEMORANDUM SHOWING THE ALTERATIONS (OTHER THAN NEW HEADINGS) PROPOSED TO BE MADE TO THE CRIMES ACT 1914-1959.

(Circulated by the Attorney-General, the Honorable Sir Garfield Barwick.)

The words printed in italics are words proposed to be omitted from the Principal Act.

The words printed in black type are words proposed to be inserted in the Principal Act.

CLAUSE 1.—SHORT TITLE AND CITATION.

CLAUSE 2.—COMMENCEMENT.

CLAUSE 3.—PARTS.

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

Part I.—Preliminary (Sections 1-23).

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.—Breach of Official Secrecy (Sections 77-85).

Part VIII.—Miscellaneous (Sections 86-91).

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

- 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).

CLAUSE 4.—DEFINITIONS.

3. In this Act, unless the contrary intention appears—

“Commonwealth officer” means any person holding office under the Commonwealth, and includes any person permanently or temporarily employed in the Public Service of the Commonwealth, or in, or in connexion with the Naval, Military, or Air Forces of the Commonwealth, or in the service of any public authority under the Commonwealth;

“Constable” includes any member of the police force of the Commonwealth or of a State or of a Territory being part of the Commonwealth and any Peace Officer appointed in pursuance of the Peace Officers Act 1925;

“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;

“Have in possession” includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question;

“Property” includes money and every thing, animate or inanimate, capable of being the subject of ownership;

“Public authority under the Commonwealth” means any authority or body constituted by or under any Act a law of the Commonwealth or of a Territory;

“Territory” means a Territory of, or under the control of, the Commonwealth;

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

CLAUSE 5.—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.

CLAUSE 6.—AIDERS AND ABETTERS.

5. Any person who aids, abets, counsels, or procures, or by act or omission is in any way directly or indirectly knowingly concerned in, or party to, the commission of any offence against any law of the Commonwealth or of a Territory, whether passed before or after the commencement of this Act, shall be deemed to have committed that offence and shall be punishable accordingly.

CLAUSE 7.—ACCESSORY AFTER THE FACT.

6. Any person who receives or assists another person, who is, to his knowledge, guilty of any offence against a law of the Commonwealth or of a Territory, in order to enable him to escape punishment or to dispose of the proceeds of the offence shall be guilty of an offence.

Penalty: Imprisonment for two years.

CLAUSE 8.—ATTEMPTS.

7. Any person who attempts to commit any offence against any law of the Commonwealth or of a Territory, whether passed before or after the commencement of this Act, shall be guilty of an offence and shall be punishable as if the attempted offence had been committed.

CLAUSE 9.—INCITING TO OR URGING THE COMMISSION OF OFFENCES.

7A.—(1.) If any person—

(a) incites to, urges, aids or encourages; or

(b) prints or publishes any writing which incites to, urges, aids or encourages,

the commission of offences against any law of the Commonwealth or of a Territory or the carrying on of any operations for or by the commission of such offences, he shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for twelve months, or both.

CLAUSE 10.—ARREST WITHOUT WARRANT FOR SUSPECTED OFFENCES.

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

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

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

CLAUSE 11.—SEIZURE AND CONDEMNATION OF FORFEITABLE GOODS.

9.—(1.) Any constable may, without warrant, seize any articles which are forfeited or which he has reasonable ground to believe are forfeited under any law of the Commonwealth, and take them before a Court of Summary Jurisdiction.

(2.) *A Court of Summary Jurisdiction may, after such notice (if any) and to such person (if any) as it thinks fit to direct, order that any articles so brought before it be condemned or be returned to the person from whom they were taken.*

(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.

(3.) Where any prosecution is pending, an order for the condemnation or return the delivery to any person of any articles relating thereto shall not be made until the prosecution is determined.

(4.) All articles which are condemned as forfeited shall be dealt with as directed by the Attorney-General, and pending his direction may be detained in such custody as the Court directs.

CLAUSE 12.—SEARCH WARRANT.

10. If a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting that there is in any house, vessel, or place—

(a) anything with respect to which any offence against any law of the Commonwealth or of a Territory has been, or is suspected on reasonable grounds to have been, committed;

(b) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of any such offence; or

(c) anything as to which there is reasonable ground for believing that it is intended to be used for the purpose of committing any such offence;

he may grant a search warrant authorizing any constable named therein, with such assistance as he thinks necessary, to enter at any time any house, vessel, or place named or described in the warrant, if necessary by force, and to seize any such thing which he may find in the house, vessel, or place.

CLAUSE 13.—PROSECUTION WHERE ACT AN OFFENCE UNDER DIFFERENT LAWS.

11.—(1.) *Where the act or conduct of any person is an offence against this Act, and is also an offence against some other Act or law, the offender may be prosecuted and convicted either under this Act or such other Act or law.*

(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.

(2.) Nothing in this Act shall render any person liable to be punished twice in respect of the same offence.

CLAUSE 14.—HABITUAL CRIMINALS.

17.—(1.) Where a person convicted of an indictable offence against the law of the Commonwealth has been previously convicted on at least two occasions of indictable offences against the law of the Commonwealth, or of a State, or of a Territory, the Court before which he is convicted may declare that he is a habitual criminal, and may direct, as part of his sentence, that on the expiration of the term of imprisonment then imposed upon him, he be detained *during the Governor-General's pleasure in a reformatory prison in prison during the pleasure of the Governor-General.*

(2.) The Court, before passing sentence, may, if it thinks fit, hear evidence to enable it to determine whether or not the person so convicted should be declared a habitual criminal.

(3.) *In this section "reformatory prison" includes any prison or other suitable place set apart as a reformatory prison under the law of a State or Territory.*

(4.) *The law of the State or Territory, in which any reformatory prison is situated relating to indeterminate sentences, shall apply to any person detained in the reformatory prison in pursuance of this section, but subject to such modifications as the Governor-General thinks fit to direct.*

(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.

CLAUSE 15.—SENTENCE OF IMPRISONMENT.

18.—(1.) Where imprisonment is imposed in respect of any offence against any law of the Commonwealth it may (unless the contrary intention appears in the law) be imposed either with or without hard labour,

(2.) Where under the law of a State a convicted person may in particular cases be imprisoned in a particular kind or class of prison, a person convicted of an offence against the law of the Commonwealth or Territory may, in corresponding cases, be imprisoned in the kind or class of prison appropriate to the circumstances.

CLAUSE 16.—ENFORCEMENT OF FINES, ETC.

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.

CLAUSE 17.—CUMULATIVE PUNISHMENT.

19.—(1.) Where a person convicted of any offence against the law of the Commonwealth is at the time of his conviction serving a term of imprisonment for any offence (whether against the law of the Commonwealth or against any other law in force in the Commonwealth or any part of the Commonwealth any law of a State or Territory) the Court before which the offender is convicted may direct that any sentence of imprisonment imposed in respect of the first-mentioned offence shall commence at the expiration of the term of imprisonment which the offender was serving at the time of his conviction.

(2.) Where a person is convicted of more offences (whether indictable or otherwise) than one before the same Court at the same sitting and is sentenced to more than one term of imprisonment, the Court may direct that the sentences shall be concurrent or cumulative.

(3.) Where two or more sentences are directed to be cumulative, they shall take effect one after the other in accordance with the order in which the convictions are recorded or as the Court directs.

CLAUSE 18.—LICENCES FOR OFFENDERS TO BE AT LARGE.

19A.—(1.) In this section—

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

"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.

CLAUSE 18.—CONDITIONAL RELEASE OF OFFENDERS WITHOUT PROCEEDING TO CONVICTION.

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,
- 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.

CLAUSE 19.—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.

CLAUSE 19.—OFFENDERS FOUND TO BE INSANE.

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

- (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.

CLAUSE 19.—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.

CLAUSE 20.—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.*

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.

CLAUSE 21.—PREROGATIVE OF MERCY.

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.

CLAUSE 22.—CIVIL RIGHTS NOT AFFECTED.

23. Nothing in this Act shall affect the right of any person aggrieved by any act or omission which is punishable as an offence against this Act to institute civil proceedings in any *Federal or State Court* in respect of such act or omission.

CLAUSE 23.—TREASON.

24.—(1) *Any person who within the Commonwealth or any Territory—*

- (a) *instigates any foreigner to make an armed invasion of the Commonwealth or any part of the King's Dominions; or*
- (b) *assists by any means whatever any public enemy,*

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

(2.) *Any sentence of death passed on an offender 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.*

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 an enemy at war with the Commonwealth, whether or not the existence of a state of war has been declared;
- (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,

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.

CLAUSE 23.—TREACHERY.

24AA.—(1.) A person shall not—

- (a) do any act or thing in an attempt—
 - (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 an enemy of and at war with a proclaimed country, whether or not the existence of a state of war has been declared; 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 any persons 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.

(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 declared by proclamation to be a proclaimed country for the purposes of this section, and includes—

- (a) a colony, overseas territory or protectorate of that country; and
- (b) a territory for the international relations of which that country is responsible.

(5.) A proclamation shall not be made for the purposes of 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.

CLAUSE 23.—SABOTAGE.

24AB.—(1.) In this section—

"act of sabotage" means the destruction, damage or impairment, for a purpose prejudicial, or 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 prejudicial, or 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 prejudicial, or a purpose intended to be prejudicial, as the case requires, to the safety or defence of the Commonwealth.

CLAUSE 60 AND THE SCHEDULE.—DEFINITION OF SEDITIOUS INTENTION.

24A.—(1.) Subject to sub-section (2.) of this section an intention to effect any of the following purposes, that is to say—

- (a) to bring the Sovereign into hatred or contempt;
- (b) to excite disaffection against the Sovereign or the Government or Constitution of the United Kingdom or against either House of the Parliament of the United Kingdom;
- (c) to excite disaffection against the Government or Constitution of any of the *King's Dominions Queen's dominions*;
- (d) to excite disaffection against the Government or Constitution of the Commonwealth or against either House of the Parliament of the Commonwealth;
- (e) to excite disaffection against the connexion of the *King's Dominions Queen's dominions* under the Crown;
- (f) to excite *His Majesty's subjects Her Majesty's subjects* to attempt to procure the alteration, otherwise than by lawful means, of any matter in the Commonwealth established by law of the Commonwealth; or
- (g) to promote feelings of ill-will and hostility between different classes of *His Majesty's subjects Her Majesty's subjects* so as to endanger the peace, order or good government of the Commonwealth,

is a seditious intention.

(2.) It shall be lawful for any person—

- (a) to endeavour in good faith to show that the Sovereign has been mistaken in any of his counsels;
- (b) to point out in good faith errors or defects in the Government or Constitution of the United Kingdom or of any of the *King's Dominions Queen's dominions* or of the Commonwealth as by law established, or in legislation, or in the administration of justice, with a view to the reformation of such errors or defects;
- (c) to excite in good faith *His Majesty's subjects Her Majesty's subjects* to attempt to procure by lawful means the alteration of any matter in the Commonwealth as by law established; or
- (d) to point out in good faith in order to their removal any matters which are producing or have a tendency to produce feelings of ill-will and hostility between different classes of *His Majesty's subjects Her Majesty's subjects*.

CLAUSE 60 AND THE SCHEDULE.—INCITING MUTINY.

25.—(1.) Any person who knowingly attempts—

- (a) to seduce any person serving in the *King's Forces Queen's Forces* from his duty and allegiance; or
- (b) to incite any person serving in the *King's Forces Queen's Forces* to commit an act of mutiny, or any traitorous or mutinous act; or
- (c) to incite any person serving in the *King's Forces Queen's Forces* to make or endeavour to make a mutinous assembly,

shall be guilty of an indictable offence.

Penalty: Imprisonment for life.

(2.) In this section the expression "person serving in the *King's Forces Queen's Forces*" includes any person serving in any Naval, Military or Air Forces of the United Kingdom, the Commonwealth, or any British Possession.

CLAUSE 24.—ASSISTING PRISONERS OF WAR TO ESCAPE.

26. Any person who—

- (a) knowingly aids an alien enemy being a prisoner of war to escape from any prison or place of confinement, or from Australia; or
- (b) being a person who owes allegiance to the King, knowingly, upon the high seas in territorial waters or waters within the jurisdiction of the Commonwealth, or on any ship on which the law of the Commonwealth is in force, aids any alien enemy being a prisoner of war in his escape from Australia,

shall be guilty of an indictable offence.

Penalty: Imprisonment for life.

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.

CLAUSE 25.—STATEMENTS IN APPLICATIONS FOR GRANT OF MONEY, ETC.

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.

Penalty: Fifty pounds.

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.

CLAUSE 26.—SEIZING GOODS IN COMMONWEALTH CUSTODY.)

30. Any person who, without lawful authority, takes any goods or property out of the possession, custody, or control of the Commonwealth or out of the possession, custody, or control of any officer of the Commonwealth or a public authority under the Commonwealth or out of the possession, custody, or control of a Commonwealth officer who has the possession, custody, or control thereof by virtue of his office, shall be guilty of an offence.

Penalty: Imprisonment for one year.

CLAUSE 60 AND THE SCHEDULE.—BOOKS, ETC., ISSUED BY UNLAWFUL ASSOCIATION NOT TRANSMISSIBLE BY POST.

30B.—(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, 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 Commonwealth and shall be destroyed or disposed of as the Postmaster-General directs.

CLAUSE 60 AND THE SCHEDULE.—FORFEITURE OF PROPERTY HELD BY AN UNLAWFUL ASSOCIATION.

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 Commonwealth.

CLAUSE 27.—DEFINITIONS.

31. In this Part, unless the contrary intention appears—

“holder of a judicial office” means the holder of a judicial office under the Commonwealth, or the holder of a judicial office acting in the exercise of Federal jurisdiction, and includes an arbitrator or umpire under any law of the Commonwealth or of a Territory being a part of the Commonwealth;

“judicial proceeding” means a proceeding in or before a Federal Court or Court exercising Federal jurisdiction, or Court of a Territory being a part of the Commonwealth, and includes a proceeding before a body or person acting under the law of the Commonwealth, or of a Territory, in which evidence may be taken on oath,

CLAUSE 28.—OFFICIAL CORRUPTION IN RELATION TO OFFENCES.

33. An person who—

(a) being a judge or magistrate not acting judicially, or being a Commonwealth officer employed in a capacity not judicial for the prosecution or detention or punishment of offenders, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him, with a view to corrupt or improper interference with the due administration of justice under the law of the Commonwealth, or of a Territory, or the procurement or facilitation of the commission of any offence against the law of the Commonwealth, or of a Territory, or the protection of an offender or intending offender against the law of the Commonwealth, or of a Territory, from detection or punishment; or

(b) corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure to, upon, or for, any such judge, magistrate, or Commonwealth officer, any property or benefit of any kind, on account of any such act or omission on the part of the judge, magistrate, or officer, shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

CLAUSE 29.—INTIMIDATION OF WITNESSES, ETC.

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,
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.

CLAUSE 30.—PREVENTING WITNESSES FROM ATTENDING COURT.

40. Any person who wilfully prevents or wilfully endeavours to prevent any person who has been summoned to attend as a witness before any Federal Court or any Court exercising Federal jurisdiction, or any Court of a Territory which is part of the Commonwealth, or any Federal tribunal, from attending as a witness or from producing anything in evidence pursuant to the subpoena or summons, shall be guilty of an offence.

Penalty: Imprisonment for one year.

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.

Penalty: Imprisonment for one year.

CLAUSE 31.—CONSPIRACY TO BRING FALSE ACCUSATION.

41. Any person who conspires with another to charge any person falsely or cause any person to be falsely charged with any offence against the law of the Commonwealth or of a Territory, shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

CLAUSE 32.—COMPOUNDING OFFENCES.

44. Any person who asks, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, upon any agreement or understanding that he will compound or conceal any indictable offence against the law of the Commonwealth or of a Territory, or will abstain from, discontinue, or delay any prosecution for any such offence, or will withhold any evidence thereof, shall be guilty of an offence.

Penalty: Imprisonment for three years.

CLAUSE 33.—INSERTING ADVERTISEMENTS WITHOUT AUTHORITY OF COURT.

45. Any person who, without authority, or knowing the advertisement to be false in any material particular, inserts in the Gazette or in any newspaper an advertisement purporting to be published under the authority of any Federal Court, or of any Court in the exercise of Federal jurisdiction, or of any Court of a Territory *being part of the Commonwealth*, shall be guilty of an offence.

Penalty: Imprisonment for two years.

CLAUSE 34.—REMOVING PROPERTY UNDER SEIZURE.

49. Any person who, when any property has been attached or taken under the process or authority of any Federal Court, or Court acting in the exercise of Federal jurisdiction, or any Court of a Territory *being part of the Commonwealth*, knowingly and with intent to hinder or defeat the attachment or process, receives, removes, retains, conceals, or disposes of the property, shall be guilty of an offence.

Penalty: Imprisonment for two years.

CLAUSE 35.—OBSTRUCTING OFFICERS OF COURTS.

50. Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any Federal Court, or Court acting in the exercise of Federal jurisdiction, or any Court of a Territory *being part of the Commonwealth*, shall be guilty of an offence.

Penalty: Imprisonment for one year.

CLAUSE 36.—DEFINITIONS.

51. In this Part, unless the contrary intention appears—

“coin” includes the coin of a foreign country as well as the coin of a part of the Queen's dominions;

"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;

"coining instrument" includes any stamp, mould, press for coinage, tool, instrument, appliance, or machine—

- (a) adapted to make the resemblance of both or either of the sides of any coin, or any part of either side thereof, or
- (b) adapted or intended to be used for marking coin round the edges with marks or figures apparently resembling those on any genuine coin, or
- (c) adapted for making blanks in the shape of any genuine coin;

"counterfeit" as applied to coin, means—

- (a) coin not genuine but resembling or apparently intended to resemble or pass for genuine coin,
- (b) genuine coin which has been prepared or altered so as to resemble or be apparently intended to resemble or pass for coin of a higher denomination, and
- (c) genuine coin which has been clipped or filed or the size or weight of which has otherwise been diminished, and which has been prepared or altered so as to conceal the clipping, filing or diminution;

and includes any such coin whether it is or is not in a fit state to be uttered, and whether the process of preparation or alteration is or is not complete;

"current", in relation to coin, means coin of any of the kinds or denominations of coin which are or have been coined in a mint in any part of the Queen's dominions or are lawfully current in any part of the Queen's dominions;

"utter" includes using, dealing with, or acting upon, and attempting to use, deal with, or act upon, and attempting to induce any person to use, deal with, or act upon, the thing in question as if it were genuine.

CLAUSE 37.—GILDING, ETC., METAL OR OTHER MATERIAL WITH INTENT TO MAKE COUNTERFEIT COIN.

52. Any person who—

- (a) gilds or silvers any piece of metal or other material of a fit size or figure to be coined, or colours any piece of metal or other material of such a size so as to make it look like gold or silver, with intent that it shall be coined into counterfeit gold or silver coin, or
- (b) makes any piece of metal or other material into a fit size or figure to facilitate the coining from it of any counterfeit gold or silver coin with intent that any counterfeit gold or silver coin shall be made from it,

shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

CLAUSE 38.—POSSESSION OF COUNTERFEIT COIN, ETC.

56. Any person who has in possession—

- (a) any counterfeit coin, knowing it to be counterfeit, with intent to utter it or with intent that it may be uttered by any other person; or
- (b) any bullion or metal, with intent to use it in or in connexion with making counterfeit coin, or knowing that it is intended to be so used by some other person; or
- (c) any substance, material, or article, intending to use it or knowing that it is intended to be used in or in connexion with making counterfeit coin,
- (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,

shall be guilty of an indictable offence.

Penalty: Imprisonment for three years.

CLAUSE 39.—UTTERING METALS, ETC., AS COIN.

58. Any person who, with intent to defraud, utters as and for current gold or silver coin—

- (a) any coin which is not a current coin, or
- (b) any medal or piece of metal, or other material whether a coin or not, which is of less value than the current coin as and for which it is uttered,

shall be guilty of an indictable offence.

Penalty: Imprisonment for two years.

CLAUSE 40.—CLIPPING OR SWEATING COINS.

59. Any person who deals with any current gold or silver coin in such a manner as to diminish its weight, with intent that when so dealt with it may pass as current gold or silver coin, shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

CLAUSE 41.—POSSESSION OF CLIPPINGS, ETC.

60. Any person who unlawfully has in possession or disposes of any filings or clippings of gold or silver, or any gold or silver in bullion, dust, or solution, or in any other state, obtained by dealing with current gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

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.

CLAUSE 41.—MAKING, POSSESSING OR SELLING TOKENS, ETC., RESEMBLING COINS.

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—

- (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.

CLAUSES 42 AND 60, AND THE SCHEDULE.—FORFEITURE OF COINING INSTRUMENTS.

61.—(1.) All coining instruments made by, or being in the possession of, any person without lawful authority, *all metal any metal or other material or substance intended to be made into counterfeit coins, all counterfeit coins, whether partly made or finished, and all articles and substances any material, substance or article used or intended to be used in or in connexion with the making of counterfeit coins, shall be forfeited to the King Commonwealth.*

(2.) Any person who, without lawful authority (proof whereof shall lie upon him), deals with or moves alters or interferes with anything which under this Part is forfeited to the *King Commonwealth*, shall be guilty of an offence.

Penalty: Imprisonment for one year.

CLAUSE 43.—DEFACING OR DESTROYING COINS.

62A. *A person shall not, without the consent of the Treasurer, deface or destroy, by melting or otherwise, a current gold coin.*

Penalty: *One hundred pounds or imprisonment for one year.*

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.

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.

CLAUSES 44 AND 60, AND THE SCHEDULE.—FORGERY OF SEALS.

- 65.—(1.) Any person who forges, or utters knowing it to be forged—
- (a) *the Public Seal of the Commonwealth, or of any Territory being part of the Commonwealth; or*
 - (a) *the Great Seal of the Commonwealth or the Public Seal of a Territory; or*
 - (b) *the Seal of the High Court or any Federal Court, or any Seal used by the High Court or any Federal Court; or*
 - (c) *the Official Seal of any of the King's Ministers of State for the Commonwealth a Minister of State; or*
 - (d) *any Official Seal used by any Department of the Commonwealth, or any public authority under the Commonwealth;*
or
 - (e) *an Official Seal of which, under a law of the Commonwealth or a Territory, judicial notice is to be taken,*

shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

- (2.) Any person who, without lawful authority (proof whereof shall lie upon him), makes, or has in possession, any die or stamp capable of making an impression in the form of any of the seals referred to in this section, or resembling or apparently intended to resemble or pass for any of those seals, shall be guilty of an offence.

Penalty: Imprisonment for two years.

- (3.) Every die or stamp made or had in possession in contravention of this section shall be forfeited to the *King Commonwealth*.

CLAUSES 45 AND 60, AND THE SCHEDULE.—FORGERY OF OFFICIAL SIGNATURES.

66. Any person who forges, or utters knowing it to be forged, the signature of—
- (a) *the Governor-General; or*
 - (b) *any Justice of the High Court, or any Justice or Judge of any Federal Court; or*
 - (c) *any of the King's Ministers of State for the Commonwealth a Minister of State; or*
 - (d) *the President of the Senate, or the Speaker of the House of Representatives, or the Chairman of any Committee of either House; or*
 - (e) *the holder of any office created by any Act, and of whose signature judicial notice is by law to be taken,*
 - (e) *a person of whose signature, under a law of the Commonwealth or a Territory, judicial notice is to be taken,*

shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

CLAUSE 60 AND THE SCHEDULE.—MAKING SPECIAL PAPER, ETC., FOR.

69.—(1.) Any person who, without lawful authority or excuse (proof whereof shall lie upon him)—

(a) knowingly makes, uses, has in possession, or disposes, of paper resembling, or apparently intended to resemble or pass for, paper which is specially provided by proper authority for the purposes of any Commonwealth document; or

(b) knowingly makes, uses, or has in possession or disposes of, any instrument or thing for making any mark resembling, or apparently intended to resemble or pass for, any distinctive mark used in or on any paper specially provided by proper authority for the purpose of any Commonwealth document, shall be guilty of an indictable offence.

Penalty: Imprisonment for four years.

(2.) Any paper, instrument, or thing made or used in contravention of this section shall be forfeited to the King Commonwealth.

CLAUSE 46.—DISCLOSURE OF INFORMATION BY COMMONWEALTH OFFICERS.

70. *Any person who, being a Commonwealth officer, publishes or communicates any fact which comes to his knowledge by virtue of his office, and which it is his duty to keep secret, or any document which comes to his possession by virtue of his office, and which it is his duty to keep secret, except to some person to whom he is authorized to publish or communicate it, shall be guilty of an offence.*

Penalty: Imprisonment for two years.

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.

CLAUSE 47.—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, or, if the officer is employed in the service of a public authority under the Commonwealth, of that authority, 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.

(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.

CLAUSE 48.—OFFICIAL CORRUPTION.

73.—(1.) Any Commonwealth officer who obtains or attempts to obtain any bribe shall be guilty of an offence.

Penalty: Imprisonment for two years.

(2.) Any person who bribes or attempts to bribe any Commonwealth officer shall be guilty of an offence.

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.

(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.

CLAUSE 49.—INTERPRETATION.

77. In this Part, unless the contrary intention appears—

The expression "the Commonwealth" includes the Government thereof, and includes any Territory under the control of the Commonwealth and the Government thereof;

The expression "document" includes part of a document;

The expression "model" includes design, pattern, and specimen;

The expression "sketch" includes any photograph or any other mode of representing any place or thing;

Expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document or information itself, or the substance, effect, or description thereof only, be communicated or received;

Expressions referring to obtaining or retaining any sketch, plan, model, article, note, or document, include the copying or causing to be copied the whole or any part of any sketch, plan, model, article, note, or document;

Expressions referring to the communication of any sketch, plan, model, article, note, or document, include the transfer or transmission of the sketch, plan, model, article, note, or document.

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

"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.

CLAUSE 49.—ESPIONAGE AND SIMILAR ACTIVITIES.

78.—(1.) *If any person for any purpose prejudicial to the safety or interest of the Commonwealth or any part of the King's Dominions—*

- (a) *approaches, or is in the neighbourhood of, or enters, any prohibited place; or*
- (b) *makes any sketch, plan, photograph, model, or note, which is likely to be or might be or is intended to be directly or indirectly useful to an enemy; or*
- (c) *obtains or communicates to any other person any sketch, plan, photograph, model, article, or note, or other document or information, which is likely to be or might be or is intended to be directly or indirectly useful to an enemy;*

he shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

(2.) *On a prosecution under this section it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the Commonwealth or any part of the King's Dominions, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the Commonwealth or any part of the King's Dominions; and if any sketch, plan, photograph, model, article, note, document, or information, relating to or used in any prohibited place within the meaning of this Part of this Act, or anything in such a place, is made, obtained, or communicated by any person other than a person acting under*

lawful authority, it shall be deemed to have been made, obtained, or communicated for a purpose prejudicial to the safety or interests of the Commonwealth or of some part of the King's Dominions, unless the contrary is proved.

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

CLAUSE 49.—OFFICIAL SECRETS.

79.—(1.) If any person having in his possession or control any sketch, plan, photograph, model, article, note, document, or information, which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Part of this Act, or which has been entrusted in confidence to him by any person holding office under the King or the Commonwealth, or which he has obtained owing to his position as a person

who holds or has held office under the King or the Commonwealth, or as a person who holds or has held a contract made with or by or on behalf of the King or the Commonwealth, or as a person who is or has been employed under a person who holds or has held such an office or contract—

- (a) communicates the sketch, plan, photograph, model, article, note, document, or information to any person, other than a person to whom he is authorized to communicate it, or a person to whom it is, in the interest of the Commonwealth or of some part of the King's Dominions, his duty to communicate it, or
- (b) retains the sketch, plan, photograph, model, article, note, or document in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it,

he shall be guilty of an offence.

Penalty: Imprisonment for seven years.

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

Penalty: Imprisonment for seven years.

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;
- (c) it relates to a prohibited place or anything in a prohibited place; or
- (d) it is used in a prohibited place.

(2.) If a person for a purpose prejudicial, or 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 subparagraph (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 prejudicial, or 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 prejudicial, or a purpose intended to be prejudicial, as the case requires, to the safety or defence of the Commonwealth or a part of the Queen's dominions.

(8.) 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.

CLAUSES 50 AND 60, AND THE SCHEDULE.—PROHIBITED PLACES.

80. The following places shall be prohibited places:—

- (a) Any work of defence, arsenal, factory, dockyard, aerodrome, camp, ship, aircraft, telegraph or signal station, or office, belonging to the *King Queen* or the Commonwealth, and any other place belonging to the *King Queen* or the Commonwealth used for the purpose of building, repairing, making, obtaining or storing any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto;
- (aa) Any camp, barracks or place where prisoners of war, internees or members of the Defence Force are detained;
- (b) Any place not belonging to the *King Queen* or the Commonwealth where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, or stored, obtained, tested or stored under contract with, or with any person on behalf of, the *King Queen* or the Commonwealth;

(c) Any place belonging to the *King Queen* or the Commonwealth which is for the time being declared by the Governor-General to be a prohibited place for the purposes of this Part of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy or to a foreign power; and

(d) Any railway, road, way, or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith), or any place used for gas, water, electricity works or other works for purposes of a public character, or any place where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, obtained, tested or stored otherwise than on behalf of the *King Queen* or the Commonwealth, which is for the time being declared by the Governor-General by proclamation to be a prohibited place for the purposes of this Part of this Act, on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy or to a foreign power.

CLAUSE 51.—HARBOURING SPIES.

81.—(1.) Any person who—

- (a) knowingly harbours any person whom he knows or has reasonable ground for supposing to be a spy; or
- (b) knowingly permits any persons, whom he knows or has reasonable ground for supposing to be spies, to meet or assemble in any premises in his occupation or under his control; or
- (c) having harboured any person whom he knows or has reasonable ground for supposing to be a spy, or having permitted any persons whom he knows or has reasonable ground for supposing to be spies to meet or assemble in any premises in his occupation or under his control, refuses to disclose to any authorized officer of police or of the Defence Force any information which it is in his power to give in relation to that person or those persons,

shall be guilty of an offence.

Penalty: Imprisonment for seven years.

(2.) For the purposes of this section any person who has committed any offence or is about to commit any offence against this Part of this Act (other than this section) shall be deemed to be a spy.

(3.) A principal officer of police in any town or locality, or the officer of the Defence Force in command or in charge of any prohibited place, shall be deemed an authorized officer.

(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.

CLAUSE 52.—SEARCH WARRANTS.

82. 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 of this Act has been or is about to be committed, he may grant a search warrant authorizing any constable named therein, with such assistance as he thinks necessary, to enter at any time any premises or place named or described in the warrant, if necessary by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note, or document, or anything of a like nature, or anything which is evidence of an offence against this Part of this Act having been or being about to be committed, which he may find on the premises or place or on any such person, and with regard to or in connexion with which he has reasonable ground for suspecting that an offence against this part of this Act has been or is about to be committed.

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.

CLAUSES 53 AND 60, AND THE SCHEDULE.—UNLAWFUL SOUNDINGS:

- 83.—(1.) Any person who in the Commonwealth or in any Territory—
- (a) takes any unlawful soundings; or
 - (b) makes any record of any unlawful soundings; or
 - (c) knowingly has in possession any record of unlawful soundings; or
 - (d) communicates to any person outside the Commonwealth or any Territory any record of or information concerning unlawful soundings; or
 - (e) communicates to any other person any record of or information concerning unlawful soundings with intent that the record or information may be communicated to any person outside the Commonwealth or any Territory,

shall be guilty of an indictable offence.

Penalty: Imprisonment for two years.

(2.) For the purposes of this section all soundings taken in the territorial waters of the Commonwealth or any Territory shall be deemed to be unlawful unless they were made under the authority of the *King Queen*, the Commonwealth Government, or a State Government, or the Government of a Territory, or were reasonably necessary for the navigation of the vessel from which they were taken or for any purpose in which the vessel from which they were taken was lawfully engaged.

(3.) In any prosecution under this section, proof that any soundings were not unlawfully taken shall lie upon the defendant.

(4.) Any figure or word or sign representing a figure (other than the printed figures appearing on any official or recognized map or chart) appearing on any map or sketch of any portion of the coast or territorial waters of Australia or of a Territory shall, in the absence of satisfactory proof to the contrary, be deemed to be a record of an unlawful sounding, but nothing in this sub-section shall affect proof of unlawful soundings in any other manner.

(5.) All records of unlawful soundings including all maps or charts having thereon any record of unlawful soundings shall be forfeited to the *King Commonwealth*.

(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.

CLAUSE 54.—ILLEGAL USE OF UNIFORMS, OFFICIAL PERMITS, IMPERSONATION, ETC.

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—

- (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.

CLAUSE 54.—ARREST WITHOUT WARRANT OF OFFENDERS AGAINST THIS PART.

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,

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

CLAUSE 54.—ARREST OF PERSONS IN OR ABOUT PROHIBITED PLACES.

84. (1.) Any person found in or near to a prohibited place being a fortress, arsenal, factory, dockyard, camp, ship, office, telegraph station, signal station or other place belonging to the King or the Commonwealth or relating to the naval or military affairs of the King or the Commonwealth, and suspected of any offence against this Part of this Act, may be arrested without warrant, by any member of the Defence Force or of the King's naval or military forces.

(2.) Any person so arrested shall forthwith be brought before the officer in command or in charge of the fortress, arsenal, dockyard, camp, ship, office, telegraph station, signal station, or other place.

(3.) The officer may order the suspected person and his belongings to be searched, and he and they may be searched accordingly.

(4.) The officer may order the detention of the suspected person pending further investigation, and he may be detained accordingly in naval or military custody.

(5.) A report of the arrest and circumstances shall forthwith be made to the Attorney-General.

(6.) If no charge is laid against the suspected person within a reasonable time, he shall be released from detention.

(7.) If a charge is laid against the suspected person, he shall be handed over to the civil authorities to be dealt with in all respects as if he had been arrested on a civil warrant.

(8.) No action shall lie against any member of the Defence Force or of the King's naval or military forces or against the Commonwealth in respect of any arrest or detention in pursuance of this section, but if the Governor-General is satisfied that any arrest or detention was made without any reasonable cause he may award reasonable compensation to the person arrested or detained.

(9.) This section shall not affect proceedings by ordinary process of law against any person for any offence against this Part of this Act.

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.

CLAUSE 54.—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.

CLAUSE 55.—OFFENCES BY COMPANIES, ETC.

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.

CLAUSE 55.—HEARING IN CAMERA, ETC.

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—

- (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.

CLAUSE 55.—IMPRINTS TO BE EVIDENCE.

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.

(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.

CLAUSE 55.—FORFEITURE OF ARTICLES, ETC.

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.

CLAUSE 56.—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.

CLAUSE 56.—CONSPIRACY.

86. *Any person who conspires with any other person—*

- (a) *to commit any offence against the law of the Commonwealth, or*
- (b) *to prevent or defeat the execution or enforcement of any Commonwealth Act or any regulation thereunder, or*
- (c) *to effect any purpose which is unlawful under the law of the Commonwealth, or*
- (d) *to effect any lawful purpose by any means which are unlawful under the law of the Commonwealth, or*
- (e) *to defraud the Commonwealth,*

shall be guilty of an indictable offence.

Penalty: Imprisonment for three years.

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

- (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.

CLAUSE 57.—TRESPASSING ON COMMONWEALTH LAND.

89.—(1.) *Any person who, without lawful excuse (proof whereof shall lie upon him), trespasses or goes upon any land belonging to, or in the occupation of, the Commonwealth, and used for any naval, military or air force purpose or any purpose incidental thereto, and as to which any notice is posted thereon prohibiting trespass, shall be guilty of an offence.*

Penalty: Ten pounds.

(2.) *Any person found upon any land in contravention of this section may be apprehended by any member of the Defence Force, any person employed in the Department of Defence, any Peace Officer of the Commonwealth or any member of the Police Force of the Commonwealth or of a State or Territory, and given into the custody of any constable to be dealt with according to law.*

(3.) *Any person found upon any land in contravention of this section, who fails on demand to give his name and address to the person in charge of the land or to any officer or non-commissioned officer thereon, shall be guilty of an offence.*

Penalty: Ten pounds.

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.*

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.

CLAUSE 57.—DISCHARGING FIREARMS ON OR OVER COMMONWEALTH LAND.

89A.—(1.) Any person who discharges any firearm upon or over any prohibited area shall be guilty of an offence and the firearm may be seized and shall be forfeited to His Majesty.

Penalty: One hundred pounds or imprisonment for six months.

(2.) In this section “prohibited area” means any land belonging to, or in the occupation of, the Commonwealth, upon which is a notice prohibiting shooting and purporting to be given by, or by the authority of, a Minister.

(3.) The provisions of this section shall not apply in the case of the discharge of any firearm by a person authorized so to do by the Commonwealth officer in whose control the land is placed.

(4.) Any person who commits an offence against this section may be apprehended by any member of the Defence Force, any person employed in the Department of Defence, any Peace Officer of the Commonwealth or any member of the Police Force of the Commonwealth or of a State or Territory, and detained in proper custody to be dealt with according to law.

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.

CLAUSE 58.—FALSE STATEMENTS IN DOCUMENTS FILED, ETC., UNDER LAWS OF A TERRITORY.

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.

CLAUSE 59.—ARREST OF PERSONS ORDERED TO BE DEPORTED.

91. Where an order for the deportation of any person from the Commonwealth has been made under this Act or under any other Act, any officer thereto authorized by a Minister, or any constable or officer of Police, may—

(a) stop and search any vehicle or vessel, if he has reason to suspect that the person is in the vehicle or vessel;

(b) at any reasonable hour in the day-time with such assistance as he thinks necessary, enter and search any building, premises or place, if he has reasonable ground to suspect that the person is in the building, premises or place; and

(c) arrest, without warrant, any person reasonably supposed to be the person in respect of whom the order has been made, and deliver him into such custody as is directed under this Act.