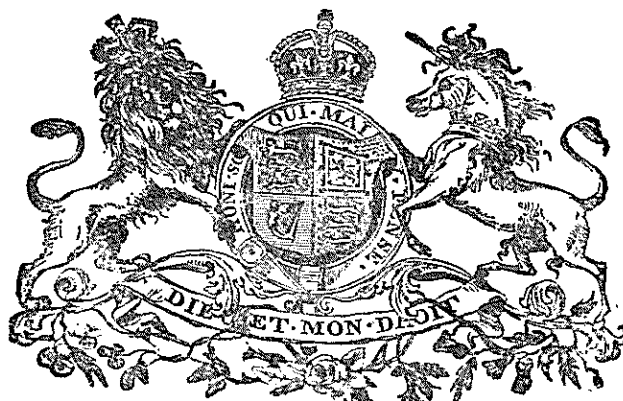


WESTERN AUSTRALIA.



ANNO SEXTO

EDWARDI SEPTIMI REGIS,
XXXI.

No. 31 of 1906.

AN ACT to amend the Criminal Code.

[Assented to 14th December, 1906.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Criminal Code Amendment Act*, Short title. 1906.

2. Section twenty of the Criminal Code (hereinafter referred to as the Code) is amended as follows:— Amendment of sec. 20.

The first paragraph thereof is struck out, and the following inserted in place thereof:—

When a person who is convicted of an offence is, at the time when he appears to receive judgment, undergoing or under sentence to undergo, for one or more other offences, a sentence or sentences involving deprivation of liberty, the punishment to be inflicted upon him for the first-mentioned offence may be directed to take effect from the expiration of the deprivation of liberty for the other offence or offences.

Judgments involving deprivation of liberty pronounced upon any convicted person on the same occasion may be directed to take effect concurrently or cumulatively.

When an accused person is convicted and a question of law arising on the trial of such person has been reserved for the consideration of the Supreme Court, and the Court before which

such convicted person was tried has pronounced judgment involving deprivation of liberty and respite execution thereof, and admitted the convicted person to bail pending the decision of the Supreme Court on the question of law so reserved, if the Supreme Court affirms the judgment given at the trial, the period or periods during which the convicted person shall have been at liberty on bail shall be deemed not to have been served under the sentence, but execution of the sentence shall be deemed to have been stayed, and on the convicted person being received into custody after the decision of the Supreme Court, the sentence shall have effect for the period thereof which remained unexpired when the convicted person was released on bail.

Amendment of sec.
185.

3. The seventh paragraph of section one hundred and eighty-five of the Code is repealed.

Amendment of sec.
187.

4. The fourth paragraph of section one hundred and eighty-seven of the Code is repealed.

Poisoning water
holes.

5. A new section is inserted in the Code, as follows:—

206A. Any person who,—

(a.) Without lawful justification or excuse, places in any water-hole or other place containing water of which he is the owner or lawful occupier; or

(b.) Without the leave of the Minister for Lands first had and obtained, places in any water-hole or other place containing water situated on unoccupied Crown land; or

(c.) Places in any water-hole or other place containing water on any private land, of which such person is not the owner or lawful occupier—

any poisonous or noxious matter in any quantity sufficient to render such water unfit for human consumption, or unfit for consumption by cattle, horses, camels, sheep, or other animals, is guilty of a misdemeanour and liable to imprisonment with hard labour for two years; or he may be summarily convicted before two justices, in which case he is liable to imprisonment with hard labour for six months.

On any prosecution under this section the onus lies on the accused person to prove all facts negatived in the complaint or indictment.

Amendment of sec.
338.

6. Section three hundred and thirty-eight of the Code is amended by inserting before the word “celebrates,” in subsection three, the words “knowingly and wilfully.”

7. A new section is inserted in the Code, as follows:—

418A. Any person who, being a director, officer, or agent of a company having its share capital listed for dealings on any stock exchange in Western Australia or elsewhere, wilfully makes or is privy to making in any prospectus, return, report, certificate, account, statement of operations, or prospectus, or other document, any statement relating to the business of the company false in any material particular, knowing it to be false, with intent to produce or give or having a tendency to produce or give to the stock or shares of the company a greater or less market value than such stock or shares possess, is guilty of a misdemeanour, and is liable to imprisonment, with hard labour, for two years, and to a fine of two hundred pounds.

False statements by officials of companies with intent to affect price of shares.

No proceedings under this section shall be commenced unless authorised by the Attorney General in writing.

8. A new section is inserted in the Code, as follows:—

483A. Every person required or permitted by the law relating to the registration of births, deaths, or marriages, or the law relating to cemeteries or burials, to give or supply to any person any certificate, information, or particulars, who wilfully gives or supplies any such certificate, information, or particulars which is or are false, misleading, or defective in any material respect is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years, and to a fine of two hundred pounds.

False statements relating to registration of births, deaths, or marriages.

9. Subsection one of section four hundred and ninety-three of the Code is amended by striking out "copyright" in paragraph (e), and inserting the word "copyright" in place thereof, and by inserting the word "not" before the word "prevent."

Amendment of sec. 493.

10. Section five hundred and one of the Code is amended by inserting before the word "defendant," in line three, the words "prosecutor by the."

Amendment of sec. 501.

11. Section five hundred and twelve of the Code is amended by striking out the word "insolvent" and inserting "bankrupt" in place thereof.

Amendment of sec. 512.

12. Section five hundred and fifty-eight of the Code is amended by adding the following paragraphs:—

Amendment of sec. 558.

All Courts and judges exercising jurisdiction with regard to indictable offences shall take judicial notice of the signature of the Attorney General and all past

Attorneys General, and of his and their authority to sign and present indictments; and all indictments presented which purport to be signed by an officer or person duly appointed to prosecute shall be deemed to be duly signed and presented, excepting always any such indictment in regard to which it shall be proved that the same was not in fact signed by the officer or person whose signature it purports to bear, or that the officer or person signing the same was not in fact authorised or appointed to sign such indictment.

With regard to any person who has been committed for trial in respect of an indictable offence alleged to have been committed by him, the Attorney General and, if otherwise acting within the scope of their authority, all officers and persons authorised to sign and present indictments may present indictments against such person for any indictable offences which the Attorney General or such officers or persons shall consider to be *prima facie* disclosed by the evidence taken before the committing magistrates or coroner, irrespective of whether the said offences are mentioned in the commitment for trial or not: Provided always that in the case of any person committed for sentence, if indictments presented against such person allege any offences not mentioned in the commitment for sentence, the accused person may, without the leave of any court or person, plead not guilty to having committed any offences not mentioned in the commitment for sentence, and thereupon shall be tried or dealt with in all respects as if he had been committed for trial and not for sentence.

Amendment of sec.
667.

13. The first paragraph of section six hundred and sixty-seven of the Code is repealed, and the following paragraphs are inserted in place thereof—

When any person is indicted for any indictable offence, the Court before which he is tried may, in its discretion, either on application made on behalf of the accused person or without such application, and either before or after judgment, reserve for the consideration of the Supreme Court any question of law which arises on the trial, either on the hearing of any motion to quash an indictment or any count of an indictment, or of any motion in arrest of judgment, or otherwise howsoever during the proceedings:

Provided that if the Court before which any person is tried for an indictable offence shall refuse any application on behalf of the accused person made before verdict that any point of law arising as aforesaid be reserved for the consideration of the Supreme Court, such accused person may, after the conclusion of the trial, appeal to the

Full Court against such refusal by motion *ex parte*, or after notice to the Crown Solicitor, or in the case of private prosecutions, to the private prosecutor, and subject in any case to such conditions as the Full Court may prescribe or direct; and the Full Court may dismiss the appeal, or, on being satisfied, by affidavit or otherwise, that the application refused was made before verdict, and that the appeal against the refusal to reserve the point of law is *bona fide* and brought as promptly as the circumstances of the case reasonably admit of, and that the question of law sought to be raised is fit to be considered by the Supreme Court, may direct and order that such question of law be raised before it by case stated and signed as hereinafter mentioned, or if there is no conflict of opinion as to the facts of the matter sought to be raised, the Full Court may at once dispose of the question of law in a summary manner, and exercise the same powers, and the same results and consequences in all respects shall follow as if such question had been raised before it by case signed and stated as hereinafter mentioned and determined after consideration of the case stated: Provided always, that no verdict, conviction, or judgment found, made, or given shall be summarily set aside, arrested, or amended by the Full Court in manner aforesaid unless a Crown Law officer or counsel on behalf of the Crown, or in private prosecutions, counsel on behalf of the private prosecutor, has been heard in support of such verdict, conviction, or judgment, or unless it is proved to the satisfaction of the Full Court that the Crown or private prosecutor does not desire to be heard by counsel in support of such verdict, conviction, or judgment.

14. Section six hundred and seventy of the Code is amended by striking out the word "and," in the third line, and inserting the word "or" in place thereof. Amendment of sec. 670.

15. Section six hundred and ninety-nine of the Code is amended by striking out the word "insolvent" and inserting "bankrupt" in place thereof. Amendment of sec. 699.

16. Section seven hundred and ten of the Code is amended by inserting before the words "Crown Solicitor," in lines three and six, the words "Solicitor General or the." Amendment of sec. 710.

17. The Second Schedule to the Criminal Code Act, 1902, is amended by inserting the following:— Amendment of Second Schedule.

7 Geo. IV., c. 64	An Act for improving the administration of criminal justice in England	The whole.
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Amendment of
Third Schedule.

18. The Third Schedule to the Criminal Code Act, 1902, is amended by omitting "9 Vict., No. 8," and inserting "10 Vict., No. 8," in place thereof, and by inserting "Stock" after the word "Inscribed," in the short title of the Local Inscribed Stock Act, 1897.

Repeal.

19. Section three of the Act 37 Victoriae, No. 4, and section five of the Criminal Code Amendment Act, 1902, are hereby repealed.