

LEGISLATIVE ASSEMBLY

Read 1° 13 December, 1972.

(Brought in by Sir George Reid and Mr. Wilcox.)

A BILL

To consolidate and amend the Law relating to Theft and similar or associated Offences to amend the *Crimes Act* 1958 and for other Purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. (1) This Act may be cited as the *Crimes (Theft) Act* 1973. Short title.
- (2) In this Act the *Crimes Act* 1958 is called the Principal Act. Principal Act No. 6231.
- (3) This Act shall come into operation on a day (being a day not less than twelve months after the passing of this Act) to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. Commencement.
2. (1) The Principal Act is hereby amended as follows :—
 - (a) In section 1 for the expression " Division 2.—Larceny and similar Offences ss. 71–195 " and for the expressions commencing " (1) Larceny in General ss. 72–74 " to the expression " (21) Rewards for

Stolen Property ss. 194 and 195 ” and for the heading “ Division 2—Larceny and Similar Offences ” immediately following section 70 there shall be substituted the following expression :—

“ Division 2.—Theft and similar or associated Offences.”; 5

(b) For subdivisions (1) to (18) (both inclusive) of Division 2 of Part I. and the headings thereof there shall be substituted the following :—

‘ DIVISION 2.—THEFT AND SIMILAR OR ASSOCIATED OFFENCES. 10

Interpretation.

71. (1) In this Division—

“ Gain ” and
“ loss ”.

“ Gain ” and “ loss ” are to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent ; and—

(a) “ gain ” includes a gain by keeping what one has, as well as a gain by getting what one has not ; and

(b) “ loss ” includes a loss by not getting what one might get, as well as a loss by parting with what one has ; 15 20

“ Goods.”

“ Goods ” except in so far as the context otherwise requires, includes money and every other description of property except land and includes things severed from the land by stealing ; 25

“ Property.”

“ Property ” includes money and all other property real or personal including things in action and other intangible property.

Belonging to
another.

(2) In this Division property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest). 30

Basic definition
of theft.

72. (1) A person steals if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it. 35

(2) A person who steals is guilty of theft ; and “ thief ” shall be construed accordingly.

Further
explanation
of theft.

73. (1) This section has effect as regards the interpretation and operation of section 72 and, except as otherwise provided in this Division, shall apply only for the purposes of that section 40 and not otherwise.

(2) A person’s

(2) A person's appropriation of property belonging to another is not to be regarded as dishonest— Dishonest.

- 5 (a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person ; or
- (b) if he appropriates the property in the belief that he would have the other's consent if the other knew of the appropriation and the circumstances of it ; or
- 10 (c) (except where the property came to him as trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

15 (3) A person's appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

(4) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner. Appropriates.

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(5) Where property or a right or interest in property is or purports to be transferred for value to a person acting in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

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(6) A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say— Property.

- 30 (a) when he is a trustee or personal representative, or is authorized by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him ; or
- 35 (b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed ; or
- 40 (c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

For

For purposes of this sub-section "land" does not include incorporeal hereditaments; "tenancy" means a tenancy for years or any less period and includes an agreement for such a tenancy, but a person who after the end of a tenancy remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and "let" shall be construed accordingly. **5**

(7) A person who picks mushrooms growing wild on any land, or who picks flowers, fruit or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose. **10**

For purposes of this sub-section "mushroom" includes any fungus, and "plant" includes any shrub or tree.

(8) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcase of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession of it has not since been lost or abandoned, or another person is in course of reducing it into possession. **20**

Belonging to another.

(9) Where property is subject to a trust, the persons to whom it belongs shall be regarded as including any person having a right to enforce the trust, and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right. **25**

(10) Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way, the property or proceeds shall be regarded (as against him) as belonging to the other. **30**

(11) Where a person gets property by another's mistake, and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against him) as belonging to the person entitled to restoration, and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds. **35**

(12) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation. **40**

(13) A person

(13) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's rights ; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

Intention of permanently depriving.

(14) Without prejudice to the generality of sub-section (13) where a person, having possession or control (lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

(15) Notwithstanding anything contained in sub-section (13) in any proceedings—

Motor cars and aircraft.

(a) for stealing a motor car or an aircraft proof that the person charged took or in any manner used the motor car or aircraft without the consent of the owner or person in lawful possession thereof shall be conclusive evidence that the person charged intended to permanently deprive the owner of it ; and

(b) for attempting to steal a motor car or an aircraft proof that the person charged attempted to take or in any manner use the motor car or aircraft without the consent of the owner or person in lawful possession thereof shall be conclusive evidence that the person charged intended to permanently deprive the owner of it.

Theft, robbery, burglary, &c.

74. A person guilty of theft is guilty of a felony and liable to imprisonment for a term not exceeding ten years.

Theft.

75. (1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

Robbery.

(2) A person guilty of robbery, or of an assault with intent to rob, is guilty of a felony and liable to imprisonment for a term not exceeding twenty years.

76. (1) A person

Burglary.

76. (1) A person is guilty of burglary if he enters any building or part of a building as a trespasser with intent—

(a) to steal anything in the building or part in question ; or

(b) to commit an offence—

(i) involving an assault to a person in the building or part in question ; or 5

(ii) involving any damage to the building or to property in the building or part in question—

which is punishable with imprisonment for a term of five years or more. 10

(2) References in sub-section (1) to a building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.

(3) A person guilty of burglary is guilty of a felony and liable to imprisonment for a term not exceeding fourteen years. 15

Aggravated burglary.

77. (1) A person is guilty of aggravated burglary if he commits any burglary and at the time has with him any firearm or imitation firearm, any offensive weapon, or any explosive ; and for this purpose— 20

(a) “firearm” includes an airgun or air pistol, and “imitation firearm” means anything which has the appearance of being a firearm, whether capable of being discharged or not ; and

(b) “weapon of offence” means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use ; and 25

(c) “explosive” means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose. 30

(2) A person guilty of aggravated burglary is guilty of felony and liable to imprisonment for a term not exceeding twenty years.

Removal of articles from places open to the public.

78. (1) Subject to sub-sections (2) and (3), where the public have access to a building in order to view the building or part of it, or a collection or part of a collection housed in it, any person who without lawful authority removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it or in its grounds shall be guilty of an offence. 35 40

For this purpose “collection” includes a collection got together for a temporary purpose, but references in this section to a collection do not apply to a collection made or exhibited for the purpose of effecting sales or other commercial dealings. 45

(2) It

(2) It is immaterial for purposes of sub-section (1) that the public's access to a building is limited to a particular period or particular occasion ; but where anything removed from a building or its grounds is there otherwise than as forming part of, or being
 5 on loan for exhibition with, a collection intended for permanent exhibition to the public, the person removing it does not thereby commit an offence under this section unless he removes it on a day when the public have access to the building as mentioned in sub-section (1).

10 (3) A person does not commit an offence under this section if he believes that he has lawful authority for the removal of the thing in question or that he would have it if the person entitled to give it knew of the removal and the circumstances of it.

15 (4) A person guilty of an offence under this section is guilty of felony and liable to imprisonment for a term not exceeding five years.

20 79. (1) A person who steals or attempts to steal a motor car with intent to use the motor car for or in connexion with the commission of a felony shall be guilty of felony and shall be liable to be imprisoned for a term of not less than six months.

Stealing motor car with intent to use in the commission of a felony.

(2) Where on the trial of a person for a felony under sub-section (1) the jury are not satisfied that he is guilty of that felony but are satisfied that he is guilty of stealing or attempting to steal a motor car they may return as their verdict that he is not guilty
 25 of the felony charged but is guilty of stealing or attempting to steal a motor car.

Alternative verdict.

30 80. (1) A person who without lawful excuse takes or exercises control, whether direct or through another person, of an aircraft while another person not being an accomplice to the first-mentioned person is on board the aircraft shall be guilty of a felony and shall be liable to imprisonment for a term not exceeding fifteen years.

Unlawfully taking control of an aircraft.

35 (2) A person who without lawful excuse, by force or violence or threat of force or violence or by any trick or false pretence, takes or exercises control, whether direct or through another person, of an aircraft while another person not being an accomplice of the first-mentioned person is on board the aircraft shall be guilty of a felony and shall be liable to imprisonment for a term not exceeding twenty years.

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Fraud and blackmail.

81. (1) A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, is guilty of felony and liable to imprisonment for a term not exceeding ten years.

Obtaining property by deception.

(2) For

(2) For purposes of this section a person is to be treated as obtaining property if he obtains ownership, possession or control of it, and "obtain" includes obtaining for another or enabling another to obtain or to retain.

(3) Sub-sections (13) and (14) of section 73 shall apply for purposes of this section, with the necessary adaptation of the reference to appropriating, as it applies for purposes of section 72. 5

(4) For purposes of this section "deception" means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person. 10

Obtaining
financial
advantage
by
deception.

82. (1) A person who by any deception dishonestly obtains for himself or another any financial advantage is guilty of felony and liable to imprisonment for a term not exceeding five years. 15

(2) For purposes of this section "deception" has the same meaning as in section 81.

False
accounting.

83. (1) Where a person dishonestly, with a view to gain for himself or another or with intent to cause loss to another—

(a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or 20

(b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular— 25

he is guilty of felony and liable to imprisonment for a term not exceeding seven years.

(2) For purposes of this section a person who makes or concurs in making in an account or other document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account or other document, is to be treated as falsifying the account or document. 30 35

Liability of
company
officers for
certain
offences by
company.

84. (1) Where an offence committed by a body corporate under section 81, 82 or 83 is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly. 40

(2) Where

(2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connexion with his functions of management as if he were a director of the body corporate.

- 5 85. (1) Where an officer of a body corporate or unincorporated association (or person purporting to act as such), with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular, he is guilty of felony and liable to imprisonment for a term not exceeding seven years.

False statements by company directors, &c.

(2) For purposes of this section a person who has entered into a security for the benefit of a body corporate or association is to be treated as a creditor of it.

- 15 (3) Where the affairs of a body corporate or association are managed by its members, this section shall apply to any statement which a member publishes or concurs in publishing in connexion with his functions of management as if he were an officer of the body corporate or association.

- 20 86. (1) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court of justice or any government department is guilty of felony and liable to imprisonment for a term not exceeding seven years.

Suppression, &c. of documents.

- 25 (2) A person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, by any deception procures the execution of a valuable security is guilty of felony and liable to imprisonment for a term not exceeding seven years and this sub-section shall apply in relation to the making, acceptance, indorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and in relation to the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as, a valuable security, as if that were the execution of a valuable security.

- 30 (3) For purposes of this section "deception" has the same meaning as in section 81, and "valuable security" means any document creating, transferring, surrendering or releasing any right to, in or over property, or authorizing the payment of money or delivery of any property, or evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation.

87. (1) A person

Blackmail.

87. (1) A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces ; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief—

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(a) that he has reasonable grounds for making the demand ;
and

(b) that the use of the menaces is a proper means of reinforcing the demand.

(2) The nature of the act or omission demanded is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.

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(3) A person guilty of blackmail is guilty of felony and liable to imprisonment for a term not exceeding fourteen years.

Offences relating to goods stolen, &c.

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Handling
stolen goods.

88. (1) A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realization by or for the benefit of another person, or if he arranges to do so.

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(2) A person guilty of handling stolen goods is guilty of felony and liable to imprisonment for a term not exceeding fourteen years.

Advertising
rewards for
return of
goods stolen
or lost.

89. Where any public advertisement of a reward for the return of any goods which have been stolen or lost uses any words to the effect that no questions will be asked, or that the person producing the goods will be safe from apprehension or inquiry, or that any money paid for the purchase of the goods or advanced by way of loan on them will be repaid, the person advertising the reward and any person who prints or publishes the advertisement shall on summary conviction be liable to a fine not exceeding \$200.

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Scope of
offences
relating to
stolen goods.

90. (1) The provisions of this Act relating to goods which have been stolen shall apply whether the stealing occurred in Victoria or elsewhere, and whether it occurred before or after the commencement of this Act, provided that the stealing (if not an offence under this Act) amounted to an offence where and at the time when the goods were stolen ; and references to stolen goods shall be construed accordingly.

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(2) For

(2) For purposes of those provisions references to stolen goods shall include, in addition to the goods originally stolen and parts of them (whether in their original state or not)—

5 (a) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of the thief as being the proceeds of any disposal or realization of the whole or part of the goods stolen or of goods so representing the stolen goods ; and

10 (b) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of a handler of the stolen goods or any part of them as being the proceeds of any disposal or realization of the whole or part of the stolen goods handled by him or of goods so representing them.

15 (3) But no goods shall be regarded as having continued to be stolen goods after they have been restored to the person from whom they were stolen or to other lawful possession or custody, or after that person and any other person claiming through him
20 have otherwise ceased as regards those goods to have any right to restitution in respect of the theft.

(4) For purposes of the provisions of this Act relating to goods which have been stolen (including sub-sections (1) (2) and (3))
25 goods obtained in Victoria or elsewhere either by blackmail or in the circumstances described in sub-section (1) of section 81 shall be regarded as stolen ; and “ steal ”, “ theft ” and “ thief ” shall be construed accordingly.

Possession of housebreaking implements, &c.

30 91. (1) A person shall be guilty of an offence if, when not at his place of abode, he has with him any article for use in the course of or in connexion with any burglary, theft or cheat.

Going equipped for stealing, &c.

(2) A person guilty of an offence under this section shall be liable to imprisonment for a term not exceeding three years.

35 (3) Where a person is charged with an offence under this section, proof that he had with him any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that he had it with him for such use.

(4) For purposes of this section an offence under sub-section (1) of section 79 of stealing a motor car shall be treated as theft
40 and “ cheat ” means an offence under section 81.

92. (1) If it is made to appear by information on oath before a justice that there is reasonable cause to believe that any person has in his custody or possession or on his premises any stolen goods, the

Search for stolen goods. Comp. s. 464

justice

justice may grant a warrant to search for and seize the same ; but no warrant to search for stolen goods shall be addressed to a person other than a constable except under the authority of an enactment expressly so providing.

(2) An officer of police not below the rank of inspector may give a constable written authority to search any premises for stolen goods— 5

(a) if the person in occupation of the premises has been convicted within the preceding five years of handling stolen goods or of any offence involving dishonesty and punishable with imprisonment ; or 10

(b) if a person who has been convicted within the preceding five years of handling stolen goods has within the preceding twelve months been in occupation of the premises. 15

(3) Where under this section a person is authorized to search premises for stolen goods, he may enter and search the premises accordingly, and may seize any goods he believes to be stolen goods.

(4) This section is to be construed in accordance with section 90 and in sub-section (2) the references to handling stolen goods shall include any corresponding offence committed before the commencement of the *Crimes (Theft) Act 1973*. 20

Procedure
and
evidence.

93. (1) Any number of persons may be charged in one indictment or presentment with reference to the same theft, with having at different times or at the same time handled all or any of the stolen goods, and the persons so charged may be tried together. 25

(2) On the trial of two or more persons for jointly handling any stolen goods the jury may find any of the accused guilty if the jury are satisfied that he handled all or any of the stolen goods, whether or not he did so jointly with the other accused or any of them. 30

(3) In any proceedings for the theft of anything in the course of transmission (whether by post or otherwise), or for handling stolen goods from such a theft, a statutory declaration made by any person that he despatched or received or failed to receive any goods or postal packet, or that any goods or postal packet when despatched or received by him were or was in a particular state or condition, shall be admissible as evidence of the facts stated in the declaration, subject to the following conditions:— 35

(a) a statutory declaration shall only be admissible where and to the extent to which oral evidence to the like effect would have been admissible in the proceedings ; and 40

(b) a statutory declaration shall only be admissible if at least seven days before the hearing or trial a copy of it has been given to the person charged, and he has not, 45

at

5 at least three days before the hearing or trial or within such further time as the court may in special circumstances allow, given to the informant or the Crown Solicitor as the case requires, written notice requiring the attendance at the hearing or trial of the person making the declaration.

(4) This section is to be construed in accordance with section 90.

10 94. (1) Where goods have been stolen, and a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence), the court by or before which the offender is convicted may on the conviction exercise any of the following powers:—

Orders for restitution.

15 (a) order anyone having possession or control of the goods to restore them to any person entitled to recover them from him ;

20 (b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the first-mentioned goods (as being the proceeds of any disposal or realization of the whole or part of them or of goods so representing them), the court may order those other goods to be delivered or transferred to the applicant ; or

25 (c) on the application of a person who, if the first-mentioned goods were in the possession of the person convicted would be entitled to recover them from him, the court may order that a sum not exceeding the value of those goods shall be paid to the applicant out of any money of the person convicted which was taken out of his possession on his apprehension.

30 (2) Where under sub-section (1) above the court has power on a person's conviction to make an order against him both under paragraph (b) and under paragraph (c) with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the applicant for the orders does not thereby recover
35 more than the value of those goods.

40 (3) Where under sub-section (1) the court on a person's conviction makes an order under paragraph (a) for the restoration of any goods, and it appears to the court that the person convicted has sold the goods to a person acting in good faith, or has borrowed money on the security of them from a person so acting, then on the application of the purchaser or lender the court may order that there shall be paid to the applicant, out of any money of the person convicted which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the
45 applicant, or as the case may be, the amount owed to the applicant in respect of the loan.

(4) The

(4) The court shall not exercise the powers conferred by this section unless in the opinion of the court the relevant facts sufficiently appear from evidence given at the trial or the available documents, together with admissions made by or on behalf of any person in connexion with any proposed exercise of the powers and for this purpose "the available documents" means any written statements or admissions which were made for use, and would have been admissible, as evidence at the trial, the depositions taken at any committal proceedings and any written statements or admissions used as evidence in those proceedings.

(5) References in this section to stealing are to be construed in accordance with sub-sections (1) and (4) of section 90.

General and consequential provisions.

Husband and wife.

95. (1) This Act shall apply in relation to the parties to a marriage, and to property belonging to the wife or husband whether or not by reason of an interest derived from the marriage, as it would apply if they were not married and any such interest subsisted independently of the marriage.

(2) Subject to sub-section (3) a person shall have the same right to bring proceedings against that person's wife or husband for any offence (whether under this Act or otherwise) as if they were not married, and a person bringing any such proceedings shall be competent to give evidence for the prosecution at every stage of the proceedings.

(3) Proceedings shall not be instituted against a person for any offence of stealing or doing unlawful damage to property which at the time of the offence belongs to that person's wife or husband, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Attorney-General :

Provided that this sub-section shall not apply to proceedings against a person for an offence—

(a) if that person is charged with committing the offence jointly with the wife or husband ; or

(b) if by virtue of any judicial decree or order (wherever made) that person and the wife or husband are at the time of the offence under no obligation to cohabit—

and provided further that this sub-section shall not prevent the the arrest, or the issue of a warrant for the arrest, of a person for an offence, or the remand in custody or on bail of a person charged

with

with an offence, where the arrest (if without a warrant) is made, or the warrant of arrest issues on an information laid, by a person other than the wife or husband.

- 5 96. (1) Notwithstanding anything to the contrary in section 546 where proceedings are brought against a person, whether upon presentment or summarily, for stealing or attempting to steal a motor car and that person is convicted of such an offence and ordered to be imprisoned or to pay a fine, or to be released on probation, or without being convicted is ordered to be released
- 10 upon entering into a recognisance conditioned for his appearance at a later time and for his good behaviour in the meantime, the judge or the magistrates' court before or by whom or which the person is so convicted or released, if satisfied that the motor car or any property therein or thereon has been damaged or destroyed
- 15 as a result of the offence, may, in addition to making any other order, order the person convicted or released to pay to the owner of the damaged or destroyed motor car or property such sum as the judge or magistrates' court fixes as compensation in whole or in part for the damage or destruction, and the sum so ordered
- 20 to be paid may be directed to be paid by instalments and shall, so far as relates to its payment or recovery and to the consequences of failure to pay, be regarded as a fine or penalty imposed by the court upon a conviction in the exercise of its ordinary criminal jurisdiction.
- 25 (2) Nothing in sub-section (1) shall be construed as abrogating or affecting any right of action which any person may have to recover damages for or to be indemnified against such damage or destruction so far as the right of action is not satisfied by payment or recovery of compensation under that sub-section.
- 30 (3) Where any person is convicted, whether upon presentment or summarily, of the offence of stealing or attempting to steal a motor car, the judge before whom or the magistrates' court before which he is so convicted and whether he is released on probation or not shall—
- 35 (a) if the offender holds any licence under the *Motor Car Act 1958* either—
- 40 (i) cancel that licence and, if the judge or magistrates' court thinks fit, also disqualify him from obtaining any such licence for such further time after the expiration of the licence cancelled as the judge or magistrates' court thinks fit ; or
- (ii) suspend that licence for such time as the judge or magistrates' court thinks fit ; or
- (b) if

Compensation
for motor
car theft.

(b) if the offender does not hold any such licence, declare him disqualified from obtaining any such licence for such time as the judge or magistrates' court thinks fit.

(4) Subject to this Act, the provisions of section 26 of the *Motor Car Act* 1958 shall extend and apply to and in respect of convictions for stealing or attempting to steal a motor car with all necessary modifications and, in particular, with the modifications that references therein to a magistrates' court and to the clerk of a magistrates' court shall be deemed to include references to the Supreme Court the County Court and to the Prothonotary and the registrar of the County Court and references to appeal to the County Court shall be deemed to include references to appeal to the Full Court.';

(c) Section 71 of the Principal Act as in force before the commencement of this Act shall be repealed;

(d) For the expression "(19) *Secret*" immediately preceding section 175 there shall be substituted the word "*Secret*";

(e) For the heading "(20) *Obtaining Monies &c. by False Pretences or False Promises*" there shall be substituted the heading "*Fraudulently inducing persons to invest*";

(f) Sections 187-190 (both inclusive) and sub-division (21) of Division 2 of Part I. shall be repealed;

(g) For section 193 there shall be substituted the following section:—

" 193. No proceedings shall be brought against any person for an offence against section 191 except with the consent of the Attorney-General.";

(h) Sections 329 to 332 (both inclusive), sections 383 and 384, section 427, sections 429 to 434 (both inclusive), sections 440 to 443 (both inclusive) and section 464 shall be repealed;

(i) In section 363 the words "and any number of receivers at different times of the whole or any part or parts of any property which at one time has been stolen taken extorted obtained embezzled or otherwise disposed of in such a manner as to amount to felony at common law or by statute" shall be repealed;

(j) For section 379 there shall be substituted the following section:—

" 379. In any proceedings for an offence under Division 2 of Part I. relating to the property of Her Majesty the property may be described as the property of Her Majesty.";

(k) In

(k) In section 381 for the words "stealing taking receiving or embezzling or for the fraudulent application or fraudulent disposition of money or any valuable security or for the obtaining of money or any valuable security" there shall be substituted the expression "for an offence under Division 2 of Part I." ;

(l) In section 409 the words "or for obtaining or for attempting to obtain any property by false pretences" shall be repealed ;

(m) In section 428 for the words "feloniously stealing cattle the jury are not satisfied that he is guilty of such felony" there shall be substituted the words "the theft of cattle the jury are not satisfied that he is guilty of that offence but are satisfied that he is guilty of" ;

(n) In sub-section (1) of section 570 the expression "and the operation in case of any such conviction on the provisions of sub-section (1) of section eighty-three of the *Goods Act* 1958 as to the re-vesting of the property in stolen goods on conviction" shall be repealed ; and

(o) Items Nos. 8 to 14, both inclusive and items No. 18, No. 27 and No. 28 in the Appendix to the Sixth Schedule shall be repealed.

(2) The Acts and enactments mentioned in the Schedule to the extent to which they are therein expressed to be repealed or amended are hereby repealed or amended accordingly.

3. (1) The offences at common law of larceny, robbery, burglary, receiving stolen property, obtaining property by threats, extortion by colour of office or franchise, false accounting by public officers, concealment of treasure trove, and except as regards offences relating to the public revenue, cheating, are hereby abolished for all purposes not related to offences committed before the commencement of this Act.

Abolition of
common law
offences.

(2) Except as regards offences committed before the commencement of this Act and except insofar as the context otherwise requires—

(a) references in any enactment passed before the commencement of this Act to an offence abolished by this Act shall, subject to any express amendment or repeal made by this Act, have effect as references to the corresponding offence under Division 2 of Part I. of the *Crimes Act* 1958 and in any such enactment the expression "receive" (when it relates to an offence of receiving) shall mean handle, and "receiver" shall be construed accordingly ; and

(b) without

(b) without prejudice to paragraph (a), references in any enactment, whenever passed, to theft or stealing (including references to stolen goods), and references to robbery, blackmail, burglary, aggravated burglary or handling stolen goods shall be construed in accordance with the provisions of Division 2 of Part I. of the *Crimes Act* 1958. 5

Commence-
ment and
transitional
provisions.

4. Division 2 of Part I. of the *Crimes Act* 1958 as re-enacted by this Act shall, save as otherwise provided by this Act, have effect only in relation to offences wholly or partly committed on or after the coming into operation of the Act. 10

SCHEDULE.

SCHEDULE.

1. For section 83 of the *Goods Act* 1958 there shall be substituted the following section :—

“ 83. Notwithstanding any enactment to the contrary where property has been stolen or obtained by fraud or other wrongful means the title to that or any other property shall not be affected by reason only of the conviction of the offender.”

2. For paragraphs (a) to (f) of sub-section (1) of section 102A of the *Justices Act* 1958 there shall be substituted the following paragraphs :—

“(a) with the offence of theft where the amount or value of the property alleged to have been stolen does not in the judgment of the Justices exceed the sum of \$2,000 ;

(b) with any offence of burglary where the offence involves the stealing of any property and the amount or value of the property the subject-matter of the offence does not in the judgment of the Justices exceed the sum of \$2,000 ;

(c) with any offence against section 78 of the *Crimes Act* 1958 where the amount or value of the property the subject-matter of the offence does not in the judgment of the Justices exceed the sum of \$2,000 ;

(d) with any offence against section 80, 81 or 87 of the *Crimes Act* 1958 where the amount or value of the property or financial advantage alleged to have been obtained does not in the judgment of the Justices exceed the sum of \$2,000.”

3. In paragraph (f) of section 41 of the *Marine Stores and Old Metals Act* 1958 the word “embezzled” shall be repealed.

