

ORDER IN COUNCIL

I
1983

ratifying a Projet de Loi

ENTITLED

The Theft (Bailiwick of Guernsey) Law, 1983

(Registered on the Records of the Island of Guernsey
on the 8th day of March, 1983.)



ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 8th day of March, 1983, before Graham Martyn Dorey, Esquire, Deputy Bailiff; present:— Stanley Walter Gavey, Esquire, O.B.E., Albert Richard McCartney Straw, Esquire, Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Donald Pescott Plummer, Esquire, Sydney Haydn Heard, Esquire, M.B.E., Brian Ernest Herbert Joy, Esquire, Charles Henry Hodder, Esquire, O.B.E., Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey and John Christopher Bulstrode, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 11th day of February, 1983, ratifying a *Projet de Loi* entitled "The Theft (Bailiwick of Guernsey) Law, 1983", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively.

At the Court at Buckingham Palace

The 11th day of February 1983

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 19th day of January 1983 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

‘1. That, in pursuance of their Resolution of the 28th day of April 1982 the States of Deliberation at a meeting held on the 29th day of September 1982 approved a Bill or “Projet de Loi” entitled “The Theft (Bailiwick of Guernsey) Law, 1983”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Theft (Bailiwick of Guernsey) Law, 1983”, and to order that the same shall have force of law in the Bailiwick of Guernsey.’

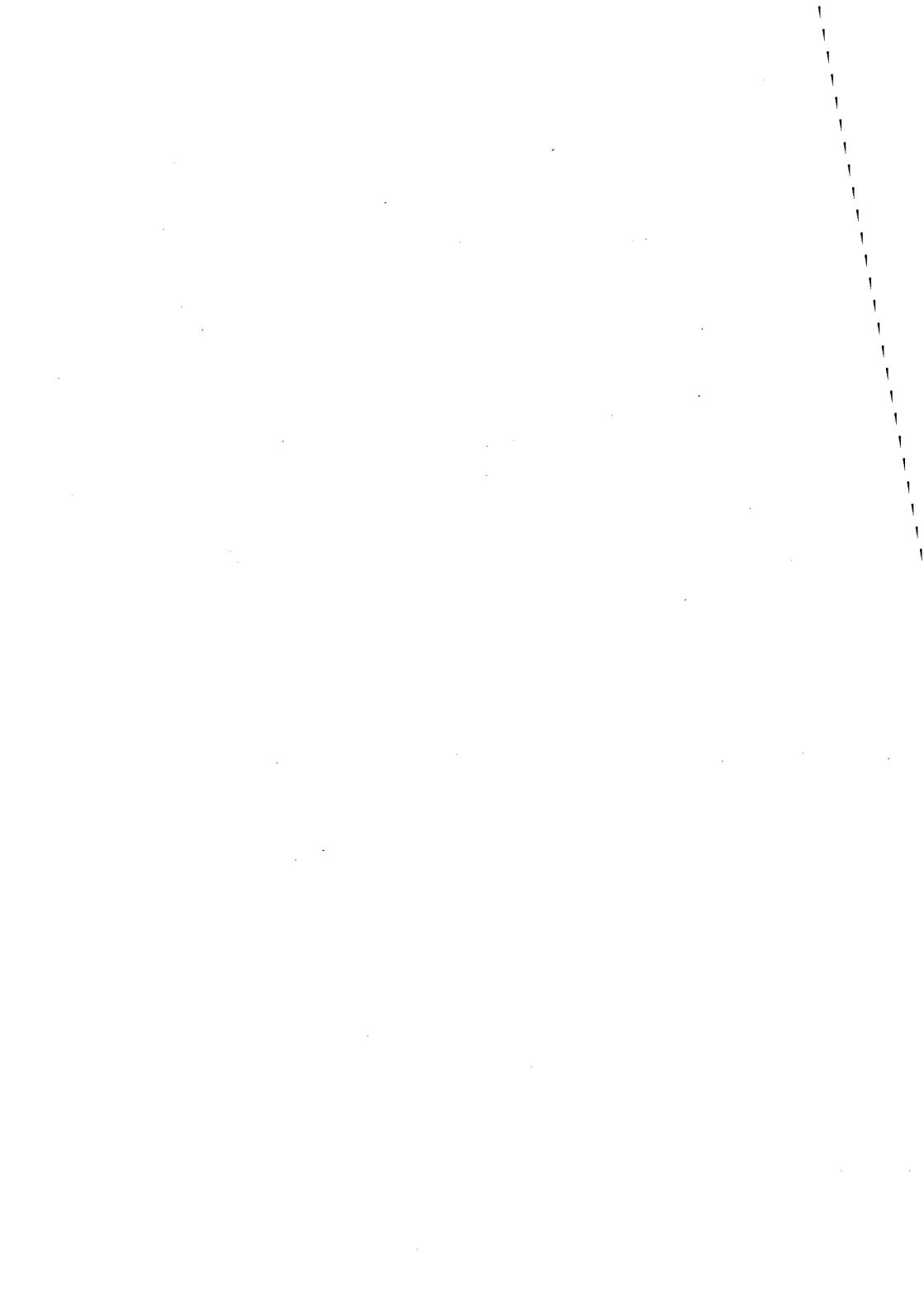
“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. E. Leigh.



Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Theft (Bailiwick of Guernsey) Law, 1983

ARRANGEMENT OF SECTIONS

Definition of "theft"

Section

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24. Making off without payment.

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Section

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31. Search for stolen goods.
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33. Orders for restitution.
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General and consequential provisions

36. Accessories and abettors.
37. Penalties for assisting offenders.
38. Attempts.
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40. Effect on existing law and construction of references to offences.
41. Repeal and amendments.
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SCHEDULE Enactments amended.

PROJET DE LOI

ENTITLED

The Theft (Bailiwick of Guernsey) Law, 1983

THE STATES, in pursuance of their Resolution of the twenty-eighth day of April, nineteen hundred and eighty-two, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Definition of "theft"

Basic
definition
of theft.

1. (1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and "thief" and "steal" shall be construed accordingly.

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.

(3) The five following sections of this Law shall have effect as regards the interpretation and operation of this section (and, except as otherwise provided by this Law, shall apply only for purposes of this section).

"Dis-
honestly".

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

(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
- (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.

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

3. (1) 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".

(2) 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.

4. (1) "Property" includes money and all other property, real or personal, including things in action and other intangible property. "Property".

(2) 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—

- (a) when he is a trustee or personal representative, or is authorised 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
- (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
- (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 purposes of this subsection "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 is to be treated as having possession under the tenancy, and "let" shall be construed accordingly.

(3) 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.

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

(4) 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.

5. (1) Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest. “Belong-
ing to
another”.

(2) 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.

(3) 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.

(4) 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.

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

“With the intention of permanently depriving the other of it”.

6. (1) 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.

(2) Without prejudice to the generality of subsection (1) of this section, 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.

Theft, robbery, burglary, etc.

Theft.

7. A person guilty of theft shall on conviction be liable to imprisonment for a term not exceeding ten years.

Robbery.

8. (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.

(2) A person guilty of robbery, or of an assault with intent to rob, shall on conviction be liable to imprisonment for life.

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

“With the intention of permanently depriving the other of it”.

6. (1) 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.

(2) Without prejudice to the generality of subsection (1) of this section, 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.

Theft, robbery, burglary, etc.

Theft. 7. A person guilty of theft shall on conviction be liable to imprisonment for a term not exceeding ten years.

Robbery. 8. (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.

(2) A person guilty of robbery, or of an assault with intent to rob, shall on conviction be liable to imprisonment for life.

9. (1) A person is guilty of burglary if— Burglary.

- (a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2) of this section; or
- (b) having entered any building or part of a building as a trespasser he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

(2) The offences referred to in paragraph (a) of subsection (1) of this section are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm or raping any woman therein, and of doing unlawful damage to the building or anything therein.

(3) References in subsections (1) and (2) of this section 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.

(4) A person guilty of burglary shall on conviction be liable to imprisonment for a term not exceeding fourteen years.

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

- (a) “firearm” means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged, and includes—
- (i) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing; and
 - (ii) an air rifle, air gun or air pistol; and
- (b) “imitation firearm” means anything which has the appearance of being a firearm, whether capable of being discharged or not; and
- (c) “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
- (d) “explosive” means any article or substance manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose.

(2) A person guilty of aggravated burglary shall on conviction be liable to imprisonment for life.

Removal
of articles
from places
open to
the public.

11. (1) Subject to subsections (2) and (3) of this section, 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.

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.

(2) It is immaterial for purposes of subsection (1) of this section, 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 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 the said subsection (1).

(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.

(4) A person guilty of an offence under this section shall on conviction be liable to imprisonment for a term not exceeding five years.

12. (1) Subject to subsections (4) and (5) of this section, a person shall be guilty of an offence if, without having the consent of the owner or other lawful authority, he takes any conveyance for his own or another's use or, knowing that any conveyance has been taken without such authority, drives it or allows himself to be carried in or on it.

Taking
motor
vehicle
or other
conveyance
without
authority.

(2) A person guilty of an offence under subsection (1) of this section shall on conviction be liable to imprisonment for a term not exceeding three years.

(3) If on the trial of any person charged with theft the court is not satisfied that the accused committed theft, but it is proved that the accused committed an offence under subsection (1) of this section, the court may find him guilty of the offence under the said subsection (1).

(4) Subsection (1) of this section shall not apply in relation to pedal cycles; but, subject to subsection (5) thereof, a person who, without having the consent of the owner or other lawful authority, takes a pedal cycle for his own or another's use, or rides a pedal cycle knowing it to have been taken without such authority, shall on conviction be liable to a fine not exceeding one hundred pounds.

(5) A person does not commit an offence under this section by anything done in the belief that he has lawful authority to do it or that he would have the owner's consent if the owner knew of his doing it and the circumstances of it.

(6) For purposes of this section—

(a) "conveyance" means any conveyance constructed or adapted for the carriage of a person or persons whether by land, water or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried in or on it, and "drive" shall be construed accordingly; and

- (b) "owner", in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the conveyance under that agreement.

13. A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity shall on conviction be liable to imprisonment for a term not exceeding five years.

Abstracting of electricity.

14. (1) Where a person—

- (a) steals or attempts to steal any mail bag or postal packet in the course of transmission as such between places in different parts of the Bailiwick, or any of the contents of such a mail bag or postal packet;

Extension to thefts from mails in transit between different parts of the Bailiwick, and robbery etc. on such a theft.

or

- (b) in stealing or with intent to steal any such mail bag or postal packet or any of its contents, commits any robbery, attempted robbery or assault with intent to rob;

then, notwithstanding that he does so outside the Bailiwick, he shall be guilty of committing or attempting to commit the offence against this Law as if he had done so in the Bailiwick; and he shall accordingly be liable to be prosecuted, tried and punished in any part of the Bailiwick without proof that the offence was committed there.

(2) For purposes of this section "mail bag" includes any article serving the purpose of a mail bag.

Fraud and blackmail

Obtaining
property
by decep-
tion.

15. (1) A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, shall on conviction be liable to imprisonment for a term not exceeding ten years.

(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) Section six of this Law shall apply for purposes of this section, with the necessary adaptation of the reference to appropriating, as it applies for purposes of section one of this Law.

(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.

Obtaining
pecuniary
advantage
by
deception.

16. (1) A person who by any deception dishonestly obtains for himself or another any pecuniary advantage shall on conviction be liable to imprisonment for a term not exceeding five years.

(2) The cases in which a pecuniary advantage within the meaning of this section is to be regarded as obtained for a person are cases where—

(a) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement of the terms on which he is allowed to do so; or

(b) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

(3) For purposes of this section "deception" has the same meaning as in section fifteen of this Law.

17. (1) A person who by any deception dishonestly obtains services from another shall be guilty of an offence. Obtaining services by deception.

(2) It is an obtaining of services where the other is induced to confer a benefit by doing some act, or causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.

(3) For the purposes of this section "deception" has the same meaning as in section fifteen of this Law.

(4) A person guilty of an offence under this section shall on conviction be liable to imprisonment for a term not exceeding five years.

18. (1) Subject to subsection (2) of this section, where a person by any deception— Evasion of liability by deception.

(a) dishonestly secures the remission of the whole or part of any existing liability to make a payment, whether his own liability or another's; or

(b) with intent to make permanent default in whole or in part on any existing liability to make a payment, or

with intent to let another do so, dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forego payment; or

(c) dishonestly obtains any exemption from or abatement of liability to make a payment; he shall be guilty of an offence.

(2) For the purposes of this section—

(a) “deception” has the same meaning as in section fifteen of this Law;

(b) “liability” means legally enforceable liability; and subsection (1) of this section shall not apply in relation to a liability that has not been accepted or established to pay compensation for a wrongful act or omission.

(3) For purposes of paragraph (b) of subsection (1) of this section a person induced to take in payment a cheque or other security for money by way of conditional satisfaction of a pre-existing liability is to be treated not as being paid but as being induced to wait for payment.

(4) For purposes of paragraph (c) of subsection (1) of this section “obtains” includes obtaining for another or enabling another to obtain.

(5) A person guilty of an offence under this section shall on conviction be liable to imprisonment for a term not exceeding five years.

19. (1) Where a person dishonestly, with a view ^{False} to gain for himself or another or with intent to ^{account-} cause loss to another,—ing.

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

he shall, on conviction, be 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.

20. (1) Where an offence committed by a body ^{Liability of} corporate under section fifteen, sixteen, seventeen, ^{company} eighteen or nineteen of this Law is proved to have ^{officers} been committed with the consent or connivance of ^{for certain} any director, manager, secretary or other similar ^{offences by} officer of the body corporate, or any person who ^{company.} 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.

(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 connection with his functions of management as if he were a director of the body corporate.

False statements by company directors, etc.

21. (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 shall on conviction be liable to imprisonment for a term not exceeding seven years.

(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.

(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 connection with his functions of management as if he were an officer of the body corporate or association.

Suppression, etc. of documents.

22. (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 specified document shall on conviction be liable to imprisonment for a term not exceeding seven years.

(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 shall on conviction be liable to imprisonment for a term not exceeding seven years; and this subsection 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.

- (3) For purposes of this section—
 “deception” has the same meaning as in section fifteen of this Law;
 “specified document” means—

- (a) any record, cause, process, deposition, affidavit, rule, order or any original document whatsoever of or belonging to the Court of Appeal, the Royal Court or any Division thereof, the Magistrate’s Court, the Ecclesiastical Court, the Court of Alderney or the Court of the Seneschal of Sark, or relating to any matter, civil or criminal, begun, depending or terminated in any such Court; or
- (b) any original document in anywise relating to the business of any office or employment under Her Majesty, the States of Guernsey, the States of Alderney or the

Chief Pleas of Sark, and being or remaining in any office appertaining to any court of justice, or in any Crown or public office; or

- (c) any document forming part of the public records of the Islands of Guernsey, Alderney and Sark respectively;

“valuable security” means any document creating, transferring, surrendering or releasing any right to, in or over property, or authorising 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.

Blackmail.

23. (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—

- (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.

(3) A person guilty of blackmail shall on conviction be liable to imprisonment for a term not exceeding fourteen years.

Making off without payment.

24. (1) Subject to subsection (3) of this section, **Making off without payment.** a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due shall be guilty of an offence.

(2) For purposes of this section "payment on the spot" includes payment at the time of collecting goods on which work has been done or in respect of which service has been provided.

(3) Subsection (1) of this section shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service done is such that payment is not legally enforceable.

(4) Any person may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, committing or attempting to commit an offence under this section.

(5) Subsection (4) of this section shall not prejudice any power of arrest conferred by law apart from the said subsection.

(6) A person guilty of an offence under this section shall on conviction be liable to imprisonment for a term not exceeding two years.

Offences relating to goods stolen, etc.

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

(2) A person guilty of handling stolen goods shall on conviction be liable to imprisonment for a term not exceeding fourteen years.

Advertising rewards for return of goods stolen or lost.

26. 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 conviction be liable to a fine not exceeding two hundred pounds.

Scope of offences relating to stolen goods.

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

(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),—

- (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 realisation of the whole or part of the goods stolen or of goods so representing the stolen goods; and

- (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 realisation of the whole or part of the stolen goods handled by him or of goods so representing them.

(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 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 Law relating to goods which have been stolen (including subsections (1) to (3) of this section) goods obtained in the Bailiwick or elsewhere either by blackmail or in the circumstances described in subsection (1) of section fifteen of this Law shall be regarded as stolen; and "steal", "theft" and "thief" shall be construed accordingly.

Possession of house-breaking implements, etc.

28. (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 connection with any burglary, theft or cheat. Going equipped for stealing, etc.

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

(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 subsection (1) of section twelve of this Law of taking a conveyance shall be treated as theft, and "cheat" means an offence under section fifteen of this Law.

Offences relating to fish

Taking or
destroying
fish.

29. (1) Subject to subsection (2) of this section, a person who unlawfully takes or destroys, or attempts to take or destroy, any fish in water which is private property or in which there is any private right of fishery shall on conviction be liable to a fine not exceeding two hundred pounds or, for an offence committed after a previous conviction of an offence under this subsection, to imprisonment for a term not exceeding three months or to a fine not exceeding four hundred pounds or to both.

(2) Subsection (1) of this section shall not apply to taking or destroying fish by angling in the day-time (that is to say, in the period beginning one hour before sunrise and ending one hour after sunset); but a person who by angling in the day-time unlawfully takes or destroys, or attempts to take or destroy, any fish in water which is private property or in which there is any private right of fishery shall on conviction be liable to a fine not exceeding fifty pounds.

(3) The court by which a person is convicted of an offence under this section may order the forfeiture of anything which, at the time of the offence, he had with him for use for taking or destroying fish.

(4) For purposes of this section "fish" includes shellfish.

Powers of the court in the case of certain offences relating to motor vehicles

30. (1) Where any person is convicted of an offence to which this section applies, Article fourteen of the Law entitled "Loi relative aux Automobiles" registered on the eleventh day of December, nineteen hundred and twenty-six, as amended^(a), (which relates to the suspension of or disqualification from holding or applying for a driving licence) shall have effect as though such offence were an offence to which the said Article applies.

Suspension, etc. of driving licences of persons convicted of certain offences relating to motor vehicles.

(2) The offences to which this section applies are—

- (a) stealing or attempting to steal a motor vehicle;
- (b) an offence or an attempt to commit an offence in respect of a motor vehicle under section twelve of this Law (which relates to taking a motor vehicle or other conveyance without authority);

(a) Ordres en Conseil Vol. VIII, p. 56; Vol. IX, p. 299.

- (c) an offence committed with reference to a motor vehicle under section twenty-eight of this Law (which relates to going equipped for stealing, etc.).

Enforcement and procedure

Search for
stolen
goods.

31. (1) If the Bailiff is satisfied by information on oath that there is reasonable cause to believe that any person has in his custody or possession or on his premises any stolen goods, the Bailiff 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 police officer except under the authority of an enactment expressly so providing.

(2) The Chief Officer of Police may give a police officer written authority to search any premises for stolen goods—

- (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
- (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.

(3) Where under this section a person is authorised 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) For purposes of this section—
“The Bailiff” means—

- (a) in relation to Guernsey, Herm and Jethou, the Bailiff, the Deputy Bailiff, a Lieutenant-Bailiff or the Juge Délégué;
- (b) in relation to Alderney, the Chairman of the Court of Alderney; and
- (c) in relation to Sark, the Seneschal;

“The Chief Officer of Police” means—

- (a) in relation to Guernsey, Herm and Jethou, the Chief Officer of the salaried police force of the Island of Guernsey;
- (b) in relation to Alderney, the said Chief Officer or the Clerk of the Court of Alderney; and
- (c) in relation to Sark, the Constable;

“police officer” means—

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limit of his jurisdiction, a member of the special constabulary of the Island of Guernsey;
- (b) in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney; and
- (c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of Guernsey.

(5) This section is to be construed in accordance with section twenty-seven of this Law; and in subsection (2) of this section the references to handling stolen goods shall include any corresponding offence committed before the commencement of this Law.

Evidence
and pro-
cedure on
charge of
theft or
handling
stolen
goods.

32. (1) Any number of persons may be charged in one indictment, 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.

(2) On the trial of two or more persons indicted for jointly handling any stolen goods the court may find any of the accused guilty if the court is 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.

(3) Where a person is being proceeded against for handling stolen goods (but not for any offence other than handling stolen goods), then at any stage of the proceedings, if evidence has been given of his having or arranging to have in his possession the goods the subject of the charge, or of his undertaking or assisting in, or arranging to undertake or assist in, their retention, removal, disposal or realisation, the following evidence shall be admissible for the purpose of proving that he knew or believed the goods to be stolen goods:—

(a) evidence that he has had in his possession, or has undertaken or assisted in the retention, removal, disposal or realisation of, stolen goods from any theft taking place not earlier than twelve months before the offence charged; and

- (b) (provided that seven days' notice in writing has been given to him of the intention to prove the conviction) evidence that he has within the five years preceding the date of the offence charged been convicted of theft or of handling stolen goods.

(4) 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, an affidavit 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 in a particular state or condition, shall be admissible as evidence of the facts stated in the declaration, subject to the following conditions:—

- (a) an affidavit 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
- (b) an affidavit shall only be admissible if at least nine days before the hearing or trial a copy of it has been given to the person charged, and he has not, at least five days before the hearing or trial or within such further time as the court may in special circumstances allow, given the prosecutor written notice requiring the attendance at the hearing or trial of the person making the declaration.

(5) This section is to be construed in accordance with section twenty-seven of this Law; and in paragraph (b) of subsection (3) of this section the reference to handling stolen goods shall include any corresponding offence committed before the commencement of this Law.

(6) For purposes of this section "affidavit" means a declaration in writing which is deposed to on oath or by affirmation or solemn declaration by the declarant and attested by any of the following persons, that is to say—

- (a) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose;
- (b) a British consular officer; or
- (c) a notary public.

Orders for
restitution.

33. (1) Where goods have been stolen, and either a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence) or a person is convicted of any other offence but such an offence as aforesaid is taken into consideration in determining his sentence, the court by or before which the offender is convicted may on the conviction (whether or not the passing of sentence is in other respects deferred) exercise any of the following powers—

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

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

(2) Where under subsection (1) of this section 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 person in whose favour the orders are made does not thereby recover more than the value of those goods.

(3) Where under subsection (1) of this section 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, the court may order that there shall be paid to the purchaser or lender, 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 purchaser or, as the case may be, the amount owed to the lender in respect of the loan.

(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 connection 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 subsection (1) and subsection (4) of section twenty-seven of this Law.

Further provisions concerning orders for restitution.

34. (1) The following provisions of this section shall have effect with respect to section thirty-three of this Law.

(2) The powers conferred by—

(a) paragraph (c) of subsection (1) of the said section thirty-three (payment to owner of stolen goods out of money taken from the offender on his apprehension); and

(b) subsection (3) of that section (payment to purchaser of, and lender on the security of, stolen goods out of money so taken), shall be exercisable without any application being made in that behalf or on the application of any person appearing to the court to be interested in the property concerned.

(3) The powers conferred by the said section thirty-three shall be exercisable not only where a person is convicted of an offence with reference to

the theft of the goods in question but also where, on the conviction of a person of any other offence, the court takes an offence with reference to the theft of those goods into consideration in determining sentence.

(4) Where an order is made under the said section thirty-three against any person in respect of an offence taken into consideration in determining his sentence—

- (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;
- (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

(5) Any order under the said section thirty-three made by the appropriate court shall be suspended—

- (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of the appropriate court;
- (b) where notice of appeal is given within the period so prescribed, until the determination of the appeal;

but this subsection shall not apply where the order is made under paragraph (a) or paragraph (b) of subsection (1) of the said section thirty-three and the court so directs, being of the opinion that the title to the goods to be restored or, as the case may be, delivered, or transferred under the order is not in dispute.

(6) For purposes of this section, “the appropriate court” means—

- (a) in relation to Guernsey, Herm and Jethou, the Magistrate’s Court;
- (b) in relation to Alderney, the Court of Alderney;
- (c) in relation to Sark, the Court of the Seneschal; and
- (d) in relation to Alderney and Sark, the Royal Court of the Island of Guernsey sitting as an Ordinary Court in exercise of its original summary jurisdiction in criminal matters arising in Alderney and Sark.

Trial of offences.

35. (1) Where, on a person’s trial on indictment for any offence under this Law, the court finds him not guilty of the offence specifically charged in the indictment, but the allegations in the indictment amount to or include (expressly or by implication) an allegation of another offence falling within the jurisdiction of the court of trial, the court may find him guilty of that other offence or of an offence of which he could be guilty on an indictment specifically charging that other offence.

(2) For purposes of subsection (1) of this section any allegation of an offence shall be taken as including an allegation of attempting to commit that offence; and where a person is charged on indictment with attempting to commit an offence or with any assault or other act preliminary to an offence, but not with the completed offence, then he may be convicted of the offence charged notwithstanding that he is shown to be guilty of the completed offence.

(3) Subsection (1) of this section shall apply to an indictment containing more than one count as if each count were a separate indictment.

General and consequential provisions

36. Every person who knowingly and wilfully aids, abets, counsels, procures or commands the commission of an offence punishable under this Law shall be liable to be dealt with, indicted, tried and punished as a principal offender. Accessories and abettors.

37. (1) Where a person has committed an offence under this Law, any other person who, knowing or believing him to be guilty of the offence or of some other offence under this Law, does without lawful authority or reasonable excuse any act with intent to impede his apprehension or prosecution shall be guilty of an offence. Penalties for assisting offenders.

(2) If on the trial of an indictment for an offence under this Law the court is satisfied that the offence charged (or some other offence of which the accused might on that charge be found guilty) was committed, but finds the accused not guilty of it, the court may find him guilty of any offence under subsection (1) of this section of which the court is satisfied that he is guilty in relation to the offence charged (or that other offence).

(3) A person committing an offence under subsection (1) of this section with intent to impede another person's apprehension or prosecution shall on conviction be liable to imprisonment according to the gravity of the other person's offence as follows:—

- (a) if that offence is one for which a person may be sentenced to imprisonment for life, he shall be liable to imprisonment for not more than ten years;
- (b) if it is one for which a person may be sentenced to imprisonment for a term of fourteen years, he shall be liable to imprisonment for not more than seven years;
- (c) if it is not one included above but is one for which a person may be sentenced to imprisonment for a term of ten years, he shall be liable to imprisonment for not more than five years;
- (d) in any other case, he shall be liable to imprisonment for not more than three years.

Attempts.

38. (1) Every person who attempts to commit an offence punishable under this Law shall be guilty of an offence and shall be liable on conviction to such term of imprisonment or such fine or to such term of imprisonment and such fine as the court may deem just:

Provided that as respects any attempt to commit any such offence the court may not impose any punishment exceeding that which the court might have imposed if the offence had been completed.

(2) If, on the trial of any person charged with any offence under this Law, it appears to the court upon the evidence that the person so charged did not complete the offence charged but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, and the court may find that person

not guilty of the offence charged but guilty of the attempt to commit the same and thereupon he shall be liable to be punished accordingly.

39. On conviction of an offence punishable under this Law other than an offence under section thirty-eight thereof (which relates to attempts), the court, instead of or in addition to any other punishment which may be lawfully imposed, may fine the offender. Fines.

40. (1) The following offences are hereby abolished for all purposes not relating to offences committed before the commencement of this Law, that is to say— Effect on existing law and construction of references to offences.

(a) any offence at common law of larceny, robbery, burglary, receiving stolen property, obtaining property by threats, and, except as regards offences relating to the public revenue, cheating; and

(b) any offence under the Larceny (Guernsey) Law, 1958(b) or under any provision which is repealed by subsection (2) of section forty-one of this Law of an enactment mentioned in the first column of the Schedule to this Law, to the extent to which the offence depends on any section or part of a section included in the second column of that Schedule.

(b) Ordres en Conseil Vol. XVII, p. 308.

(2) Except as regards offences committed before the commencement of this Law, and except in so far as the context otherwise requires,—

- (a) references in any enactment passed before this Law to an offence abolished by this Law shall, subject to any express amendment or repeal made by this Law, have effect as references to the corresponding offence under this Law, 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 prejudice to paragraph (a) above, 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 this Law, including those of section twenty-seven of this Law.

Repeal and
amend-
ments.

41. (1) The Larceny (Guernsey) Law, 1958, is hereby repealed.

(2) The enactments set out in the first column of the Schedule to this Law are hereby amended to the extent specified in the second column thereof.

Interpreta-
tion.

42. (1) Subsection (1) of section four and subsection (1) of section five of this Law shall apply generally for purposes of this Law as they apply for purposes of section one thereof.

- (2) For purposes of this Law—
- “the Bailiwick” means the Bailiwick of Guernsey;
- “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—
- (i) “gain” includes a gain by keeping what one has, as well as a gain by getting what one has not; and
- (ii) “loss” includes a loss by not getting what one might get, as well as a loss by parting with what one has;
- “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;
- “indicted” includes charged;
- “indictment” includes charge.

(3) Except in so far as the context otherwise requires, any reference in this Law to any other enactment shall be construed as a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment including this Law.

(4) The Interpretation (Guernsey) Law, 1948(c), shall apply to the interpretation of this Law throughout the Bailiwick.

Commence-
ment and
transitional
provisions.

43. (1) This Law shall come into force on such day as the States of Guernsey may by Ordinance appoint in that behalf and, save as otherwise provided by this Law, shall have effect only in relation to offences wholly or partly committed on or after that date.

(2) Sections thirty-two, thirty-three and thirty-four of this Law shall apply in relation to proceedings for an offence committed before the commencement of this Law as they would apply in relation to proceedings for a corresponding offence under this Law, and shall so apply in place of any corresponding enactment repealed by this Law.

(3) Subject to subsection (2) of this section, no repeal or amendment by this Law of any enactment relating to procedure or evidence, or to the jurisdiction or powers of any court, or to the effect of a conviction, shall affect the operation of the enactment in relation to offences committed before the commencement of this Law or to proceedings for any such offence.

Citation.

44. This Law may be cited as the Theft (Bailiwick of Guernsey) Law, 1983.

SCHEDULE section 41 (2)

ENACTMENTS AMENDED

<i>Enactment</i>	<i>Amendment</i>
The Law entitled "Loi relative à la Police des Havres et de leurs Alentours" registered on the ninth day of August, eighteen hundred and seventy-two(a).	Paragraph 30 of Article three is repealed.

(a) Ordres en Conseil Vol. II, p. 121.

*Enactment**Amendment*

- The Law entitled "Loi relative à la Probation de Délinquants" registered on the twenty-third day of December, nineteen hundred and twenty-nine(b).
- The Unlawful User of Vehicles Law, 1930(c).
- The Government of Alderney Law, 1948(d).
- The Magistrate's Court (Guernsey) Law, 1954(e).
- The Unlawful User of Motor Vehicles (Alderney) Law, 1959(f).
- The Post Office (Guernsey) Law, 1969(g).
- Paragraph (4) of Article one is repealed and the following paragraph is substituted therefor—
- "(4) Where an order under this article is made by the Police Court, the order shall for the purpose of enabling the Court to make any order under section thirty-three of sey) Law, 1983, have the like the Theft (Bailiwick of Guern-effect as a conviction."
- Section two is repealed. In section four the words and figure "section 2 or" are repealed.
- In subsection (2) of section twenty the words "theft with violence, fraud" are repealed and the word "robbery" is substituted therefor.
- In paragraph (c) of subsection (1) of section ten the words "with violence" are repealed.
- Section two is repealed. In section four the words "section two or" are repealed.
- (a) in subsection (1) of section thirty-two the words "and of the Larceny (Guernsey) Law, 1958" are repealed;

(b) Ordres en Conseil Vol. VIII, p. 363.
 (c) Ordres en Conseil Vol. IX, p. 8.
 (d) Ordres en Conseil Vol. XIII, p. 416.
 (e) Ordres en Conseil Vol. XVI, p. 103.
 (f) Ordres en Conseil Vol. XVIII, p. 39.
 (g) Ordres en Conseil Vol. XXII, p. 128.

*Enactment**Amendment*

- (b) section forty-one is repealed;
- (c) in section forty-two the words "fourteen years" are repealed and the words "five years" are substituted therefor;
- (d) section forty-three is repealed;
- (e) in section forty-four the words "or to both a fine and imprisonment." are repealed and the words "for a term not exceeding two years or both a fine and such imprisonment." are substituted therefor;
- (f) section forty-six is repealed and the following section is substituted therefor—

" Secretion
or destruc- 46. If any officer
tion by of the States Post
officer of Office secretes or
States Post destroys a postal
Office of packet in course
postal of transmission by
packet. post, he shall be
 guilty of an offence
 and be liable, on
 conviction, to im-
 prisonment for a
 term not exceed-
 ing seven years or
 to a fine or to both
 such imprisonment
 and such fine.";

*Enactment**Amendment*

- (g) section fifty-seven shall be re-numbered as "57. (1)" and there shall be inserted thereafter the following subsection numbered "(2)"—

"(2) In any proceedings for an offence under section forty-two, forty-four, forty-five, forty-six or forty-seven of this Law, subsection (4) of section thirty-two of the Theft (Bailiwick of Guernsey) Law, 1983, shall apply as it is expressed to apply to proceedings for the theft of anything in the course of transmission by post.";

- (h) in subsection (1) of section seventy-one the definition of the expression "valuable security" is repealed and the following definition is substituted therefor:—

"'valuable security' means any document creating, transferring, surrendering or releasing any right to, in or over property, or authorising 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.".

Enactment

The Unlawful User of
Vehicles (Amendment)
(Guernsey) Law, 1970(*h*).

The Telecommunications
(Guernsey) Law, 1972(*i*).

Amendment

Paragraph (*a*) of section one is
repealed.

After section twenty-seven there
shall be inserted the following
Section numbered "27A"—

"Fraudulent use of public telephone or telex system. 27A. If any person dishonestly uses a public telecommunications service or telex system with intent to avoid payment (including any such system provided, under licence, otherwise than by the Board), he shall be guilty of an offence and be liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment."

A. G. LE CHEMINANT,

Her Majesty's Deputy Greffier.

(*h*) Ordres en Conseil Vol. XXII, p. 398.

(*i*) Ordres en Conseil Vol. XXIII, p. 395.