

## CRIMES AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Crimes Act 1908, and is part of the general scheme, of which the Summary Jurisdiction Bill forms the major part, for the extension of summary jurisdiction in indictable offences and the simplification of the law relating to it. Except in the case of *clause 2*, the purpose of this Bill is to write into the Crimes Act a number of provisions at present contained in Part V of the Justices of the Peace Act 1927, which is the existing source of summary jurisdiction in indictable offences. The offences so dealt with, namely abduction (*clause 3*), theft (*clauses 4 and 5*), false pretences (*clause 6*), receiving (*clause 7*), coinage offences (*clauses 8 and 9*), and mischief (*clause 10*) are indictable offences in which the present limited summary jurisdiction is extended by the Summary Jurisdiction Bill.

The following notes indicate the effect of the clauses of this Bill.

*Clause 2: Subclause (1)* of this clause makes it an indictable offence to shoot at, or throw anything at, a vehicle with intent to injure or endanger anyone in the vehicle. *Subclause (2)* makes it an offence to do any such act wilfully, but without such an intent, if the act is done in a manner likely to injure or endanger anyone in the vehicle. The clause is based on the similar provisions of sections 199 (c) and 200 (c) of the principal Act, which apply only to railways, tramways, or aircraft.

*Clause 3:* Under section 229 of the principal Act it is an offence to abduct, for immoral purposes, a girl under 16, whether or not she consents to the abduction, and whether or not the offender believes her to be 16. This clause extends that section by making it apply to a girl under 18, and by making it a good defence if the offender has reasonable cause to believe that the girl is 18. As amended by this clause, section 229 takes the place of section 209 of the Justices of the Peace Act 1927, which created a similar summary offence in respect of girls under 18. The maximum penalty is two years' imprisonment.

*Clause 4* re-enacts section 222 of the Justices of the Peace Act 1927, which makes it an indictable offence to steal electricity.

*Clause 5 (1)* substitutes a new section for section 247 of the principal Act, which prescribes four different grades of punishment for various kinds of theft. The present maximum penalty of life imprisonment for the theft of a testamentary instrument is altered in the new section to fourteen years. Four other grades of maximum penalty are prescribed, namely, seven years for certain specific kinds of theft, three years for the theft of any property valued at more than £20, six months where the value of the property is more than £2 and not more than £20, and three months where it is not more than £2. The last two provisions replace sections 234 and 238 of the Justices of the Peace Act 1927. *Subclauses (2) and (3)* are consequential amendments.

*Clause 6* deals with false pretences. *Subclause (1)* limits the application of the present maximum penalty of three years' imprisonment to cases where the property involved is valued at more than £2. *Subclause (2)* provides for a maximum penalty of three months in other cases. It replaces section 235 of the Justices of the Peace Act 1927.

*Clause 7* deals with receiving. *Subclause (1)* limits the application of the present maximum penalty of seven years' imprisonment to cases where the property involved is valued at more than £2. *Subclause (2)* provides for a maximum penalty of three months in other cases. It replaces section 250 of the Justices of the Peace Act 1927. *Subclause (3)* reduces the maximum penalty on a subsequent conviction from life imprisonment to fourteen years' imprisonment.

*Clause 8: Subclause (1)* makes it an offence under section 326 of the principal Act to utter any current coin which is defaced by having any word stamped on it. It replaces section 197 of the Justices of the Peace Act 1927. *Subclause (2)* amends section 326 so as to bring it up to date in its application to current coin.

*Clause 9* re-enacts, in a redrafted form, section 48 of the Finance Act 1920, prohibiting the melting down or breaking up of current coin, and section 199 of the Justices of the Peace Act 1927, which exempts persons from the prohibition on the breaking of coin where the coin is suspected to be diminished or to be counterfeit.

*Clause 10* amends section 339 of the principal Act, which prescribes punishments for various kinds of damage to property coming under the head of mischief. The paragraphs amended by this clause refer to damage for which no special punishment is "by law" prescribed. The amendment alters that wording so as to preserve the alternative summary jurisdiction under section 6 of the Police Offences Act 1927 (see the Police Offences Amendment Bill (No. 2)).

*Clause 11* amends section 359 of the principal Act, which deals with powers of arrest. The general rules as to arrest are that anyone charged with a crime for which the penalty is three years' imprisonment or more may be arrested without warrant (s. 358), and that anyone charged with a crime for which the penalty is less than three years' imprisonment shall not be arrested without warrant (s. 359); but there are a number of specified exceptions to each rule. This clause includes the crimes of endangering persons in vehicles (see *clause 2*) and theft (in cases where the penalty is less than three years) in the list of crimes for which the accused may be arrested without warrant. It replaces section 248 of the Justices of the Peace Act 1927, which provides that anyone found committing a theft punishable on summary conviction may be arrested without warrant.

*Clause 12:* Under section 449 of the principal Act, the Court may, on convicting anyone, order him to pay any sum up to £100 by way of compensation for loss of property caused by the crime. This clause makes it clear that such an order is not to affect the right to recover by civil proceedings any damages in excess of the amount awarded.

*Clause 13:* Under section 451 of the principal Act, the Court may, on convicting anyone, order property found in his possession to be returned to the true owner. This clause adds to that section a provision that where in a case of theft the stolen property has been sold to an innocent purchaser the Court may order that on the restitution of the property to the true owner the purchaser is to be reimbursed out of any moneys found in the possession of the convicted thief. The clause replaces section 244 of the Justices of the Peace Act 1927.

Hon Mr. Webb

## CRIMES AMENDMENT

### ANALYSIS

Title.	
1. Short Title and commencement.	9. Melting down or using current coin except as currency. Repeal.
2. Endangering persons in vehicles.	10. Section 339 of principal Act (as to punishment for mischief) amended.
3. Abduction of girl under eighteen.	11. Section 359 of principal Act (as to arrest) amended.
4. Theft of electricity.	12. Section 449 of principal Act (as to order for payment of compensation by accused) amended.
5. Punishment for theft. Repeals.	13. Section 451 of principal Act (as to restitution of property) amended.
6. Section 252 of principal Act (as to false pretences) amended.	
7. Section 284 of principal Act (as to receiving) amended.	
8. Section 326 of principal Act (as to uttering counterfeit coin) amended.	

### A BILL INTITULED

AN ACT to amend the Crimes Act 1908.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Crimes Amendment Act 1952, and shall be read together with and deemed part of the Crimes Act 1908 (hereinafter referred to as the principal Act).
- 10 (2) This Act shall come into force on the *first* day of *January*, nineteen hundred and fifty-three.

Short Title and commencement.

See Reprint of Statutes, Vol. II, p. 182

Endangering  
persons in  
vehicles.

2. The principal Act is hereby amended by inserting, after section two hundred, the following section:—

“ 200A. (1) Everyone is liable to seven years’ imprisonment who, with intent to injure or endanger the safety of any person in any vehicle, shoots or throws anything at, into, or upon, or causes anything to come in contact with, any vehicle, or shoots or throws anything at any person in any vehicle. 5

“ (2) Everyone is liable to two years’ imprisonment who unlawfully and wilfully, in a manner likely to injure or endanger the safety of any person in any vehicle, shoots or throws anything at, into, or upon, or causes anything to come in contact with, any vehicle, or shoots or throws anything at any person in any vehicle.” 10

Abduction of  
girl under  
eighteen.

Cf. 1927,  
No. 37, s. 209

(Reprint of  
Statutes,  
Vol. II,  
p. 411)

3. (1) Section two hundred and twenty-nine of the principal Act is hereby amended by omitting from subsection one the words “ sixteen years ”, and substituting the words “ eighteen years ”. 15

(2) The said section two hundred and twenty-nine is hereby further amended by repealing subsection two, and substituting the following subsections:— 20

“ (2) It is immaterial whether or not the girl is taken with her own consent or at her own suggestion.

“ (3) It shall be a sufficient defence to any charge under this section if it is made to appear to the jury before whom the charge is brought that the accused had reasonable cause to believe that the girl was of or over the age of eighteen years.” 25

Theft of  
electricity.

Cf. 1927,  
No. 37, s. 222

4. The principal Act is hereby amended by inserting, after section two hundred and thirty-eight, the following section:— 30

“ 238A. Electricity is hereby declared to be a thing capable of being stolen; and everyone commits theft who fraudulently abstracts, causes to be wasted or diverted, consumes, or uses any electricity.” 35

Punishment  
for theft.

5. (1) The principal Act is hereby further amended by repealing section two hundred and forty-seven, and substituting the following section:—

“ 247. Everyone is liable to the following punishment for theft:— 40

“ (a) To fourteen years’ imprisonment if the object stolen is a testamentary instrument, whether it is stolen during the testator’s life or after his death:

- 5 “ (b) To seven years’ imprisonment if the theft is one to which section two hundred and forty-two (which relates to theft by a person receiving moneys on account of another) or section two hundred and forty-three (which relates to theft by an attorney) or section two hundred and forty-four (which relates to theft by misappropriation) of this Act applies:
- 10 “ (c) To seven years’ imprisonment if the object stolen is—
- 15 “ (i) Anything stolen by a clerk or servant which belongs to or is in the possession of his employer:
- 20 “ (ii) Anything in the possession of the offender as a clerk or servant, or as an officer of the Government or of any local authority or public body, or as a constable:
- “ (iii) Anything stolen from the person of another:
- “ (iv) Anything stolen from a dwelling-house:
- 25 “ (v) Anything stolen from a separate receptacle, locked or otherwise secured:
- “ (vi) Any horse, mare, gelding, ass, mule, bull, cow, ox, or heifer, or any ram, ewe, or other sheep, or any boar, sow, or other pig, or any goat, or the young of any such animal as aforesaid:
- 30 “ (d) To three years’ imprisonment if the object stolen is anything for the theft of which no other punishment is prescribed by this Act, and if it exceeds in value the sum of *twenty* pounds:
- 35 “ (e) To six months’ imprisonment if the object stolen is anything for the theft of which no other punishment is prescribed by this Act, and if it exceeds in value the sum of *two* pounds and does not exceed in value the sum of *twenty* pounds: *Cf. 1927, No. 37, s. 238*
- 40 “ (f) To three months’ imprisonment if the object stolen is anything for the theft of which no other punishment is prescribed by this Act, and if it does not exceed in value the sum of *two* pounds.” *Cf. ibid., s. 234*
- 45

- (2) Section two hundred and fifty-five of the principal Act is hereby amended by omitting the words “ paragraph (d) (iv) of ”.
- Repeals. (3) Section two hundred and thirty-eight of the principal Act is hereby amended as follows:— 5
- (a) By repealing the proviso to subsection one:
- (b) By repealing subsection two.
- Section 252 of principal Act (as to false pretences) amended. 6. (1) Section two hundred and fifty-two of the principal Act is hereby amended by inserting in paragraph (a), after the words “ other than himself ”, the words “ if the thing so obtained or procured as aforesaid exceeds in value the sum of *two* pounds ”. 10
- (2) The said section two hundred and fifty-two is hereby further amended by adding the following as subsection two thereof:— 15
- Cf. 1927, No. 37, s. 235 “ (2) Everyone is liable to three months’ imprisonment who, with intent to defraud by any false pretence, either directly or through the medium of any contract obtained by such false pretence, obtains anything capable of being stolen, or procures anything capable of being stolen to be delivered to any person other than himself, if the thing so obtained or procured as aforesaid does not exceed in value the sum of *two* pounds.” 20
- Section 284 of principal Act (as to receiving) amended. Cf. *ibid.*, s. 250 7. (1) Section two hundred and eighty-four of the principal Act is hereby amended by adding to subsection one the words “ if the object so received exceeds in value the sum of *two* pounds ”. 25
- (2) The said section two hundred and eighty-four is hereby further amended by inserting, after subsection one, the following subsection:— 30
- “(1A) Everyone is liable to three months’ imprisonment who receives anything so obtained as aforesaid, knowing that thing to have been dishonestly obtained, if the object so received does not exceed in value the sum of *two* pounds.” 35
- (3) The said section two hundred and eighty-four is hereby further amended by omitting from subsection three the words “ imprisonment with hard labour for life ”, and substituting the words “ fourteen years’ imprisonment ”. 40

8. (1) Section three hundred and twenty-six of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:—

5 “ (dd) Utters any current coin which has been so defaced as aforesaid; or ”.

(2) The said section three hundred and twenty-six is hereby further amended by omitting from paragraph (c), and also from paragraph (e), the words “ gold or silver ”.

10 9. (1) The principal Act is hereby further amended by inserting, after section three hundred and twenty-six, the following section:—

15 “ 326A. (1) Everyone is liable to six months’ imprisonment who, without the consent of the Minister of Finance, melts down, breaks up, or uses otherwise than as currency any current coin.

20 “ (2) Notwithstanding anything in subsection one of this section, where any person suspects that any coin tendered to him as current coin has been diminished otherwise than by reasonable wear, or that it is counterfeit, it shall be lawful for him to break the coin. If the coin, when so broken, appears to have been diminished otherwise than by reasonable wear, or to be counterfeit, the person tendering it shall bear the loss; but if it is  
25 of due weight and appears to be current coin, the person breaking it shall receive it at the rate it was coined for. In this subsection, references to breaking include references to cutting, bending, and defacing.”

30 (2) Section forty-eight of the Finance Act 1920 is hereby repealed.

10. (1) Section three hundred and thirty-nine of the principal Act is hereby amended by omitting from paragraph (d) the words “ Any property, for damage to which no special punishment is by law prescribed,  
35 damaged by night to the value of five pounds ”, and substituting the words “ Any property, for damage to which no other punishment is prescribed by this Act, damaged by night ”.

Section 326 of principal Act (as to uttering counterfeit coin) amended.  
Cf. *ibid.*, ss. 197, 198

Melting down or using current coin except as currency.

Cf. Finance Act 1920, No. 38, s. 48 (Reprint of Statutes, Vol. II, p. 345)  
Cf. 1927, No. 37, s. 199

Repeal.  
See Reprint of Statutes, Vol. II, p. 345

Section 339 of principal Act (as to punishment for mischief) amended.

(2) The said section three hundred and thirty-nine is hereby further amended by repealing subparagraph (v) of paragraph (f), and substituting the following subparagraph:—

“(v) Any property, for damage to which no other punishment is prescribed by this Act, damaged otherwise than by night.” 5

Section 359  
of principal  
Act (as to  
arrest)  
amended.  
*Cf.* 1927,  
No. 37, s. 248

11. Section three hundred and fifty-nine of the principal Act is hereby amended by inserting in the proviso (which authorizes the arrest without warrant of persons charged with certain crimes), after the words “Section two hundred hereof”, the words “Sections *two hundred A* and two hundred and forty-seven hereof”. 10

Section 449  
of principal  
Act (as to  
order for  
payment of  
compensation  
by accused)  
amended.  
*Cf.* *ibid.*,  
s. 220 (2)

12. Section four hundred and forty-nine of the principal Act is hereby amended by inserting, after subsection three, the following subsection:— 15

“(3A) The making or enforcement of an order under this section for the payment of moneys to any person by way of satisfaction or compensation shall not affect the right of that person or any other person to recover by civil proceedings any damages in excess of the amount so ordered to be paid.” 20

Section 451  
of principal  
Act (as to  
restitution of  
property)  
amended.  
*Cf.* *ibid.*, s. 244

13. Section four hundred and fifty-one of the principal Act is hereby amended by inserting, after subsection one, the following subsection:— 25

“(1A) Where anyone is convicted of theft, and it appears to the Court that the stolen property has been sold to any person who bought it in good faith and without knowledge that it was stolen, the Court may order that on the restitution of the stolen property to the owner there shall be paid to the purchaser, out of any moneys found in the possession of the person so convicted or in the possession of any other person for him, a sum not exceeding the amount of the proceeds of the sale.” 30