
LAWS OF SAINT VINCENT AND THE GRENADINES

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CHAPTER 124

CRIMINAL CODE

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AN ACT to amend and codify the criminal laws of Saint Vincent and the Grenadines and for matters incidental thereto.

Commencement: 30th October 1989
 S.R.O. 33 of 1989

Short title.

1. This Act (hereinafter referred to as "this Code") may be cited as the Criminal Code.

2. Except as hereinafter provided, nothing in this Code shall affect—

Saving of certain other laws.

- (a) the liability, trial or punishment of a person for any offence against the common law or against any other law in force in Saint Vincent and the Grenadines other than this Code;
 (b) the power of any court to punish a person for contempt of such court;
 (c) the liability or trial of a person, or the punishment of a person under any sentence passed or to be passed, in respect of any act done or commenced before the 29th October, 1989;
 (d) any power of Her Majesty or of the Governor-General vested in him as the representative of Her Majesty, to grant any pardon, or to remit or commute, in whole or in part, or to respite the execution of, any sentence passed or to be passed; or
 (e) any law, regulation or articles, by whatsoever name known, for the government of Her Majesty's naval, military or air forces.

3. (1) Except as otherwise in this Code, or in the Interpretation and General Provisions Act, expressly provided, this Code shall be interpreted in accordance with the principles of legal interpretation obtaining in England, and expressions used in it shall be presumed so far as is consistent with their context, to be used in accordance with the meanings attached to them in the criminal law of England, and shall be construed in accordance therewith.

Interpretation.
 Cap. 10.

(2) In this Code, unless the context otherwise requires—

"Act" includes any subsidiary legislation made under such Act;

"arrestable offence" means an offence for which a person can be arrested without a warrant under the provisions of the Criminal Procedure Code;

Cap. 125.

"court" means the High Court, a magistrate's court, or both as the context requires;

"judicial proceeding" includes any proceeding held or taken before any court, tribunal, inquest, commission of inquiry or person, in which evidence may be taken on oath;

"knowingly" used in connection with any term denoting uttering or using, implies knowledge of the character of the thing uttered or used;

"money" includes bank notes, bankdrafts, cheques and

any other orders, warrants or requests for the payment of money;

"night" means the interval between 8 p.m. and 5 a.m. of the following day;

"oath" includes an affirmation and a statutory declaration;

"offence" includes an act, attempt or omission punishable at law;

"person employed in the public service" includes—

- (a) a person holding any public office, whether temporary or permanent, by appointment, by election or by operation of law, and whether with or without remuneration;
- (b) an arbitrator, umpire or referee in any proceeding or matter acting with the sanction of any court or in pursuance of any law;
- (c) any magistrate or justice of the peace;
- (d) any member of any statutory body, tribunal or commission appointed under or in pursuance of any law; and
- (e) any marriage officer appointed under the Marriage Act when acting in performance of his functions as such;

"possession" includes not only having in one's own personal possession, but knowingly having anything in the actual or personal possession or custody of any other person, or having in any place (whether belonging to oneself or occupied by oneself or not) for the use or benefit of oneself or any other person; and if there are two or more persons and any one of more of them with the knowledge and consent of all of any of the others has or have anything in his or their custody or possession it shall be deemed to be in the custody and possession of each and all of them;

"property" includes any description of real and personal property, money, debts and legacies and any deeds, instruments or other documents relating to, or evidencing the title or right to, any property or giving a right to recover or receive any money or goods;

"public" includes not only all persons in Saint Vincent and the Grenadines but also persons inhabiting or using any particular place, or any number of persons and also such indeterminate persons as may happen to be affected by the conduct in respect of which such expression is used;

"public place" includes any public way and any building, place or conveyance to which, for the time being, the public are entitled or permitted to have access either unconditionally or upon payment, or which is for the time being used for any public or religious meeting or as an open court;

"public way" includes any highway, market place, square, street, bridge or other way which is lawfully used by the public as of right;

"publicly", when applied to acts done, means either that they are so done in any public place as to be seen by any person, whether such person be or be not in a public place, or that they are so done in any place which is not a public place as to be likely to be seen or heard by any person in a public place;

"utter" includes using or dealing with or attempting to use or deal with, or attempting to induce any person to use, deal with or act upon the thing in question;

"wound" means any incision or puncture which divides or pierces any exterior membrane of the body, and any membrane is exterior for the the purposes of this definition which can be touched without dividing or piercing any other membrane;

and cognate expressions shall be construed accordingly.

(3) Except where the context otherwise requires, Chapters I, II and III of this Code apply to offences under any other law as they apply to offences under this Code.

4. When an act which, if done wholly within the jurisdiction of the court, would be an offence against this Code, is done partly within and partly beyond the jurisdiction, (including but without prejudice to the generality of the foregoing, any act which is done partly within one magisterial district and partly within another magisterial district or districts), every person who within the jurisdiction does or takes any part in such act, may be tried and punished as if such act had been done wholly within the jurisdiction.

Offences committed partly within and partly beyond the jurisdiction.

CHAPTER II

General Rules as to Criminal Liability

5. Ignorance of the law does not afford any excuse for any act or omission which would otherwise constitute an offence unless knowledge of the law by the offender is expressly declared to be an element of the offence.

Ignorance of law.

Bona fide claim of right.

6. A person is not criminally responsible in respect of an offence relating to property if the act done or omitted to be done by him with respect to the property was done in the exercise of an honest claim of right and without intention to defraud.

Intention and motive.

7. (1) Subject to the express provisions of this Code or any other law relating to negligent acts or omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident.

(2) Unless the intention to cause a particular result is expressly declared to be an element of an offence constituted in whole or in part by an act or omission, the result intended to be caused by an act or omission is immaterial.

(3) Unless otherwise expressly declared, the motive by which a person is induced to do or omit to do an act, or to form an intention, is immaterial as regards criminal responsibility.

(4) In determining whether a person has committed an offence a court—

- (a) shall not be bound to infer that he intended or foresaw a result of his actions by reason only of its being the natural and probable consequence of those actions, but
- (b) shall decide whether he did intend or foresee that result by reference to all the evidence, drawing such inference from the evidence as appears proper in the circumstances.

Mistake of fact.

8. Subject to the express or implied provisions of this Code or any other law, a person who does or omits to do any act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

Presumption of sanity.

9. Every person is presumed to be of sound mind, and to have been of sound mind at any material time which is in question, until the contrary is proved.

Insanity.

10. Subject to the provisions of this Code with regard to persons suffering from diminished responsibility, a person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is, through any disease affecting his mind, incapable of understanding what he

is doing or of knowing that he ought not to do the act or make the omission;

Provided that a person may be criminally responsible for an act or omission, although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act or omission.

11. (1) Save as provided in this section, intoxication shall not constitute a defence to a criminal charge. *Intoxication.*

(2) Intoxication shall be a defence to a criminal charge if by reason thereof, at the time of the act or omission complained of, the person did not know that such act or omission was wrong or did not know what he was doing and—

- (a) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or
- (b) the person charged was, by reason of intoxication, insane, temporarily or otherwise, at the time of such act or omission.

(3) Where a defence under subsection (2) is established, then—

- (a) in a case falling within paragraph (a) the accused shall be discharged; and
- (b) in a case falling within paragraph (b) the provisions of section 10 shall apply.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he would not be guilty of the offence.

(5) For the purpose of this section "intoxication" shall be deemed to include a state produced by narcotics or drugs.

12. (1) A person under the age of eight years is not criminally responsible for any act or omission. *Immature age.*

13. Where any person is charged with an offence under this Code or any other law in respect of a child who is alleged to be under any specified age and that the child appears to the court to be under that age, such child shall be presumed to be under that age unless the contrary is proved. *Age of child.*

14. A person who is a qualified medical practitioner is not criminally responsible for performing, in good faith and with reasonable care and skill, a surgical operation upon any person *Surgical operations.*

for that person's benefit, or upon an unborn child for the purpose of the preservation of the mother's life, if the performance of the operation is reasonable having regard to the patient's state at the time and all the circumstances of the case.

Dures.

15. A person is not criminally responsible for an offence, other than murder as a principal offender, genocide and high treason, if it is committed by two or more offenders, and if the act is done, or omitted to be done, only because during the whole of the time in which it is being done, or omitted to be done, the person is compelled to do, or omit to do, the act by threats on the part of the other offender or offenders, if he refuses, instantly to kill or do grievous bodily harm to him or his wife or his child, or, in the case of a woman, to her husband or child, who is present at the time; but threats of future injury do not excuse any offence.

Compulsion by husband.

16. A married woman is not free from criminal responsibility for doing or omitting to do any act merely because the act or omission takes place in the presence of her husband: but on a charge against a wife, other than for murder, treason or genocide, it shall be a good defence to prove that the offence was committed in the presence of, and under the coercion of, her husband.

Defence of person or property.

17. Subject to any express provisions of this Code or any other law for the time being in force in Saint Vincent and the Grenadines, criminal responsibility for the use of force in the defence of person or property shall be determined according to the principles of the common law.

Use of force in effecting arrest.

18. A person may use such force as is reasonable in the circumstances in the preventing of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Person not to be punished twice for same offence.

19. (1) Where an act or omission is punishable under two or more laws (including this Code) the offender shall, unless the contrary intention be expressed, be liable to be prosecuted under either law, but he shall not be liable to be punished more than once for the same offence except in the case where the act or omission is such that by means thereof he caused the death of another person, in which case he may be punished for the offence of which he is guilty by reason of causing such death

notwithstanding that he has already been punished for some other offence constituted by that act or omission.

(2) It shall be lawful for any court to impose one or more kinds of punishment in the same sentence.

20. (1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say—

Principal offenders.

- (a) every person who actually does the act or makes the omission which constitutes the offence;
- (b) every person who does or omits to do any act for the purpose of enabling or aiding any other person to commit the offence;
- (c) every person who aids or abets another person in committing the offence; and
- (d) every person who counsels or procures any person to commit the offence.

(2) In a case arising under subsection (1) (d), the accused may be charged with himself committing the offence or with counselling or procuring its commission.

(3) A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence.

(4) Any person who procures another to do, or omit to do, any act of such a nature that, if he had himself done the act or made the omission the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind, and is liable to the same punishment as if he himself had done the act or made the omission, and he may be charged with himself doing the act or making the omission.

21. When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each is deemed to have committed the offence.

Offences committed by joint offenders in prosecution of joint purpose.

22. When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether that offence actually committed is the same as that counselled or a different one, or whether the offence is committed in the way counselled or in a different way:

Counselling another to commit an offence.

Provided in either case that the facts constituting the offence actually committed are a probable consequence of the carrying out of the counsel. In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by that other person.

CHAPTER III

Punishments

Kinds of
punishments.

23. Subject to the provisions of this Code and of any other law in force relating to the jurisdiction of particular courts, the following kinds of punishment may be imposed by a court on persons convicted of offences—

- (a) death;
- (b) imprisonment;
- (c) fine;
- (d) payment of compensation;
- (e) finding security to keep the peace and be of good behaviour or to come up for judgment;
- (f) probation under the Probation of Offenders Act;
- (g) forfeiture of articles involved in the offence;
- (h) costs;
- (i) in the case of a male person of any age, corporal punishment in accordance with the provisions of the Corporal Punishment of Juveniles Act;
- (j) a supervision order under section 20 of the Criminal Procedure Code;
- (k) any other punishment expressly provided for by any law for the time being in force.

Cap. 128.

Cap. 123.

Sentence of
death.

24. (1) When any person is sentenced to death, the sentence shall direct that he is to "suffer death in the manner authorised by law".

(2) Sentence of death shall not be pronounced or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age of sixteen years, but in lieu thereof the court shall sentence him to be detained during Her Majesty's pleasure, and, if so sentenced, he shall be liable to be detained in such place and under such conditions as the Governor-General may direct, and whilst so detained he shall be deemed to be in lawful custody.

(3) Where a woman convicted of an offence punishable with death is found, from a report by the Chief Medical Officer, to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment for life instead of a sentence of death. If such

pregnancy is not found until after sentence of death has been passed, the court shall recall the woman before it and substitute for the sentence of death a sentence of imprisonment for life.

(4) When a person has been sentenced to death, or to be detained during Her Majesty's pleasure under subsection (2) or to imprisonment for life under subsection (3), the presiding judge shall forward to the Governor-General a copy of the notes of evidence taken at the trial together with a report in writing signed by him containing any recommendation or observation on the case as he may think fit to make.

(5) No sentence of death shall be carried out until confirmed by the Governor-General and a warrant for that purpose, under the hand and seal of the Governor-General, issued to the officer in charge of the prison where the convicted person is held.

25. (1) A person liable to imprisonment for life or any other period may be sentenced to a shorter term, except in the case of imprisonment passed under section 24 (3).

(2) A person liable to imprisonment may be sentenced to pay a fine in addition to or instead of imprisonment.

(3) Every sentence of imprisonment shall be served in accordance with the Prisons Act.

Imprison-
ment.

Cap. 281.

26. (1) Where a fine is imposed under any written law (including this Code) then, in the absence of express provisions relating to such fine in such law, the following provisions shall apply—

Fines.

- (a) where no sum is expressed to which the fine may extend, the amount of the fine which may be imposed is unlimited but shall not be excessive;
- (b) in the case of an offence punishable by a fine and a term of imprisonment (whether specifically or by virtue of the provisions of section 25 (2)), the imposition of a fine or a term of imprisonment or both shall be in the discretion of the court;
- (c) in the case of an offence in which the offender is sentenced to a fine, whether with or without imprisonment, the court in passing sentence may, in its discretion—
 - (i) direct that in default of payment of the fine the offender shall suffer imprisonment for a term not exceeding the maximum term specified in section 29 in relation to that fine: such imprisonment shall be in addition to and consecutive with

(wherever made) that person and the wife or husband are at the time of the offence under no obligation to cohabit; and

- (b) this subsection shall not prevent 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 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.

Theft

209. (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 or not the appropriation is made with a view to gain or is made for the thief's own benefit.

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

Provided that sections 210 (1) and 211 (1) shall apply generally for the purposes of this Chapter.

"Dishonestly".

210. (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 honest and reasonable belief that he has, in law, the right to deprive the other of it on behalf of himself or of a third person;
- (b) if he appropriates the property in the honest and reasonable 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 a trustee or personal representative) if he appropriates the property in the honest and reasonable 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.

211. (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 its 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.

212. (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—

- (a) when he is a trustee or personal representative, or is authorised by power of attorney, or as a 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;
- (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 land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

For the 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 the 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.

(3) A person who picks anything growing wild on any land, or who picks flowers, fruits 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 sale or for other commercial purposes.

(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 carcass of any such

creature, unless it has been reduced into possession by or on behalf of another and possession of it has not since been lost or abandoned, or another person is in the course of reducing it into possession.

"Belonging to another".

213. (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 (not being an equitable interest arising only from an agreement to transfer or grant an interest).

(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 persons 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.

"Intention of permanently depriving".

214. (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), where a person, having possession or control (whether 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.

215. Any person who commits theft is guilty of an offence and liable to imprisonment— Punishment for theft.

- (a) on summary conviction, for two years; or
- (b) on conviction on indictment, for ten years.

216. Any person who steals and, immediately before or at the time of so doing and in order to do so, uses force on any person or puts, or seeks to put, any person in fear of being then and there subjected to force, is guilty of an offence and liable to imprisonment for life. Robbery.

217. (1) Any person who— Burglary.

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

is guilty of an offence and liable to imprisonment for fourteen years.

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

(3) Reference in this section to a building shall apply also to any inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having habitation of it is there as well as at times when he is not there.

218. (1) Any person who commits burglary and at the time has with him any firearm or imitation firearm, any weapon of offence or any explosive, is guilty of aggravated burglary and liable to imprisonment for life. Aggravated burglary.

(2) In this section—

- (a) "firearm" includes an airgun and airpistol, and "imitation firearm" means anything which has the appearance of being a firearm whether capable of being discharged or not;
- (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;

- (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.

Removing articles from place open to the public.

219. (1) Subject to subsections (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, is guilty of an offence and liable to imprisonment for five years.

(2) For the purposes of this section "collection" includes any collection got together for a temporary purpose, but does not include a collection made or exhibited for the purpose of effecting sales or other commercial dealings.

(3) It is immaterial for the purposes of subsection (1) that the public's access to a building is limited to a particular period or occasion; but where anything removed from the 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 subsection (1).

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

Abstraction of electricity.

220. Any person who dishonestly uses without lawful authority, or dishonestly causes to be wasted or diverted, any electricity, is guilty of an offence and liable to imprisonment for two years.

Fraudulent use of telephone or telex system.

221. Any person who dishonestly uses a telephone or telex system with intent to avoid payment, is guilty of an offence and liable to imprisonment for two years.

222. (1) Any person who, for his own use or that of another person, takes any conveyance constructed or adapted for the carriage of a person or persons, whether by land, water or air, without having the consent thereto of the owner or hirer thereof (including a hirer under a self-drive or hire-purchase contract), or not having other lawful authority or, knowing that such conveyance has been taken without such consent or authority, drives it or allows himself to be carried in it or on it, is guilty of an offence and liable to imprisonment for one year.

Taking conveyance without authority.

(2) It shall be a defence to a charge under this section if the person charged had an honest and reasonable belief that he acted under lawful authority or that, in the circumstances, the owner or hirer would have given his consent had he been aware of the taking.

(3) If on a trial for theft of a conveyance the court is not satisfied that the accused was guilty of the theft of the conveyance but it is proved that the accused committed an offence under this section he may be found guilty of an offence under this section.

223. (1) Any person who by any deception dishonestly obtains any property belonging to another, with the intention of permanently depriving the other of it, is guilty of an offence and liable—

Obtaining property by deception.

- (a) on summary conviction to imprisonment for two years; or
(b) on conviction on indictment to imprisonment for ten years.

(2) For the purposes of this section a person shall 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 retain.

(3) Section 214 shall apply for the purposes of this section, with the necessary adaptation of the reference to appropriating, as it applies for the purpose of section 209.

(4) For the purposes of this section and sections 224, 225, and 226 "deception" means any deception (whether deliberate or reckless) by words or conduct as to a fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.

224. (1) Subject to subsection (2), any person who by any deception—

Evasion of liability by deception.

- (a) dishonestly secures the remission of the whole or any part of any existing liability to make payment, whether his own liability or another's;
- (b) with intent to make permanent default in whole or in part of any existing liability to make payment, or with intent to let another do so, dishonestly induces 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

is guilty of an offence and liable—

- (i) on summary conviction to imprisonment for two years; or
- (ii) on conviction on indictment, to imprisonment for five years.

(2) For the purposes of this section "liability" means legally enforceable liability; and subsection (1) 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 the purposes of subsection (1) (b) 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 as not being paid but as being induced to wait for payment.

(4) For the purposes of subsection (1) (c) "obtains" includes obtaining for another or enabling another to obtain.

Obtaining services by deception. 225. (1) Any person who by any deception dishonestly obtains services from another is guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for two years; or
- (b) on conviction on indictment, to imprisonment for five years.

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

Obtaining pecuniary advantage by deception. 226. (1) Any person who, by any deception, dishonestly obtains for himself or another any pecuniary advantage, is guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for two years; or
- (b) on conviction on indictment, to imprisonment for 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 where,

- (a) any debt or charge for which he makes himself liable or is, or may become, liable (including one not legally enforceable) is reduced in whole or in part or evaded or deferred;
- (b) 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
- (c) he is given the opportunity to earn remuneration, or greater remuneration, in an office or employment, or to win money by betting.

227. (1) Subject to subsection (3), a person who, knowing that payment on the spot for any goods supplied or services done is required or expected of him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount, is guilty of an offence and liable to imprisonment for six months.

(2) For the 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) shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service is such that payment is not legally enforceable.

228. (1) Any person who 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 an accounting purpose; or
- (a) 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,

is guilty of an offence and liable to imprisonment for seven years.

(2) For the purposes of this section a person who makes, or concurs in making, in any account or other document an entry which is, or maybe, 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 that account or document.

Officers of company liable for certain offences committed by company.

229. (1) Where an offence under this Chapter is committed by a body corporate and 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 that capacity, he, as well as the body corporate, is guilty of that offence and is 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 or 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.

230. (1) Any director or officer (by whatever name called) of a body corporate or incorporated association (or any person purporting to act as such) who, with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement, account or other document which to his knowledge is, or may be, misleading, false or deceptive in a material particular, is guilty of an offence and liable to imprisonment for seven years.

(2) For the purpose of this section a person who has entered into a security for a body corporate shall be deemed to be 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, account or other document which a member publishes, or concurs in publishing, in connection with his function of management as if he were an officer of that body corporate or association.

Destruction etc. of valuable security, or procuring execution of same by deception.

231. (1) Any person who dishonestly, with a view to gain by himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, 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 an offence and liable to imprisonment for seven years.

(2) Any 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 an offence and liable to imprisonment for seven years.

(3) Subsection (2) 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 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.

(4) For the purpose of this section "deception" has the same meaning as in section 223, and "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 the delivery of any property, or the satisfaction of any obligation.

232. (1) Any person who, with a view to gain for himself or another, or with intent to cause loss to another, makes any unwarranted demand with menaces, is guilty of an offence and liable to imprisonment for fourteen years. ^{Blackmail.}

(2) A demand 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 enforcing the demand.

(3) 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.

233. (1) A person handles stolen goods if (otherwise than in the course of 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 realisation by or for the benefit of another person, or if he arranges to do so. ^{Handling stolen goods.}

(2) Any person who handles stolen goods is guilty of an offence and liable—

- (i) on summary conviction to imprisonment for two years; or
- (ii) on conviction on indictment to imprisonment for ten years.

234. (1) The provisions of this Code relating to goods which have been stolen apply whether the stealing occurred in Saint Vincent and the Grenadines or elsewhere (and whether it occurred before the commencement of this Code) provided that the stealing, if not an offence under this Code, amounted to an offence where and at the time the goods were stolen; and reference to stolen goods shall be construed accordingly. ^{Provisions relating to stolen goods.}

(2) For the purposes of these 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 hand of the 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) Notwithstanding the foregoing provisions of this section, 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 the purposes of the provisions of this Code relating to goods which have been stolen (including the provisions of this section), goods obtained in Saint Vincent and the Grenadines or elsewhere by blackmail, or in circumstances referred to in section 223 (1) shall be regarded as having been stolen, and "steal", "theft" "thief" shall be construed accordingly.

Procedure
and evidence
in trial for
handling
stolen goods.

235. (1) Any number of persons may be charged in one indictment, with reference to the same theft, 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 charged for jointly handling stolen goods, the court may find any of the accused guilty if satisfied that he handled 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 charged with handling stolen goods (but not with 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 admissi-

ble 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) This section shall be construed in accordance with section 234; and in subsection (3) (b) the references to theft and handling stolen goods shall be construed to include any corresponding offence committed before the date of commencement of this Code.

236. (1) In any proceedings for 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 postal packet or goods, or that any postal packet or goods 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—

Evidence by
statutory
declaration
in certain
cases.

- (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
- (b) a statutory declaration shall only be admissible if, at least seven days before the trial of the charge, a copy of it has been given to the accused person and he has not, at least three days before the trial or within such other time as the court may in any particular case allow, given the prosecutor written notice requiring the attendance at the trial of the person making the declaration.

(2) This section shall be construed in accordance with section 234.

237. (1) Any person who, when not at his place of abode, has with him any article for use in the course of, or in connection with, any burglary, theft or cheat is guilty of an offence and liable to imprisonment for three years.

Going
equipped to
steal.

(2) 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.

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

(4) For the purposes of this section an offence under section 222 shall be treated as theft and cheat means an offence under section 223.

(5) Where any person is convicted of an offence under this Chapter, the court may order that any article referred to in subsection (1) carried or used in connection with any such offence, or found in possession of or under the control of such person at the time of his arrest, shall be forfeited to the Crown, or returned to the owner if the article was removed from his possession for such purpose and without his knowledge or consent:

Provided that the court shall not exercise its powers under this subsection if the article is not, *per se*, intended or adapted for use in connection with any burglary, theft or cheat and the person to whom such article belonged did not know that it was to be so used.

Restitution.

238. (1) Where goods have been stolen and where a person is convicted of an offence under this Chapter with reference to the theft (whether or not the stealing is the gist of the 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 the sentence is deferred in other respects) exercise 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;
- (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;

(c) the court, whether or not an application is made in that behalf, 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 in 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) 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. The powers conferred by this subsection may be exercised whether or not an application in that behalf is made to the court by or on behalf of any person claiming to be interested in the property concerned.

(3) The court shall not exercise the powers conferred by this section unless, in the opinion of the court, the relevant facts appear from the evidence given at the trial or from the available documents, together with admissions made by or on behalf of any person in connection with any proposed exercise of the said 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.

(4) Where a person is committed to the High Court for sentence under the provisions of the Criminal Procedure Code, the powers conferred by this section shall be exercisable by the High Court and not by the magistrate's court, and the High Court shall be deemed to be the court before which such person is convicted.

(5) Where an order is made under this section and the person convicted appeals successfully against the conviction of the offence on the basis of which the order was made, the order shall cease to have effect, and a person against whom such an order is made may appeal against the order as if it was part of the sentence imposed on the conviction for the offence.