

## LARCENY

Basic property offence at common law

**S117** – outlines simple larceny offence

### **s 117 Crimes Act 1900**

Whosoever commits larceny, or any indictable offence by this Act made punishable like larceny, shall, except in the cases hereinafter otherwise provided for, be liable to imprisonment for five years.

*R v Illich (1987)* – defines larceny at common law – as person who steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, to permanently deprive the owner

### **ELEMENTS**

**Actus rea** → that D –

- Took and carried away;
- Property capable of being stolen;
- Which belonged to another; and
- Without consent of the owner.

**Mens rea** → at time of taking D acted –

- With intention of permanently depriving owner;
- Without claim of right; and
- Fraudulently.

Must have temporal coincidence.

### **BURDEN OF PROOF**

To establish larceny, prosecution must prove all elements of the offence BRD – *Woolmington v DPP (1935)*

## ➔ ACTUS REA FOR LARCENY

### ❖ Taking and carrying away

Prosecution must prove D took and carried away property.

- Must be asportation – physical removal of property
- Slightest movement is enough to satisfy
- Attempting to steal earring to point where it became entangled in the owners hair is sufficient asportation – *R v Lapiere (1784)*

Mere passive retention of property by D will not be sufficient. Must be positive act on part of D – *R v Thomas (195)*

*Croton v R (1967)* – had joint bank accounts where they banked her wages, and used his for living expenses. Either could operate the account so he withdrew the money

and moved into single account of his own. Issue was he didn't physically take the money, and because it was a joint account he couldn't necessarily steal from her. The bank had possession and voluntarily handed over without their consent as each had right to take money therefore couldn't be stolen.

- Wasn't guilty of larceny but other charges such as fraud

#### ❖ Property capable of being stolen

- Property be of value – *R v Perry (1845)*
- Must be moveable – not possible to steal land – *R v Young (1947)*
- Now possible to steal valuable securities i.e. bills of exchange or choses in action – **s134**
- Electricity is punishable – *Electricity Supply Act 1995* – **s64**
- Can be charged with stealing gas – *Low v Blease (1975)*
- Corpse is not property and cannot be stolen – *R v Sharpe (1856)*
- Title to land not under common law but statute – **s134**
- Can be charged with stealing portion of larger whole – *Russel v Smith [1957]*
- Stealing animals – **s126-32, 505, 506, 512**
- Things which cannot be possessed cannot be stolen
- Abandoned property cannot be stolen – *R v MacDonald [1983]*
  - Owner intentionally gives up interest – *Donoghue v Coombe (1987)*