

New South Wales.



ANNO VICESIMO

GEORGII V REGIS.

Act No. 39, 1929.

An Act to amend the law relating to fraudulent misappropriation; to amend the Crimes Act, 1900, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 11th December, 1929.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Crimes (Fraudulent Misappropriation) Act, 1929." Short title.

Crimes (Fraudulent Misappropriation).

Amendment
of Act No. 40,
1900, s. 178A.

2. Section 178A of the Crimes Act, 1900, as amended by subsequent Acts, is amended—

- (a) by omitting the words “under any authority”; and
- (b) by omitting the words “under whose authority the money or valuable security was collected or received” and by inserting in lieu thereof the words “who authorised the collection or receipt of the money or valuable security or from whom the money or valuable security was received.”

By Authority:

ALFRED JAMES KENT, I.S.O., Government Printer, Sydney, 1929.

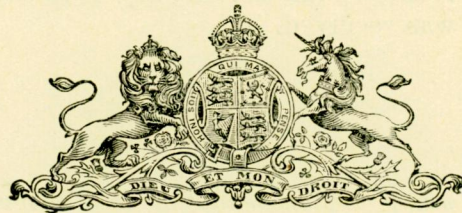
[3d.]

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 3rd December, 1929.*

New South Wales.



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In the name and on behalf of His Majesty I assent to this Act.

Government House,
Sydney, 11th December, 1929.

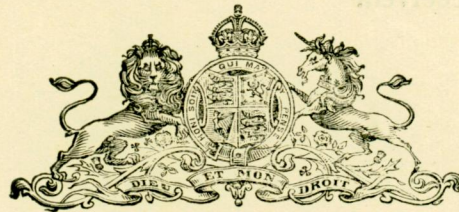
D. R. S. DE CHAIR,
Governor.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 20 November, 1929.*

New South Wales.



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- 10 from whom the money or valuable security was received."

1929.

Legislative Council.

Crimes (Fraudulent Misappropriation) Bill, 1929.

EXPLANATORY NOTE.

THIS amendment of section 178A of the Crimes Act, 1900, is rendered necessary by the decision of the Court of Criminal Appeal in *R. v. McDonald*, decided on 5th November.

In that case there was an appeal from a conviction for fraudulent misappropriation.

The Crimes (Amendment) Act, 1905 (which is now repealed, section 2 of that Act having been re-enacted as section 178A of the Crimes Act, 1900, by section 7 of the Crimes (Amendment) Act, 1929), made it an offence to fraudulently misappropriate any money or valuable security where the money or valuable security had been collected or received by the accused under any authority upon terms requiring him to deal with the money or valuable security in any of the ways specified in the section.

Since this Act was passed in 1905 it has been assumed that it applies to a case where A receives money from B upon terms requiring A to deal with the money in one of the ways specified in the Act, and A, after receiving the money upon the terms stated, afterwards fraudulently misappropriates it.

Proceedings have been taken under the Act in cases where a solicitor has received money from his client for investment, or an agent has received money from his principal to pay a deposit under a contract made by the principal with a third party, and where the money received has been afterwards fraudulently misappropriated.

In *R. v. McDonald* the accused was charged under the Act of 1905, with receiving, in 1927, money under authority upon terms requiring him to account to James Cook for the same, and fraudulently misappropriating to his own use the said money, in violation of the terms upon which he received it.

The accused, McDonald, was a solicitor, and the evidence was that Cook had given to McDonald, for investment, sums amounting to £670, which McDonald had misappropriated. The money had been drawn out of the bank by Cook and paid to McDonald.

The jury having convicted McDonald, the court set aside the conviction upon the ground that the Act did not apply in a case of this kind, because the money had not been received by McDonald "under any authority." In other words, the Act only applied to a case where A authorises B to receive money from C, and B, having received the money from C under the authority given to him by A, afterwards misappropriates it.

The effect of the proposed amendment of section 178A will be that in future cases the section will apply where the money or valuable security has been collected by the authority of the owner, and also to cases where the money or valuable security has been received direct from the owner, or from some person authorised by him to pay or deliver it to the accused.

Legislative Council.

No. , 1929.

A BILL

To amend the law relating to fraudulent misappropriation; to amend the Crimes Act, 1900, as amended by subsequent Acts; and for purposes connected therewith.

[MR. BOYCE;—13 *November*, 1929.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
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2. Section 178A of the Crimes Act, 1900, as amended by subsequent Acts, is amended—

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