

Peter Jones, you plead guilty to 255 counts of stealing. Each count concerns an individual dairy cow all of which were stolen by you between 26 May 2019 and 10 January 2020. During that period you were a director and the controlling mind of the company Jones Dairy 97 Contracting Pty Ltd. The company operated a dairy farm at Glengarry pursuant to a share farming agreement entered into in 2017 with Wrights Contracting Pty Ltd. Pursuant to that agreement your company leased 240 dairy cows owned by Wrights Contracting. In February 2018, 100 of those cows were sold by Wrights Contracting to a company called Moo & You Pty Ltd but again leased back to you. Between 1 April 2018 and 1 February 2019 your company entered into a series of agreements to lease a further 103 cows from Moo & You Pty Ltd and on 1 July 2018 your company leased 50 dairy cows from Steven Saltmarsh.

You came from the UK with your wife and young family in 2012 to commence dairy farming initially in management positions. I have no reason to doubt that you are experienced and capable. When you decided to take up share farming in 2017 it involved two properties. You entered into the arrangement with 100 of your own cows and savings of about \$120,000. What was an enterprise of doubtful viability in the first place was made worse by a series of other circumstances: drought, a salmonella outbreak and low prices. The business lost money heavily and progressively became a financial disaster. Your own assets were lost. You became depressed and abused alcohol. Motivated by pride, desperation and a misguided wish to attempt to recover your losses you attempted to continue the business. However you resorted to dishonesty. You sold 255 cows which you knew were not yours to sell. Most were, at your direction, sold through an agent and taken to the abattoir for slaughter. You had the misconceived view that you may be able to later recover stock in some undisclosed way, perhaps through breeding.

Your dishonesty became apparent at the beginning of 2020 when it emerged that the dairy herd which should have been on the property at Glengarry was not there. Administrators were appointed and your business lost. You became bankrupt. Detailed investigations were necessary which revealed that 32 of the stolen cows were owned by Wrights Construction Pty Ltd. They had a lease agreement value of \$44,800. 203 were owned by Moo & You. They had a total lease agreement value of \$279,000. 20 were owned by Mr Saltmarsh. They had a lease agreement value of \$25,600. The total value so calculated is \$349,400. The sale of 242 of the cows between July 2019 and February 2020 produced an actual return of just under \$189,000, but on the basis that the cows were sold for slaughter, not valued as productive dairy cows. All of that money went to your company and most was paid into its bank accounts. On whichever basis the value of the cows is assessed, your crimes involve a very considerable loss to the owners.

None of the sale proceeds were preserved. All of the money went either to pay continuing business debts or your personal expenses or in the very substantial administration fees which were incurred upon the failure and winding up of your business. A relatively small number of cows were returned to Mr Saltmarsh and to Moo & You. It was said on your behalf that they were a mix of your own cows and progeny but it seems to me to be likely that the lessors had a good claim on the remaining cows in any event and the loss is not reduced to any significant extent.

You are now aged 51. Since these events you have taken steps to address your alcoholism and poor mental state. I should record that I have no material which suggests that any psychiatric illness or impaired mental function existed which is relevant to sentencing. You have obtained

employment in north east Tasmania as an assistant farm manager and your employer speaks well of you. Your children are now aged 21, 19, 17 and 13. Your marriage ended as a result of these events but the three youngest children live with you on the farm. Other references suggest that you were well regarded both personally and professionally, but such references tend to carry less weight in cases of repeated dishonesty. Your plea of guilty is in your favour. It represents an obvious utilitarian benefit in that it avoids what would have been a long trial requiring the application of significant court and prosecution resources. I am also satisfied that your plea of guilty indicates an acceptance of responsibility and remorse. With the passage of time you have come to realise the damage you did and the loss you caused to others and are sorry for it.

This is not a case in which the dishonesty is to fund an extravagant lifestyle or some other criminal activity. You have no prior convictions. I think that your dishonesty is likely to have been the result of the desperate personal and financial circumstances you found yourself in and is unlikely to be repeated. You have suffered personal financial ruin and shame. There is no real need to impose a sentence to deter you from future dishonesty. A sentence of imprisonment will have no rehabilitative function and will almost certainly have the opposite effect. The sentencing factors which point against lenience are punishment and deterrence. That is, taking into account the nature and scale of your dishonesty, there is a need to punish you and to discourage others from acting in a similar way. I have no victim impact statement from any of the affected persons. However, as you correctly recognise, losses on such a scale are likely to have inflicted significant harm on those who suffered them. The interests of your victims are to be considered as well. They may want you punished, but, conversely, there is some prospect that, over time, you may be able to compensate them for the losses they suffered and prison is not likely to facilitate that process.

Dishonesty on this scale would usually attract a sentence of actual imprisonment, mostly to reflect the considerable financial harm you have inflicted on the owners of the stolen cattle, the need for punishment and to deter others from resorting to dishonesty to overcome financial failure. However I have decided against immediate actual imprisonment in this case for a number of reasons. I think that a different sentencing option is more likely to result in you retaining the capacity to repay the loss you caused. Imprisonment for a period sufficient to reflect the sentencing considerations I have referred to would inevitably lead to loss of your employment and home. The assessment report suggests that you feel shame and remorse for your crimes and you have acted to address the factors which led you to offend.

A home detention order will have a punitive effect in that it will impose a significant restriction on your liberty for a considerable period. Unlike imprisonment, no eligibility for parole will arise so you will feel the effects for the entire term. If during the period of the order you do not, or are unable to, comply with its terms then actual imprisonment remains a sentencing option. My principle concern was that, given your current personal and employment circumstances, that the order will have a sufficient punitive effect, but I am satisfied that this can be addressed by conditions.

Peter Jones, you are convicted on each count to which you pleaded guilty. The *Sentencing Act*, s 68, requires that I make compensation orders, and so I make such orders in favour of Moo & You Pty Ltd, Wrights Contracting Pty Ltd and Steven Saltmarsh, in each case for amounts and on terms to be assessed.

Victims of crime compensation levies, if imposed for each count, amount in this case to \$12,500. S 6 of the *Victims of Crime Compensation Act 1994* grants me the power to cap the amount to

be paid to \$500 and I am satisfied that this is an appropriate case to do so. One of the reasons for that is that, in my view, if you have a capacity to pay such it is best exercised in payment of compensation to the persons who lost money. As to that amount of \$500, I can only give you 28 days to pay.

I make a home detention order. The maximum period of detention which may be imposed is 18 months and in my view the period of the order should be somewhere near that. I order that the operative period of the order is 15 months from today.. I specify the premises at which you are to reside during the operational period of the order as [home detention premises]. I order that before 5.00 pm tomorrow, 28 September 2023, you report to the office of Community Corrections at 111 Cameron Street Launceston, for induction into this order, and a further explanation as to its full terms. The order must be subject to all of the core conditions set out in the *Sentencing Act* 1997, s 42AD(1). Those conditions, together with the special conditions I now impose will be set out in the order you will be given and include:

- that you must during the operational period of this order remain at [home detention premises] at all times unless approved by a probation officer;
- you must be at the home detention premises at all times except if for an approved reason. The approved reasons will be set out in the order that you will be given and it will be explained to you;
- during the operational period of the order you must remain within 50 metres of your residential premises at [home detention premises] between the hours of 10.00 pm and 6.00 am unless for an approved reason;
- you must permit a police officer, probation officer or prescribed officer to enter the home detention premises;
- you must permit a police officer to conduct a search of the home detention premises, conduct a frisk search within the meaning of the *Search Warrants Act* 1997 of you at the home detention premises or any other place or premises and take a sample of a substance found on the home detention premises or on you;
- you must comply with any reasonable and lawful directions of a probation officer or prescribed officer including any directions to you as to the kind of employment or your place of employment;
- you must during all of the operational period of the order submit to electronic monitoring including by wearing or carrying an electronic device;
- during the period that you are required to submit to electronic monitoring you must not remove, tamper with, damage or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring, you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
- and you must comply with all reasonable and lawful directions given to you in relation to electronic monitoring, including in relation to the installation, attachment or operation of a device or a system used for the purposes of electronic monitoring by a police officer, probation officer or prescribed officer or another person whose functions involve the installation or operation of a device or a system used for the purposes of electronic monitoring;
- you must not during the operational period of the order consume alcohol and you must, if directed to do so by a police officer or community corrections officer, submit to a breath test, urine test or other test for the presence of alcohol;

- you must during the operational period of the order maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times;
- you must not during the operational period of the order take any illicit or prohibited substances which include any controlled drug as defined by the *Misuse of Drugs Act 2001* any medication containing an opiate, benzodiazepine, bupropion, hydrochloride or pseudoephedrine unless you provide written evidence from your medical professional that you have been prescribed the relevant medication; and,
- you must submit to the supervision of a Community Corrections officer as required by that officer.