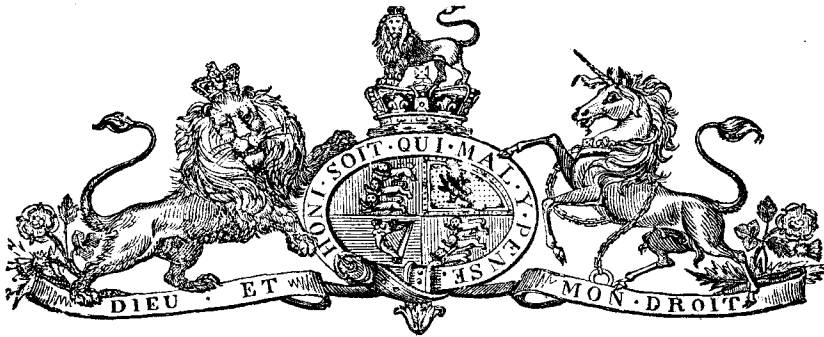


T A S M A N I A.



1863.

ANNO VICESIMO-SEPTIMO

VICTORIÆ REGINÆ,

No. 8.



AN ACT to consolidate and amend the Legislative Enactments relating to Robbery, Frauds, and other similar Offences. [31 July, 1863.]

WHEREAS it is expedient to consolidate and amend the Legislative Enactments relating to Robbery, Frauds, and other similar offences: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.

1 In the Interpretation of this Act—

Interpretation.

The term "Document of Title to Goods" shall include any bill of lading, warehousekeeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to:

"Document of Title to Goods."

The term "Document of Title to Lands" shall include any certificate of title, deed, map, paper, or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real estate, or to any interest in or out of any real estate:

"Document of Title to Lands."

The term "Trustee" shall mean a Trustee on some express trust created by some deed, will, or instrument in writing, and shall in-

"Trustee."

clude the heir, or personal representative, of any such Trustee, and any other person upon or to whom the duty of such trust shall have devolved or come, and also an executor and administrator, and an official manager, assignee, liquidator, or other like officer, acting under any present or future act relating to joint stock companies, or insolvency :

“ Valuable Security.”

The term “ Valuable Security” shall include any order, or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of any part of the British Dominions or of any Foreign State, or in any fund of any body corporate, company, or society, whether within any part of the British Dominions or in any Foreign State or Country, or to any deposit in any bank ; and shall also include any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money or for payment of money, whether of any part of the British Dominions or of any Foreign State, and any document of title to lands or goods, as hereinbefore defined :

“ Property.”

The term “ Property” shall include every description of real and personal property, money, debts, and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and shall also include, not only such property as shall have been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise :

“ Night.”

For the purposes of this Act, the “ Night” shall be deemed to commence at Sunset of each day, and to conclude at Sunrise of the next succeeding day.

All Larcenies to be of the same nature.

2 Every Larceny, whatever may be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects, as grand Larceny was in *England* before the Twenty-first day of *June*, One thousand eight hundred and twenty-seven.

Bailees fraudulently converting property guilty of Larceny.

3 Whosoever, being a Bailee of any chattel, money, or valuable security, shall fraudulently take or convert the same to his own use, or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the Bailment, shall be guilty of Larceny, and may be convicted thereof upon an information for Larceny ; but this section shall not extend to any offence punishable on summary conviction.

Punishment for simple Larceny.

4 Whosoever shall be convicted of simple Larceny, or of any Felony hereby made punishable like simple Larceny, shall (except in the cases hereinafter otherwise provided for) be liable to be imprisoned for Four years.

Three Larcenies in six months in one information.

5 It shall be lawful to insert several counts in the same information against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six months from the first to the last of such acts, and to proceed thereon for all or any of them.

6 If, upon the trial of any information for Larceny, it shall appear that the property alleged in such information to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings; and in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings.

Where a single taking is charged and several takings at different times are proved.

7 Whosoever shall commit the offence of simple Larceny after a previous conviction for Felony, whether such conviction shall have taken place under the provisions of *The Petty Larceny Act*, or upon an information filed in any higher Court, shall be liable to be imprisoned for Eight years.

Larceny after conviction for Felony.

As to Larceny of Cattle or other Animals.

8 Whosoever shall steal any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer or calf, or any ram, ewe, sheep or lamb, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

Stealing horses, cows, sheep, &c.

9 The charge of stealing a horse, or killing any horse with intent to steal the carcase or part of the carcase thereof, shall be deemed and taken to be supported equally by proof of having so stolen or killed a gelding, or colt, or mare, or filly; and the charge of stealing an ox, or killing any ox with intent to steal the carcase or part of the carcase thereof, shall be deemed and taken to be supported equally by proof of having so stolen or killed a steer, or calf, or bullock; and the charge of stealing a cow, or killing any cow with intent to steal the carcase or part of the carcase thereof, shall be deemed and taken to be supported equally by proof of having so stolen or killed any heifer; and the charge of stealing a sheep, or killing any sheep with intent to steal the carcase, or part of the carcase thereof, shall be deemed and taken to be supported equally by proof of having so stolen or killed any ewe, or ram, or lamb, or wether.

Variations.

10 Whosoever shall wilfully kill any animal, with intent to steal the carcase, skin, or any part of the animal so killed, shall be guilty of Felony, and being convicted thereof shall be liable to the same punishment as if he had been convicted of feloniously stealing the same, provided the offence of stealing the animal so killed would have amounted to Felony.

Killing with intent to steal the carcase.

11 Whosoever shall steal any dog shall, on conviction thereof before two Justices of the Peace, either be imprisoned and kept to hard labour for any term not exceeding Twelve months, or shall forfeit and pay, over and above the value of the said dog, such sum of money, not exceeding Twenty Pounds as to the said Justices shall seem meet; and whosoever, having been convicted of any such offence, shall afterwards steal any dog, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for Eighteen months.

Stealing dogs.

Second offence.

12 Whosoever shall unlawfully have in his possession or on his premises any stolen dog, or the skin of any stolen dog, knowing such dog to have been stolen or such skin to be the skin of a stolen dog, shall, on conviction thereof before Two Justices of the Peace, be liable to pay

Possession of stolen dogs.

such sum of money, not exceeding Twenty Pounds, as to such Justices shall seem meet.

Taking money to restore dogs.

13 Whosoever shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of aiding any person to recover any dog which shall have been stolen, or which shall be in the possession of any person not being the owner thereof, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for Eighteen months.

Stealing beasts or birds ordinarily kept in confinement, and not the subject of Larceny.

14 Whosoever shall steal any bird, beast, or other animal ordinarily kept in a state of confinement, or for any domestic purpose, not being the subject of Larceny at Common Law, or shall wilfully kill any such bird, beast, or animal, with intent to steal the same or any part thereof, shall, on conviction thereof before any two Justices of the Peace, at the discretion of the Justices, either be imprisoned for Six months, or else shall forfeit and pay, over and above the value of the bird, beast, or other animal, such sum of money, not exceeding Twenty Pounds, as to the Justices shall seem meet.

Persons found in the possession of stolen beasts, &c. liable to penalties.

15 If any such bird, or any of the plumage thereof, or any dog, or any such beast or the skin thereof, or any such animal, or any part thereof, shall be found in the possession or on the premises of any person, any Justice may restore the same respectively to the owner thereof; and any person in whose possession or on whose premises such bird or the plumage thereof, or such beast or the skin thereof, or such animal or any part thereof shall be so found (such person knowing that the bird, beast, or animal has been stolen, or that the plumage is the plumage of a stolen bird, or that the skin is the skin of a stolen beast, or that the part is a part of a stolen animal), shall, on conviction before any two Justices of the Peace, be liable for the first offence to such forfeiture, and for every subsequent offence to such punishment as any person convicted of stealing any beast or bird is made liable to by the last preceding section.

Killing and taking pigeons.

16 Whosoever shall unlawfully and wilfully kill, wound, or take, any house dove or pigeon under such circumstances as shall not amount to Larceny at Common Law, shall, on conviction before a Justice of the Peace, forfeit and pay, over and above the value of the bird, any sum not exceeding Two Pounds.

Taking fish in any water situate in land belonging to a dwelling-house

17 Whosoever shall unlawfully and wilfully take or destroy any fish in any water which shall run through or be in any land adjoining or belonging to the dwelling house of any person being the owner of such water, or having a right of fishery therein, shall be guilty of a misdemeanor, and shall, on conviction thereof before a Justice of the Peace, forfeit and pay, over and above the value of the fish taken or destroyed (if any), such sum of money, not exceeding Five Pounds as to the Justice shall seem meet; and whosoever shall unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any water not being such as hereinbefore mentioned, but which shall be private property, or in which there shall be any private right of fishery, shall, on conviction thereof before a Justice of the Peace, forfeit and pay, over and above the value of the fish taken or destroyed (if any), such sum of money, not exceeding Forty Shillings, as to the Justice shall seem meet: Provided that nothing hereinbefore contained shall extend to any person angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset.

18 Whosoever shall steal any oysters, or oyster brood from any oyster bed, laying, or fishery, being the property of any other person, and sufficiently marked out or known as such, shall be guilty of Felony, and being convicted thereof shall be liable to be punished as in the case of simple larceny; and whosoever shall unlawfully and wilfully use any dredge, or any net, instrument, or engine whatsoever, within the limits of any oyster bed, laying, or fishery, being the property of any other person, and sufficiently marked out or known as such, for the purpose of taking oysters, or oyster brood, although none shall be actually taken, or shall unlawfully and wilfully, with any net, instrument, or engine, drag upon the ground or soil of any such fishery, shall be guilty of a misdemeanor, and being convicted thereof before any two Justices of the Peace shall be liable to be imprisoned for any term not exceeding Three months; and it shall be sufficient in any information to describe, either by name or otherwise, the bed, laying, or fishery in which any of the said offences shall have been committed, without stating the same to be in any particular municipality, district, or place.

Stealing or dredging for oysters in oyster fisheries.

Sufficiency of information.

As to Larceny of Written Instruments.

19 Whosoever shall steal, or shall for any fraudulent purpose destroy, cancel, or obliterate the whole or any part of any valuable security, other than a document of title to lands, shall be guilty of Felony, of the same nature and in the same degree and punishable in the same manner as if he had stolen any chattel of like value with the share, interest, or deposit to which the security so stolen may relate, or with the money due on the security so stolen or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned, or referred to in or by the security.

Bonds, bills, notes, &c.

20 Whosoever shall steal, or shall for any fraudulent purpose destroy, cancel, obliterate, or conceal the whole or any part of any document of title to lands, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Four years; and in any information for any such offence relating to any document of title to lands, it shall be sufficient to allege such document to be or to contain evidence of the title or of part of the title of the person or of some one of the persons having an interest, whether vested or contingent, legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof.

Deeds, &c. relating to Real Property.

21 Whosoever shall, either during the life of the testator or after his death, steal, or, for any fraudulent purpose destroy, cancel, obliterate, or conceal the whole or any part of any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for life; and it shall not in any information for such offence be necessary to allege that such will, codicil, or other instrument is the property of any person: Provided that nothing in this or the last preceding section mentioned, nor any proceeding, conviction, or judgment to be had or taken thereupon, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any such offence might or would have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of any of the Felonies in this and the last preceding section mentioned, by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being charged with

Wills or Codicils.

Other remedies not to be affected.

such offence have first disclosed such act, on oath, in consequence of any compulsory process of any Court of law or equity in any action, suit, or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any Court upon the hearing of any matter in insolvency.

Stealing records or other legal documents.

22 Whosoever shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously cancel, obliterate, injure or destroy the whole or any part of any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or of any original document whatsoever of or belonging to any Court of record, or relating to any matter, civil or criminal, begun, depending, or terminated in any such Court, or of any bill, petition, answer, interrogatory, deposition, affidavit, order or decree, or of any original document whatsoever of or belonging to any Court having jurisdiction in equity, or relating to any cause or matter begun, depending, or terminated in any such Court, or of any original document in any wise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any Court of justice, or in any government or public office, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Four years; and it shall not in any information for such offence be necessary to allege that the article in respect of which the offence is committed is the property of any person.

As to Larceny of things attached to or growing on Land.

Metal, glass, wood, &c. fixed to house or land.

23 Whosoever shall steal, or shall rip, cut, sever or break with intent to steal, any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material or of both, respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land being private property, or for a fence to any dwelling-house, garden, or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, shall be guilty of Felony, and being convicted thereof shall be liable to be punished as in the case of simple Larceny; and in the case of any such thing fixed in any such square, street or place as aforesaid, it shall not be necessary to allege the same to be the property of any person.

Trees in pleasure grounds.

24 Whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, respectively growing in any pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, shall (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of One Pound) be guilty of Felony, and being convicted thereof shall be liable to be punished as in the case of simple Larceny; and whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, respectively growing elsewhere than in any of the situations in this section before mentioned, shall (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of Five Pounds) be guilty of Felony, and being convicted thereof shall be liable to be punished as in the case of simple Larceny.

25 Whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles, or the injury done, being to the amount of One Shilling at the least, shall, on conviction thereof before a Justice of the Peace, forfeit and pay over and above the value of the article or articles stolen, or the amount of the injury done, such sum of money, not exceeding Five Pounds as to the Justice shall seem meet; and whosoever having been convicted of any such offence shall afterwards commit any of the said offences in this section before-mentioned, and shall be convicted thereof before any two Justices of the Peace, shall for such second offence be committed to any Gaol or House of Correction, there to be kept to hard labour for such term, not exceeding Twelve months, as the convicting Justices shall think fit.

Stealing trees, shrubs, &c. wheresoever growing, of the value of 1s., punishable on summary conviction.

26 Whosoever shall steal, or shall cut, break, or throw down with intent to steal, any part of any live or dead fence, or any wooden post, pale, wire, or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, shall, on conviction thereof before a Justice of the Peace, forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money, not exceeding Five Pounds, as to the Justice shall seem meet; and whosoever being convicted of any such offence against this Act shall afterwards commit any of the said offences in this section before-mentioned, and shall be convicted thereof before any two Justices of the Peace, shall be imprisoned for such term not exceeding Twelve months as the convicting Justices shall think fit.

Stealing, &c. any live or dead fence, &c.

27 Whosoever shall steal, or shall destroy or damage with intent to steal, any plant, root, fruit, or vegetable production, growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house, or conservatory, shall, on conviction thereof before any two Justices of the Peace, be liable to be imprisoned for Six months, or shall forfeit and pay over and above the value of the article or articles stolen, or the amount of the injury done, such sum of money not exceeding Twenty Pounds as to the Justices shall seem meet; and whosoever having been convicted of any such offence against this Act shall afterwards commit any of the offences in this section before mentioned shall, upon being convicted thereof in like manner, be liable to be imprisoned for Two years.

Stealing, &c., any fruit or vegetable production in a garden punishable on summary conviction.

28 Whosoever shall steal, or shall destroy or damage with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land open or inclosed, not being a garden, orchard, pleasure ground, or nursery garden, shall, on conviction thereof before any two Justices of the Peace, at the discretion of the Justices, either be imprisoned for One month, or else shall forfeit and pay over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding Twenty Shillings as to the Justices shall seem meet; and in default of payment thereof, together with the costs (if ordered), shall be imprisoned as aforesaid for any term not exceeding One month, unless payment be sooner made; and whosoever having been convicted of any such offence against this Act shall afterwards commit any of the said offences in this section before mentioned, and

Stealing, &c. vegetable productions not growing in gardens.

shall be convicted thereof in like manner, shall be imprisoned for such term not exceeding Six months as the convicting Justice shall think fit.

As to Larceny from Mines.

Ore of metal,
coal, &c.

29 Whosoever shall steal, or sever with intent to steal, the ore of any metal, or any lapis calaminaris, manganese, or mundick, or any wad, black cawke, or black lead, or any coal or cannel coal from any mine, bed, or vein thereof respectively, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Two years.

Miners removing
ore with intent to
defraud.

30 Whosoever being employed in or about any mine, shall take, remove, or conceal any ore of any metal, or any lapis calaminaris, manganese, mundick, or other mineral found or being in such mine, with intent to defraud any proprietor of or any adventurer in such mine, or any workman or miner employed therein, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Two years.

As to Larceny from the Person and other like offences.

Robbery or steal-
ing from the per-
son.

31 Whosoever shall rob any person, or shall steal any chattel, money, or valuable security from the person of another, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

On trial for rob-
bery, Jury may
convict of an
assault with
intent to rob.

32 If upon the trial of any person upon any information for robbery, it shall appear to the Jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob; and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an information for feloniously assaulting with intent to rob; and no person so tried, as is herein lastly mentioned, shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

Assault with in-
tent to rob.

33 Whosoever shall assault any person with intent to rob shall be guilty of Felony, and being convicted thereof shall (save and except in the cases where a greater punishment is provided by this Act) be liable to be imprisoned for Fourteen years.

Robbery or assault
by person armed,
or by two or more.

34 Whosoever shall, being armed with any offensive weapon or instrument, rob, or assault with intent to rob, any person, or shall together with one or more other person or persons rob, or assault with intent to rob, any person, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Life.

Robbery and
wounding.

35 Whosoever shall, being armed with any offensive weapon or instrument, rob, or assault with intent to rob, any person, and at the time of, or immediately before, or immediately after such robbery or assault, shall wound, beat, strike, shoot at, or use any other personal violence to any person, shall be guilty of Felony, and being convicted thereof shall suffer Death as a Felon.

36 Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security, or other valuable thing, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Life.

Letter demanding money, &c., with menaces.

37 Whosoever shall with menaces or by force demand any property, chattel, money, valuable security, or other valuable thing, of any person, with intent to steal the same, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Five years.

Demanding money, &c., with menaces, or by force, with intent to steal.

38 Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing accusing or threatening to accuse any other person of any crime liable to be punished by law with death or imprisonment for Seven years or upwards, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime, as hereinafter defined, with a view or intent in any of such cases to extort or gain by means of such letter or writing any property, chattel, money, valuable security, or other valuable thing, from any person, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Life; and the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt to endeavour to commit the said abominable crime, and every solicitation, persuasion, promise, or threat, offered or made to any person whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act.

Letter threatening to accuse of crime with intent to extort.

“ Infamous Crime” defined.

39 Whosoever shall accuse or threaten to accuse, either the person to whom such accusation or threat shall be made, or any other person, of any of the infamous or other crimes lastly hereinbefore mentioned, with a view or intent in any of the cases last aforesaid to extort or gain from such person so accused or threatened to be accused, or from any other person, any property, chattel, money, valuable security, or other valuable thing, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Life.

Accusing or threatening to accuse of crime, with intent to extort.

40 Whosoever, with intent to defraud or injure any other person, shall, by any unlawful violence to, or restraint of, or threat of violence to or restraint of, the person of another, or by accusing, or threatening to accuse, any person of any treason, felony, or infamous crime as hereinbefore defined, compel or induce any person to execute, make, accept, indorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or copartnership, or the seal of any body corporate, company, or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into, or used, or dealt with as a valuable security, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Life.

Inducing a person by violence or threats to execute deeds, &c., with intent to defraud.

41 It shall be immaterial whether the menaces or threats hereinbefore mentioned be of violence, injury, or accusation to be caused or made by the offender or by any other person.

Immaterial from whom menaces proceed.

As to Sacrilege, Burglary, and Housebreaking.

- Breaking and entering a Church or Chapel, and committing any felony. **42** Whosoever shall break and enter any church or registered chapel, and commit any felony therein, or being in any church or registered chapel shall commit any felony therein and break out of the same, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.
- Burglary by breaking out. **43** Whosoever shall enter the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house shall commit any felony therein, and shall in either case break out of the said dwelling-house in the night, shall be deemed guilty of burglary.
- Burglary. **44** Whosoever shall be convicted of the crime of burglary shall be liable to be imprisoned for Life.
- What building within the curtilage shall be deemed part of the dwelling-house. **45** No building, although within the same curtilage with any dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for any of the purposes of this Act, unless there shall be a communication between such building and dwelling-house, either immediate, or by means of a covered and inclosed passage leading from the one to the other.
- Entering dwelling-house by night, with intent to commit felony. **46** Whosoever shall enter any dwelling-house in the night, with intent to commit any felony therein, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Seven years.
- Breaking into any building within the curtilage, which is no part of the dwelling-house, and committing any felony. **47** Whosoever shall break and enter any building, and commit any felony therein, such building being within the curtilage of a dwelling-house, and occupied therewith, but not being part thereof, according to the provision hereinbefore mentioned, or being in any such building shall commit any felony therein, and break out of the same, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.
- Breaking into any house, &c., and committing any felony. **48** Whosoever shall break and enter any dwelling-house, school house, shop, store, warehouse, or counting-house, and commit any felony therein, or being in any dwelling-house, schoolhouse, shop, store, warehouse, or counting-house, shall commit any felony therein, and break out of the same, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.
- House-breaking with intent to commit any felony. **49** Whosoever shall break and enter any dwelling-house, church, chapel, meeting-house, or other place of Divine worship, or any building within the curtilage, school-house, shop, store, warehouse, or counting-house, with intent to commit any felony therein, shall be guilty of Felony and being convicted thereof shall be liable to be imprisoned for Seven years.
- Being armed with intent to break and enter any house in the night. **50** Whosoever shall be found by night armed with any dangerous or offensive weapon or instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any felony therein, or shall be found by night having in his possession without lawful excuse (the proof of which excuse shall lie on such person), any picklock key, crow, jack, bit, or other implement of housebreaking, or shall be found by night having his face blackened or otherwise disguised, with intent to commit any felony, or shall be found by night in any dwelling-house or other building whatsoever, with intent to commit any felony therein, shall be guilty of a

Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Three years.

51 Whosoever shall be convicted of any such Misdemeanor, as in the last preceding section mentioned, committed after a previous conviction, either for Felony or such Misdemeanor, shall on such subsequent conviction be liable to be imprisoned for Ten years.

The like after a previous conviction for felony, &c.

As to Larceny in the House.

52 Whosoever shall steal in any dwelling-house any chattel, money, or valuable security, to the value in the whole of Five Pounds or more, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

Stealing in a dwelling-house to the value of Five pounds.

53 Whosoever shall steal any chattel, money, or valuable security in any dwelling-house, and shall by any menace or threat put any one being therein in bodily fear, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Life.

Stealing in a dwelling-house with menaces.

As to Larceny in Ships, Wharfs, &c.

54 Whosoever shall steal any goods or merchandise to the value in the whole of Five Pounds in any vessel, barge, or boat of any description whatsoever in any haven or dock, or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

Stealing from ships, docks, or wharfs, &c.

55 Whosoever shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

Stealing from ships in distress or wrecked.

56 If any goods, merchandise, or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore, shall be found in the possession of any person, or on the premises of any person with his knowledge, and such person being taken or summoned before a Justice of the Peace, shall not satisfy the Justice that he came lawfully by the same, then the same shall, by order of the Justice, be forthwith delivered over to, or for the use of, the rightful owner thereof, and the offender shall, on conviction of such offence before any two Justices, at the discretion of such Justices, either be liable to be imprisoned for any term not exceeding Six months, or else shall forfeit and pay, over and above the value of the goods, merchandise, or articles, such sum of money not exceeding Twenty Pounds as to the Justices shall seem meet.

Persons in possession of shipwrecked goods not giving a satisfactory account.

57 If any person shall offer or expose for sale any goods, merchandise, or articles whatsoever, which shall have been unlawfully taken, or shall be reasonably suspected so to have been taken, from any ship, or vessel in distress, or wrecked, stranded, or cast on shore, in every such case any person to whom the same shall be offered for sale, or any officer of the customs, or peace officer, may lawfully seize the same, and shall with all convenient speed carry the same, or give notice of such seizure, to some Justice of the Peace; and if the person who shall

If any person offers shipwrecked goods for sale, the goods may be seized.

have offered or exposed the same for sale, being summoned by such Justice shall not appear and satisfy the Justice that he came lawfully by such goods, merchandise, or articles, then the same shall, by order of the Justice, be forthwith delivered over to, or for the use of, the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the Justice) to the person who seized the same; and the offender shall, on conviction of such offence by any two Justices, at the discretion of such Justices, either be liable to be imprisoned for any term not exceeding Six months, or else shall forfeit and pay over and above the value of the goods, merchandise, or articles, such sum of money not exceeding Twenty Pounds as to the Justices shall seem meet.

As to Larceny or Embezzlement by Clerks, Servants, or Persons in the Public Service.

Larceny by clerks or servants.

58 Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall steal any chattel, money, or valuable security belonging to or in the possession or power of his master or employer, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

Embezzlement by clerks or servants.

59 Whosoever, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, shall fraudulently embezzle any chattel, money, or valuable security which shall be delivered to or received or taken into possession by him for or in the name or on the account of his master or employer, or any part thereof, shall be deemed to have feloniously stolen the same from his master or employer, although such chattel, money, or security was not received into the possession of such master or employer otherwise than by the actual possession of his clerk, servant, or other person so employed, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

Larceny by persons in the Public Service, or by the Police.

60 Whosoever, being employed in the public service, or being a constable or other person employed in the police of any city, town, rural municipality, district, or place whatsoever, shall steal any chattel, money, or valuable security belonging to or in the possession or power of Her Majesty, or intrusted to or received or taken into possession by him by virtue of his employment, shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

Embezzlement by persons in the Public Service, or by the Police.

61 Whosoever, being employed in the public service, or being a constable or other person employed in the police of any city, town, rural municipality, district, or place whatsoever, and intrusted by virtue of such employment with the receipt, custody, management, or control of any chattel, money, or valuable security, shall embezzle any chattel, money, or valuable security which shall be intrusted to or received or taken into possession by him by virtue of his employment, or any part thereof, or shall in any manner fraudulently apply or dispose of the same or any part thereof to his own use or benefit, or for any purpose whatsoever, except for the public service, shall be deemed to have feloniously stolen the same from Her Majesty, and being convicted thereof shall be liable to be imprisoned for Fourteen years.

Distinct acts of Embezzlement may be charged in the same information.

62 For preventing difficulties in the prosecution of offenders in any case of embezzlement, fraudulent application or disposition, hereinbefore mentioned, it shall be lawful to charge in the information and proceed against the offender for any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against Her Majesty or

against the same master or employer, within the space of Six months from the first to the last of such acts; and in every such information where the offence shall relate to any money or any valuable security it shall be sufficient to allege the embezzlement, or fraudulent application or disposition, to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender shall be proved to have embezzled, or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved, or if he shall be proved to have embezzled, or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security, may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to some other person, and such part shall have been returned accordingly.

63 If upon the trial of any person for embezzlement, or fraudulent application or disposition as aforesaid, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, or fraudulent application or disposition, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose or in the capacity of a clerk or servant, or as a person employed in the public service, or in the police of any city, town, rural municipality, district, or place, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for such Larceny; and if upon the trial of any person for Larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, or fraudulent application or disposition as aforesaid, he shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that such person is not guilty of Larceny, but is guilty of embezzlement, or fraudulent application or disposition as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an Information for such embezzlement, fraudulent application or disposition; and no person so tried for embezzlement, fraudulent application or disposition, or Larceny as aforesaid, shall be liable to be afterwards prosecuted for Larceny, fraudulent application or disposition, or embezzlement, upon the same facts.

Person tried for Embezzlement as a Clerk, &c., not to be acquitted if the offence turn out to be Larceny; and *vice versa*.

As to Larceny by Tenants or Lodgers.

64 Whosoever shall steal any chattel or fixture let to be used by him or her in or with any house or lodging, whether the contract shall have been entered into by him or her or by her husband, or by any person on behalf of him or her or her husband shall be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Two years; and in case the value of such chattel or fixture shall exceed the sum of Five Pounds shall be liable to be imprisoned for Seven years; and in every case of stealing any chattel in this section mentioned, it shall be lawful to prefer an information in the common form as for Larceny, and in every case of stealing any fixture in this section mentioned, to prefer an information in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

Tenant or lodger stealing chattel or fixture let to hire with house or lodgings.

As to Frauds by Agents, Bankers, or Factors.

Agent, Banker,
&c., embezzling
money or selling
securities, &c.
entrusted to him.

65 Whosoever, having been intrusted, either solely, or jointly with any other person, as a banker, merchant, broker, attorney, or other agent, with any money or security for the payment of money, with any direction in writing to apply, pay, or deliver such money or security or any part thereof respectively, or the proceeds or any part of the proceeds of such security, for any purpose, or to any person specified in such direction, shall, in violation of good faith and contrary to the terms of such direction, in anywise convert to his own use or benefit, or to the use or benefit of any person other than the person by whom he shall have been so intrusted, such money, security, or proceeds, or any part thereof respectively; and whosoever, having been intrusted, either solely, or jointly with any other person, as a banker, merchant, broker, attorney, or other agent, with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock, fund, or debenture, whether of any part of the British dominions, or of any Foreign state, or in any stock or fund of any body corporate, company, or society, for safe custody or for any special purpose, with any authority to sell, negotiate, transfer, or pledge, shall in violation of good faith, and contrary to the object or purpose for which such chattel, security, or power of attorney shall have been intrusted to him, sell, negotiate, transfer, pledge, or in any manner convert to his own use or benefit, or the use or benefit of any person other than the person by whom he shall have been so intrusted, such chattel or security, or the proceeds of the same or any part thereof, or the share or interest in the stock or fund to which such power of attorney shall relate, or any part thereof, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Seven years; but nothing in this section contained relating to agents shall affect any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or personal, in respect of any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney, or other agent from receiving any money which shall be or become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed; nor from selling, transferring, or otherwise disposing of any securities or effects in his possession upon which he shall have any lien, claim, or demand entitling him by law so to do, unless such sale, transfer, or other disposal shall extend to a greater number or part of such securities or effects than shall be requisite for satisfying such lien, claim, or demand.

Exceptions.

Bankers, &c.,
fraudulently
selling, &c. pro-
perty intrusted to
their care.

66 Whosoever, being a banker, merchant, broker, attorney, or agent, and being intrusted, either solely, or jointly with any other person, with the property of any other person for safe custody, shall, with intent to defraud, sell, negotiate, transfer, pledge, or in any manner convert or appropriate the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Seven years.

Persons under
powers of attorney
fraudulently
selling property.

67 Whosoever, being intrusted, either solely, or jointly with any other person, with any power of attorney for the sale or transfer of any property, shall fraudulently sell or transfer or otherwise convert the same or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, shall

be guilty of a Misdemeanor and being convicted thereof shall be liable to be imprisoned for Seven years.

68 Whosoever, being a factor or agent intrusted, either solely, or jointly with any other person, for the purpose of sale or otherwise, with the possession of any goods, or of any document of title to goods, shall, contrary to or without the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, make any consignment, deposit, transfer, or delivery of any goods or document of title so entrusted to him as in this section before mentioned, as and by way of a pledge, lien, or security for any money or valuable security borrowed or received by such factor or agent at or before the time of making such consignment, deposit, transfer, or delivery, or intended to be thereafter borrowed or received, or shall, contrary to or without such authority, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, accept any advance of any money or valuable security on the faith of any contract or agreement to consign, deposit, transfer, or deliver any such goods or document of title, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Seven years; and every clerk or other person who shall knowingly and wilfully act and assist in making any such consignment, deposit, transfer, or delivery, or in accepting or procuring such advance as aforesaid, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to the same punishment: Provided that no such factor or agent shall be liable to any prosecution for consigning, depositing, transferring, or delivering any such goods or documents of title in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such consignment, deposit, transfer, or delivery was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal, and accepted by such factor or agent.

Factors obtaining advances on the property of their principals.

Clerks wilfully assisting.

Proviso where the pledge does not exceed the amount of lien.

69 Any factor or agent intrusted as aforesaid, and possessed of any such document of title, whether derived immediately from the owner of such goods or obtained by reason of such factor or agent having been intrusted with the possession of the goods, or of any other document of title thereto, shall be deemed to have been intrusted with the possession of the goods represented by such document of title; and every contract pledging or giving a lien upon such document of title as aforesaid shall be deemed to be a pledge of and lien upon the goods to which the same relates; and such factor or agent shall be deemed to be possessed of such goods or document, whether the same shall be in his actual custody, or shall be held by any other person subject to his control, or for him or on his behalf; and where any loan or advance shall be *bonâ fide* made to any factor or agent intrusted with and in possession of any such goods or document of title, on the faith of any contract or agreement in writing to consign, deposit, transfer, or deliver such goods or documents of title, and such goods or document of title shall actually be received by the person making such loan or advance, without notice that such factor or agent was not authorised to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or document of title within the meaning of the last preceding Section, though such goods or document of title shall not actually be received by the person making such loan or advance till the period subsequent thereto; and any contract or agreement, whether made direct with such factor or agent, or with any clerk or other person on his behalf, shall be deemed a contract or

Definition of terms.

“Intrusted.”

“Pledge.”

“Possessed.”

“Advance.”

“Contract or agreement.”

“ Advance.”

agreement with such factor or agent ; and any payment made, whether by money or bill of exchange or other negotiable security, shall be deemed to be an advance within the meaning of the last preceding section ; and a factor or agent in possession as aforesaid of such goods or document shall be taken, for the purposes of the last preceding section, to have been intrusted therewith by the owner thereof, unless the contrary be shown in evidence.

Trustees fraudulently disposing of property guilty of a Misdemeanor.

70 Whosoever, being a trustee of any property for the use or benefit, either wholly or partially, of some other person, or for any public or charitable purpose, shall, with intent to defraud, convert, or appropriate the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise dispose of or destroy such property or any part thereof, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Seven years : Provided, that no proceeding or prosecution for any offence included in this section shall be commenced without the sanction of the Attorney-General of this Colony, or in case that office be vacant, of the Solicitor-General of this Colony : Provided also that where any civil proceeding shall have been taken against any person to whom the provisions of this section may apply, no person who shall have taken such civil proceeding shall commence any prosecution under this section without the sanction of the Court or Judge before whom such civil proceeding shall have been had or shall be pending.

No prosecution shall be commenced without the sanction of the Attorney-General.

Directors, &c. of any Body Corporate or Public Company fraudulently appropriating property.

71 Whosoever, being a director, member, or public officer of any body corporate or public company, shall fraudulently take or apply for his own use or benefit, or for any use or purposes other than the use or purposes of such body corporate or public company, any of the property of such body corporate or public company, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Seven years.

Or keeping fraudulent accounts.

72 Whosoever, being a director, public officer, or manager of any body corporate or public company, shall as such receive or possess himself of any of the property of such body corporate or public company otherwise than in payment of a just debt or demand, and shall with intent to defraud, omit to make or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or public company, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Seven years.

Or wilfully destroying books, &c.

73 Whosoever, being a director, manager, public officer, or member of any body corporate, public company, or charitable institution, shall, with intent to defraud, destroy, alter, mutilate, or falsify any book, paper, writing or valuable security belonging to the body corporate, public company, or charitable institution, or make or concur in the making of any false entry, or omit or concur in omitting any material particular, in any book of account or other document, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Seven years.

Or publishing fraudulent statements.

74 Whosoever, being a director, manager, or public officer of any body corporate or public company, shall make, circulate, or publish, or concur in making, circulating, or publishing, any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company, or with intent to induce

any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Seven years.

75 Nothing in any of the last ten preceding sections of this Act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any Court, or upon the hearing of any matter in insolvency; and no person shall be liable to be convicted of any of the Misdemeanors in any of the said sections mentioned by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being charged with such offence have first disclosed such act on oath, in consequence of any compulsory process of any Court of law or equity, in any action, suit, or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any Court, upon the hearing of any matter in Insolvency.

No person to be exempt from answering questions in any Court.

76 Nothing in any of the last eleven preceding sections of this Act contained, nor any proceeding, conviction, or judgment to be had or taken thereon against any person under any of the said sections, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any offence against any of the said sections might have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

No remedy at Law or in Equity shall be affected.

Convictions shall not be received in evidence in civil suits.

77 No Misdemeanor against any of the last twelve preceding sections of this Act shall be prosecuted or tried at any Court of General Sessions of the Peace.

Certain Misdemeanors not triable at Sessions.

As to obtaining Money, &c. by False Pretences.

78 Whosoever shall by any false pretence obtain from any other person any chattel, money, or valuable security, with intent to defraud, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable to be imprisoned for Four years: Provided, that if upon trial of any person tried for such Misdemeanor it shall be proved that he obtained the property in question in any such manner as to amount in law to Larceny, he shall not by reason thereof be entitled to be acquitted of such Misdemeanor; and no person tried for such Misdemeanor shall be liable to be afterwards prosecuted for Larceny upon the same facts: Provided also, that it shall be sufficient in any information for obtaining or attempting to obtain any such property by false pretences to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the chattel, money, or valuable security; and upon the trial of any such information it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

False pretences.

No acquittal because the offence amounts to Larceny.

Where any money or things caused to be paid or delivered to any person other than the person making a false pretence.

79 Whosoever shall by any false pretence cause or procure any money to be paid, or any chattel, or valuable security to be delivered to any other person, for the use or benefit or on account of the person making such false pretence, or of any other person, with intent to defraud, shall be deemed to have obtained such money, chattel, or valuable security within the meaning of the last preceding section.

Inducing persons by frauds to execute deeds and other instruments.

80 Whosoever, with intent to defraud or injure any other person, shall by any false pretence fraudulently cause or induce any other person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or copartnership, or the seal of any body corporate, company, or society, upon any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security, shall be guilty of a Misdemeanor, and being convicted thereof, shall be liable to be imprisoned for Four years.

As to Receiving Stolen Goods.

Receiving where the principal is guilty of Felony.

81 Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, by stealing, taking, extorting, obtaining, embezzling, or otherwise disposing whereof shall amount to a Felony, either at common law or by virtue of this Act, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed of, shall be guilty of Felony, and may be proceeded against and convicted either as an accessory after the fact, or for a substantive felony, and in the latter case whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver, howsoever convicted, shall be liable to be imprisoned for Fourteen years: Provided, that no person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Information for stealing and receiving.

82 In any information containing a charge of feloniously stealing any property, it shall be lawful to add a count or several counts for feloniously receiving the same or any part or parts thereof, knowing the same to have been stolen; and in any information for feloniously receiving any property, knowing it to have been stolen, it shall be lawful to add a count for feloniously stealing the same; and upon the trial of any person upon any such information the prosecutor shall not be put to his election, but it shall be lawful for the jury who shall try the same to find a verdict of guilty, either of stealing the property, or of receiving the same, or any part or parts thereof, knowing the same to have been stolen; and upon the trial of two or more persons upon any such information, it shall be lawful for the jury who shall try the same to find all or any of the said persons guilty either of stealing the property or of receiving the same, or any part or parts thereof knowing the same to have been stolen, or to find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same or any part or parts thereof, knowing the same to have been stolen.

Separate receivers may be included in the same information in the absence of the principal.

83 Whenever any property whatsoever shall have been stolen, taken, extorted, obtained, embezzled, or otherwise disposed of in such a manner as to amount to a Felony, either at common law or by virtue of this Act, any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive

Felonies in the same information, and may be tried together, notwithstanding that the principal felon shall not be included in the same information, or shall not be in custody or amenable to justice.

84 If upon the trial of any two or more persons tried for jointly receiving any property, it shall be proved that one or more of such persons separately received any part or parts of such property, it shall be lawful for the jury to convict, upon such information such of the said persons as shall be proved to have received any part or parts of such property.

On an information for jointly receiving, persons may be convicted of separately receiving.

85 Whosoever shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, converting, or disposing whereof is made a Misdemeanor by this Act, knowing the same to have been unlawfully stolen, taken, obtained, converted or disposed of, shall be guilty of a Misdemeanor, and may be proceeded against and convicted thereof whether the person guilty of the principal Misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver being convicted thereof, shall be liable to be imprisoned for Seven years.

Receiving where the principal has been guilty of a Misdemeanor.

86 Where the stealing or taking of any property whatsoever is by this Act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall, on conviction thereof before any two Justices of the Peace, be liable, for every first, second, or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence of stealing or taking such property is by this Act made liable.

Receiver where the original offence is punishable on summary conviction.

87 In case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act (except only a receiver of stolen property), shall, on conviction, be liable to be imprisoned for Three years; and every person who shall aid, abet, counsel, or procure the commission of any Misdemeanor punishable under this Act, shall be liable to be proceeded against, tried, and punished as a principal offender.

Principals in the second degree and accessories.

Abettors in misdemeanors.

88 Whosoever shall aid, abet, counsel, or procure the commission of any offence which is by this Act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before any two Justices of the Peace, be liable, for every first or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first or subsequent offence as a principal offender is by this Act made liable.

Abettors in offences punishable on summary convictions.

As to Restitution and Recovery of Stolen Property.

89 If any person is found guilty of any such Felony or Misdemeanor as is mentioned in this Act, in stealing, taking, obtaining, extorting, embezzling, converting, or disposing of, or in knowingly receiving, any chattel, money, valuable security, or other property whatsoever, the property shall be restored to the owner or his representative; and in every such case the Court before whom any person

The owner of stolen property prosecuting thief or receiver to conviction shall have restitution of his property.

Provision as to valuable and negotiable securities.

Not to apply to prosecutions of Trustees, Bankers, &c.

Taking a reward for helping to the recovery of stolen property without bringing the offender to trial.

Advertising a reward for the return of stolen property.

A person in the act of committing any offence may be apprehended without a warrant.

A Justice, upon good grounds of suspicion proved upon oath, may

shall be tried for any such Felony or Misdemeanor shall have power to award from time to time writs of restitution for the said property, or to order the restitution thereof in a summary manner: Provided, that if it shall appear before any award or order made, that any valuable security shall have been *bonâ fide* paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument shall have been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had by any Felony or Misdemeanor been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, in such case the Court shall not award or order the restitution of such security: Provided also, that nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker, or other agent, intrusted with the possession of goods or documents of title to goods for any Misdemeanor against this Act.

90 Whosoever shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security, or other property whatsoever which shall by any Felony or Misdemeanor have been stolen, taken, obtained, extorted, embezzled, converted, or disposed of, as in this Act before mentioned, shall (unless he shall have used all due diligence to cause the offender to be brought to trial for the same) be guilty of Felony, and being convicted thereof shall be liable to be imprisoned for Seven years.

91 Whosoever shall publicly advertise a reward for the return of any property whatsoever which shall have been stolen or lost, and shall in such advertisement use any words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan upon any property stolen or lost the money so paid or advanced, or any other sum of money or reward for the return of such property, or shall print or publish any such advertisement, shall forfeit the sum of Fifty Pounds for every such offence to any person who will sue for the same by action of debt to be recovered with full costs of suit.

As to Apprehension of Offenders and other proceedings.

92 Any person found committing any offence punishable either upon information in the Supreme Court or Court of General Sessions, or upon summary conviction, by virtue of this Act, may be immediately apprehended without a warrant by any person, and forthwith taken, together with any property relating to such offence, before some neighbouring Justice of the Peace, to be dealt with according to law; and if any credible witness shall prove upon oath before a Justice of the Peace a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever on or with respect to which any offence, punishable either upon information or upon summary conviction by virtue of this Act, shall have been committed, the Justice may grant a warrant to search for such property as in the case of stolen goods; and any person to whom any property shall be offered to be

sold, pawned, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorised, and if in his power, is required to apprehend and forthwith to take before a Justice of the Peace the party offering the same, together with such property to be dealt with according to law.

grant a search warrant.

93 Any constable or peace officer may take into custody, without warrant, any person whom he shall find lying or loitering in any highway, yard, or other place, during the night, and whom he shall have good cause to suspect of having committed, or being about to commit, any felony against this Act, and shall take such person, as soon as reasonably may be, before a Justice of the Peace, to be dealt with according to law.

A person loitering at night and suspected of any felony against this Act may be apprehended.

94 Where any person shall be charged on the oath of a credible witness before any Justice of the Peace with any offence punishable on summary conviction under this Act, the Justice may summon the person charged to appear at a time and place to be named in such summons, and if he shall not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him personally, or by leaving the same at his usual place of abode) the Justice or Justices may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself or some other Justice of the Peace; or the Justice before whom the charge shall be made may (if he shall so think fit), without any previous summons (unless where otherwise specially directed), issue such warrant, and the Justice before whom the person charged shall appear or be brought shall proceed to hear and determine the case.

Mode of compelling the appearance of persons punishable on summary conviction.

95 Every sum of money which shall be forfeited on any summary conviction for the value of any property stolen or taken, or for the amount of any injury done (such value or amount to be assessed in each case by the convicting Justice or Justices), shall be paid to the party aggrieved, except where he is unknown, and in that case such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any Justice or Justices of the Peace, whether in addition to such value or amount or otherwise, shall be paid and applied in the same manner as other penalties recoverable before Justices of the Peace are to be paid and applied in cases where the Act imposing the same contains no direction for the payment thereof to any person: Provided, that where several persons shall join in the commission of the same offence, and shall upon conviction thereof each be adjudged to forfeit a sum equivalent to the value of the property or to the amount of the injury, in every such case no further sum shall be paid to the party aggrieved than such value or amount; and the remaining sum or sums forfeited shall be applied in the same manner as any penalty imposed by a Justice of the Peace is hereinbefore directed to be applied.

Application of forfeitures and penalties on summary convictions.

Where several persons join in same offence.

96 In every case of a summary conviction under this Act, where the sum which shall be forfeited for the value of the property stolen or taken, or for the amount of the injury done, or which shall be imposed as a penalty by the Justice or Justices, shall not be paid, either immediately after the conviction or within such period as the Justice or Justices shall at the time of conviction appoint, the convicting Justice or Justices (unless where otherwise specially directed) may commit the offender to any Gaol or House of Correction, there to be imprisoned only or to be imprisoned and kept to hard labour, according to the discretion of the

If a person summarily convicted &c. shall not pay, the Justice may commit him.

Justice or Justices, for any term not exceeding Two months, where the amount of the sum forfeited, or the penalty imposed, or of both (as the case may be), together with the costs, shall not exceed Five Pounds, and for any term not exceeding Four Months, where the amount, with costs, shall not exceed Ten Pounds, and for any term not exceeding Six months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Justice may discharge the offender in certain cases.

97 Where any person shall be summarily convicted before a Justice or Justices of the Peace of any offence against this Act, and it shall be a first conviction, the Justice or Justices may, if he shall so think fit, discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved for damages and costs, or either of them as shall be ascertained by the Justice or Justices.

A summary conviction shall be a bar to any other proceedings for the same cause.

98 In case any person convicted of any offence punishable upon summary conviction by virtue of this Act shall have paid the sum adjudged to be paid, together with costs, under such conviction, or shall have received a remission thereof from the Crown, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or shall have been so discharged from his conviction by any Justice or Justices as aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

Appeal.

99 In all cases where the sum adjudged to be paid on any summary conviction shall exceed Five Pounds, or the imprisonment adjudged shall exceed One Month, or the conviction shall take place before one Justice only, any person who shall think himself aggrieved by any such conviction may appeal to the next Court of General Sessions which shall be holden not less than Sixteen days after the day of such conviction for the rural municipality, district, or place wherein the cause of complaint shall have arisen; Provided, that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within Eight days after such conviction, and Seven clear days at least before such Sessions, and shall also either remain in custody until the Sessions, or shall enter into a recognizance, with two sufficient sureties, before a Justice of the Peace, conditioned personally to appear at the said Sessions and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; or if such appeal shall be against any conviction, whereby only a penalty or other sum of money shall be adjudged to be paid, shall deposit with the Clerk of Petty Sessions such a sum of money as such Justice shall deem to be sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction and the costs of the appeal; and upon such notice being given, and such recognizance being entered into, or such deposit being made, the Justice before whom such recognizance shall be entered into, or such deposit made, shall liberate such person if in custody; and the Court at such Sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the Court shall seem meet, and in case of the dismissal of the appeal or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment; and in any case where after any such deposit shall have been made as aforesaid the conviction shall be affirmed, the Court may order the sum thereby adjudged to be paid, together with the costs of the conviction and the costs of the appeal, to be paid out of the money deposited, and the residue thereof, (if any), to

be repaid to the party convicted ; and in any case where after any such deposit the conviction shall be quashed, the Court shall order the money deposited to be repaid to the party convicted ; and in every case where any conviction shall be quashed on appeal as aforesaid the Clerk of the Peace or other proper officer, shall forthwith indorse on the conviction a memorandum that the same has been so quashed ; and whenever any copy or certificate of such conviction shall be made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction has been quashed in every case where such copy or certificate would be sufficient evidence of such conviction.

100 No such conviction, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by *Certiorari* into the Supreme Court ; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same. No *Certiorari*.

101 Every Justice of the Peace before whom any person shall be convicted of any offence against this Act shall transmit the conviction to the clerk of the peace or deputy clerk of the peace for the rural municipality, district, or place wherein the offence shall have been committed, there to be kept by him among the records of the Court of General Sessions of such rural municipality, district, or place ; and upon the trial of any person upon any information for a subsequent offence, a copy of such conviction, certified by such clerk or deputy clerk of the peace, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shown. Convictions to be returned to the next Sessions.

102 All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within Six months after the fact committed, and not otherwise ; and notice in writing of such action and of the cause thereof shall be given to the defendant One month at least before the commencement of the action ; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereupon ; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant ; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant has by law in other cases and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action. Proceedings against persons acting under this Act.

103 In any information for any offence punishable under this Act, and committed after a previous conviction or convictions for any Felony, Misdemeanor, or offence or offences punishable upon summary conviction, it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place or at certain times and places convicted of Felony, or of any Misdemeanor, or of an offence or offences punishable upon summary conviction (as the case may be), without otherwise describing the previous Felony, Misdemeanor, offence Form of information for a subsequent offence.

or offences; and a certificate containing the substance and effect only (omitting the formal part) of the information and conviction for the previous Felony or Misdemeanor, or a copy of any such summary conviction, purporting to be signed by the Clerk of the Court or other Officer having the custody of the records of the court, where the offender was first convicted, or to which such summary conviction shall have been returned, or by the deputy of such clerk or officer, (for which certificate or copy no fee shall be demanded or taken,) or the police character of such offender stating any previous conviction, shall, upon proof of the identity of the person of the offender be sufficient evidence of such conviction, without proof of the signature or official character of the person appearing to have signed the same; and the proceedings upon any information for committing any offence after a previous conviction or convictions shall be as follows; that is to say,—the offender shall, in the first instance, be arraigned upon so much only of the information as charges the subsequent offence, and if he plead not guilty, or if the Court order a plea of not guilty to be entered on his behalf, the Jury shall be charged, in the first instance, to enquire concerning such subsequent offence only; and if they find him guilty, or if on arraignment he plead guilty, he shall then, and not before, be asked whether he had been previously convicted as alleged in the information, and if he answer that he had been so previously convicted, the Court may proceed to sentence him accordingly, but if he deny that he had been so previously convicted, or stand mute of malice, or will not answer directly to such question, the Jury shall then be charged to enquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the Jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last-mentioned enquiry: Provided, that if upon the trial of any person for any such subsequent offence such person shall give evidence of his good character, it shall be lawful for the prosecutor, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty shall be determined, and the Jury shall enquire concerning such previous conviction or convictions at the same time that they enquire concerning such subsequent offence.

Fine and sureties for keeping the peace; in what cases.

104 Whenever any person shall be convicted of any Misdemeanor punishable under this Act, otherwise than on summary conviction, the Court may if it shall think fit in addition to or in lieu of any of the punishments by this Act authorised, fine the offender, and require him to enter into his own recognizances and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Act the Court may if it shall think fit, require the offender to enter into his own recognizances, and to find sureties, both, or either, for keeping the peace, in addition to any punishment by this Act authorised: Provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding One year.

Summary proceedings may be under 19 Vict., No. 8.

105 Every offence hereby made punishable on summary conviction may be prosecuted in the manner directed by the Act of Council of 19th *Victoria*, No. 8, so far as no provision is hereby made for any matter or thing which may be required to be done in the course of such prosecution; and all provisions contained in the said Act shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act.

106 When any person is convicted of any offence for which he is liable to be punished under this Act by imprisonment for Life, it shall be lawful for the Court before which such person is convicted to pass sentence on such offender of imprisonment for Life, or for any term of years not exceeding Twenty years; and when any person is convicted of any offence for which he is liable to be punished under the provisions of this Act by imprisonment for any period, it shall be lawful for the Court, or person whose duty it is to pass sentence upon such offender, to pass a sentence of imprisonment for any shorter term.

Mode of passing sentence of imprisonment.

107 Every sentence of imprisonment passed under the provisions of this Act shall, for the purpose of being carried into effect, be deemed and taken to be a sentence of Penal Servitude, and shall have all the incidents attending a sentence of Penal Servitude: Provided that, in case the sentence passed is for a period of imprisonment of less than Two years, the Court, or person passing sentence, may direct that the person sentenced shall not be kept to hard labor, and in every such case the sentence passed shall be carried into effect in the same manner in which a sentence of imprisonment without hard labor is now carried into effect.

Sentence of imprisonment same as sentence of Penal Servitude.

108 This Act shall commence and take effect on the First day of *September*, 1863.

Commencement of Act.

