

No. 12.—1842.

AN ORDINANCE for Assimilating the Laws relative to Malicious Injuries to Property to the Laws of England in the like cases.

(L. S.) C. CHICHESTER.

Acting Governor, Lieut.-Colonel 81st Regiment.

Setting fire to dwelling-houses, any person being therein.

WHEREAS it is expedient that the laws of this Colony relative to malicious injuries to property should be assimilated to the Laws of England in the like cases, and that the same should be consolidated into this Ordinance: Be it therefore enacted by His Excellency the Governor and Commander-in-Chief in and over the said Island and its Dependencies, by and with the advice and consent of the Council of Government thereof, That from and after the promulgation of this Ordinance, whosoever shall unlawfully and maliciously set fire to any dwelling-house, any person being therein, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported for life, or for any term not less than ten years, or to be imprisoned for any term not exceeding five years, nor less than two years.

*Repealed
Ord 5-1885*

Setting fire to churches, chapels, and certain buildings.

2. And be it further enacted, That whosoever shall unlawfully and maliciously set fire to any church or chapel, or any other place of religious worship, or shall unlawfully and maliciously set fire to any house, stable, or coach-house, out-house, warehouse, office, shop, mill-house, boiling-house, curing-house, still-house, store-house, magass-house, cocoa-house, barn or granary, or to any building or erection used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them respectively shall then be in the possession of the offender, or in the possession of any other person, with intent thereby to injure or defraud any person, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, nor less than one year.

*Repealed
Ord 5-1885*

Rioters destroying church, chapel

3. And be it further enacted, That if any persons riotously and tumultuously assemble together to the disturbance of the public peace, shall unlawfully and with

*Repealed
Ord 5-1885*

force demolish, pull down or destroy, or begin to demolish, pull down, or destroy any church or chapel, or any building appropriated for the purposes of religious worship, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, boiling house, curing-house, still-house, store-house, magass-house, cocoa-house, barn or granary, or any building or erection, used in carrying on any trade or manufacture, or any branch thereof, or any machinery, whether fixed or moveable, prepared for or employed in the making of sugar, or any other manufacture, or in any branch thereof, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to any such punishment as last aforesaid.

4. And be it further enacted, That whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, either with intent to murder any person, or whereby the life of any person shall be endangered, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported for life, or for any term not less than ten years, or to be imprisoned for any term not exceeding five years, nor less than two years.

5. And be it further enacted, That whosoever shall unlawfully exhibit any false light or signal, with intent to bring any ship or vessel into danger, and shall unlawfully or maliciously do anything tending to the immediate loss or destruction of any ship or vessel in distress, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to any such punishment as last aforesaid.

6. And be it further enacted, That whosoever shall unlawfully and maliciously set fire to, or in anywise destroy any ship or vessel, whether the same be complete, or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that hath underwritten, or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof, shall be liable to be im-

or certain
buildings
machinery

Setting fire to
or destroying
ships, with in-
tent to murder.

Shewing false
lights.

Setting fire to
ships with in-
tent to destroy.

prisoned for any term not exceeding four years, nor less than one year.

Damaging
ships other-
wise than by
fire.

7. And be it further enacted, That if any person shall unlawfully and maliciously damage otherwise than by fire, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or to render the same useless, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to any such punishment as last aforesaid.

Destroying
wrecks or ar-
ticles belong-
ing thereto.

8. And be it further enacted, That whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress or wrecked, stranded or cast on shore, or any goods, merchandize or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to any such punishment as last aforesaid.

Destroying
sea banks, or
works on ca-
nals, or rivers.

9. And be it further enacted, That if any person shall unlawfully and maliciously break down or cut down any sea-bank, or sea-wall, or the bank or wall of any river, canal or marsh, whereby any lands shall be overflowed or damaged, or shall be in danger of being so, or shall unlawfully and maliciously throw down, level, or otherwise destroy any lock, sluice, or flood-gate, or other work on any navigable river or canal, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding four years : and if any person shall unlawfully and maliciously cut off, draw up, or remove any piles, chalk, or other materials fixed in the ground and used for securing any sea-bank or sea-wall, or the bank or wall of any river, canal or marsh, or shall unlawfully and maliciously open or draw up any flood-gate, or do any other injury or mischief to any navigable river or canal with intent, and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years.

Injuring pub-

10. And be it further enacted, That if any person shall

unlawfully and maliciously pull down or in any wise destroy any public bridge, or do any injury with intent, and so as thereby to render such bridge or any part thereof dangerous or impassable, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding five years. ^{lie bridges.}

11. And be it further enacted, That if any person shall unlawfully and maliciously throw down, level, or otherwise destroy, in whole or in part, any turnpike-gate, or any wall, chain, rail, post, bar, or other fence belonging to any turnpike-gate, or set up or erected to prevent passengers passing by without paying any toll, payable under or by virtue of any Ordinance or Ordinances relating thereto, or any house, building, or weighing engine erected for the better collection, ascertainment, or security of any such toll, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be punished accordingly. ^{Destroying turnpike-gates or toll gates.}

12. And be it further enacted, That if any person shall unlawfully and maliciously break down or otherwise destroy the dam of any fish-pond or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully and maliciously put any lime or other noxious material in any such pond or water with intent thereby to destroy any of the fish therein, or shall unlawfully and maliciously break down or otherwise destroy the dam of any mill-pond, every such offender shall be guilty of a misdemeanor, and being duly convicted thereof, shall be liable to be imprisoned for any term not exceeding one year. ^{Breaking down dam of fish-pond or mill-dam.}

13. And be it further enacted, That if any person shall unlawfully and maliciously kill, maim, or wound any cattle, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years. ^{Killing or maiming cattle.}

14. And be it further enacted, That if any person shall unlawfully and maliciously set fire to any crop of sugar-canes, whether standing or cut down, or to any stalks of straw, trash, or mags, &c. ^{Setting fire to stalks of straw, trash, or mags, &c.}

stack or stacked heap of straw, trash, ground-cane, magass, cane-tops, corn-stalks, wood or other matter used for fuel, or to any crop of Indian or Guinea corn, whether standing or cut down, or to any plantation of cocoa or coffee trees, or to any part of a wood, coppice, or plantation of trees, or valuable plants, or to any field of grass, or other like ground produce, wheresoever the same may be growing, or to any trash reserved or placed on any land in course of cultivation, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years.

Destroying trees, shrubs, &c., growing in certain cultivations.

When value exceeds £1 Stg.

When value exceeds £5 Stg.

Destroying trees or shrubs when value exceeds 1s. Stg. punishable on summary conviction.

15. And be it further enacted, That if any person shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub or any underwood respectively growing in any park, pleasure-ground garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house, every such offender, in case the amount of the injury done shall exceed the the sum of one pound sterling, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years; and if any person shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, shrub, or any underwood respectively growing elsewhere than in any of the situations hereinbefore mentioned, every such offender, in case the amount of the injury done shall exceed the sum of five pounds sterling, shall be guilty of felony, and being convicted thereof, shall be liable to such punishment as the Court may award for the felony hereinbefore last mentioned.

16. And be it further enacted, That if any person shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, wheresoever the same may be respectively growing, the injury done being to the amount of one shilling sterling at least, every such offender, being convicted before any two Justices of the Peace, shall, for the first offence, forfeit and pay over and above the amount of the injury done, such sum of money not exceeding five pounds

sterling, as to the said Justices shall seem meet, and in default of payment immediately, or within such time as the Justices shall appoint, shall be committed to the Royal Gaol for one calendar month, unless the same be sooner paid; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof before two Justices of the Peace, every such offender shall for such second offence, be committed to the Royal Gaol, there to be kept to hard labour for such term not exceeding six calendar months, as the convicting Justices shall think fit; and if any person SC Third offence felony. twice convicted shall afterwards commit any of the said offences, such offender shall be deemed guilty of felony, and being convicted thereof shall be liable to any such punishment as the Court may award for the felony hereinbefore last mentioned.

17. And be it further enacted, That if any person shall unlawfully and maliciously destroy, or damage with intent to destroy, any plant, root, fruit, or vegetable production growing in any garden, orchard, nursery-ground, green-house, or conservatory, every such offender, being convicted thereof before two Justices of the Peace, shall, at the discretion of the said Justices of the Peace, be committed to the Royal Gaol, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding three calendar months, or else shall forfeit and pay over and above the amount of the injury done such sum of money not exceeding five pounds sterling, as to the Justices shall seem meet; and if any person so convicted shall afterwards commit any of the said offences, such offender shall be deemed guilty of felony, and being convicted thereof, shall be liable to such punishment as the Court may award for the felony hereinbefore last mentioned. Destroying fruit or vegetables in gardens punishable on summary conviction; second offence, felony

18. And be it further enacted, That if any person shall unlawfully and maliciously destroy, or damage with intent to destroy, any cultivated plant or root 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 enclosed, not being a garden or orchard, or nursery-ground, every such offender being convicted thereof before two Justices of the Peace, shall, at the discretion of the said Justices, either be committed Destroying vegetable productions not growing in gardens.

to the Royal Gaol, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding one calendar month, or else shall forfeit and pay over and above the amount of the injury done such sum of money not exceeding twenty shillings sterling, as to the Justices shall seem meet, and in default of payment thereof, together with the costs (if ordered), shall be committed as aforesaid for any term not exceeding one calendar month, unless payment be sooner made; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof before any two Justices of the Peace, every such offender shall be committed to the Royal Gaol, there to be kept to hard labour for such term not exceeding three calendar months, as the convicting Justices shall think fit.

Destroying
fences, walls,
stiles, or gates.

19. And be it further enacted, That if any person shall unlawfully and maliciously cut, break, throw down, or in anywise destroy any fence of any description whatsoever, or any stile, wall, or gate, or any part thereof respectively, every such offender being convicted before two Justices of the Peace, shall, for the first offence, forfeit and pay over and above the amount of the injury done, such sum of money not exceeding five pounds sterling, as to the Justices shall seem meet, and in default of payment thereof, together with the costs (if ordered), shall be committed to the Royal Gaol for any term not exceeding one calendar month, unless the payment be sooner made; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof before two Justices of the Peace, every such offender shall be committed to the Royal Gaol, there to be kept to hard labour for such term not exceeding three calendar months, as the convicting Justices may think fit.

Committing
damage to any
property not
before special-
ly provided
for.

20. And be it further enacted, That if any person shall wilfully or maliciously commit any damage, injury, or spoil to, or upon any real or personal property whatsoever, either of a public or private nature, for which no remedy or punishment is hereinbefore provided, every such person being convicted thereof before two Justices of the Peace, shall forfeit and pay such sum of money as shall appear to the Justices to be a reasonable

compensation for the damage, injury, or spoil so committed, not exceeding the sum of five pounds sterling, which sum of money shall, in the case of private property, be paid to the party aggrieved, except when such party shall have been examined in proof of the offence, and in such case, or in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in such manner as every penalty imposed by Justices of the Peace, under this Ordinance is hereinafter directed to be applied; and if such sum of money, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the Justices shall at the time of conviction appoint, the Justices may commit the offender to the Royal Gaol, there to be imprisoned only, or to be imprisoned and kept to hard labour, as the said Justices shall think fit, for any term not exceeding two calendar months, unless such sum and costs be sooner paid: Provided always, that nothing herein contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of.

21. And be it further enacted, That every punishment and forfeiture by this Ordinance imposed on any person maliciously committing any offence, whether the same be punishable upon indictment or upon summary conviction, shall equally apply and be in force, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

Malice against owners not essential to offences against this Ordinance

22. And be it further enacted, That in any case of felony punishable under this Ordinance, 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 Ordinance punishable, and every accessory after the fact to any felony punishable under this Ordinance, shall on conviction be liable to be imprisoned for any term not exceeding two years; and every person who shall aid, abet, counsel or procure the commission of any misdemeanor punishable under this Ordinance, shall be liable to be indicted and punished as a principal offender.

Principals in second degree and accessories.

Court may order hard labour and solitary confinement.

23. And be it further enacted, That when any person shall be convicted of any indictable offence punishable under this Ordinance, for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, or imprisoned and kept to hard labour in the Royal Gaol for any portion or portions of such imprisonment, and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, or of such imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year, as to the Court in its discretion shall seem meet.

Offenders may be apprehended in the act without warrant.

24. And for the more effectual apprehension of all offenders against this Ordinance, be it further enacted, That any person found committing any offence against this Ordinance, whether the same be punishable upon indictment or upon summary conviction, may be immediately apprehended without a warrant by any peace officer, or the owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before some neighbouring Justice of the Peace, to be dealt with according to law.

Regulations as to summary proceedings.

25. And be it further enacted, That the prosecution for every offence punishable on summary conviction under this Ordinance, shall be commenced within three calendar months, next after the commission of the offence and not otherwise, and the evidence of the party aggrieved shall be admitted in proof of the offence.

Mode of compelling appearance of persons punishable on summary conviction.

26. And be it further enacted, For the more effectual prosecution of all offences punishable on summary conviction under this Ordinance, that when any person shall be charged on the oath of a credible witness before any Justice of the Peace with any such offence, 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 said Justice associating himself with some other Justice of the Peace, may either proceed to hear and determine the case *ex parte*, or the said Justices may issue their warrant for apprehending such

person, and bringing him before themselves, or some other Justices of the Peace, who shall proceed to hear and determine the case according to law.

27. And be it further enacted, That where any offence is by this Ordinance 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, any person who shall aid, abet, counsel or procure the commission of such offence, shall on conviction before two Justices of the Peace, as the nature of the offence shall require, be liable for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence, as a principal offender, is by this Ordinance made liable.

Abettors in offences punishable on summary conviction.

28. And with regard to the application of all forfeitures and penalties upon summary conviction under this Ordinance, be it further enacted, That every sum of money which shall be forfeited for the amount of any injury done (such amount to be assessed in each case by the convicting Justices,) shall be paid to the party aggrieved if known, except when such party shall have been examined in proof of the offence, and in that case, or when the party aggrieved is unknown, such sum shall be applied in the same manner as a penalty, and every sum which shall be imposed as a penalty by any Justices of the Peace, whether in addition to such amount or otherwise, shall be paid into the Treasury of the Island for the uses thereof: Provided always, that when several persons shall join in the commission of the same offence, and shall each, upon conviction thereof, be adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved, than that which shall be forfeited by one of such offenders only, and the corresponding sum or sums forfeited by the other offender or offenders shall be applied in the same manner as any penalty imposed by any Justices of the Peace is hereinbefore directed to be applied.

Application of forfeitures and penalties on summary conviction.

29. And be it further enacted, That in every case of a summary conviction under this Ordinance, when the sum which shall be forfeited for the amount of the injury done, or which shall be imposed as a penalty by

Justices may commit on non-payment of penalties on summary conviction.

the Justices, shall not be paid either immediately after the conviction, or within such time as the Justices shall at the time of the conviction appoint, it shall be lawful for the convicting Justices (unless where otherwise specially directed,) to commit the offender to the Royal Gaol, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the Justices, for any term not exceeding two calendar months, when 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 sterling, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Justices may discharge offenders in certain cases.

30. Provided always, and be it further enacted, That where any person shall be summarily convicted before any Justices of the Peace of any offence against this Ordinance, and it shall be a first conviction, it shall be lawful for the Justices, if they shall so think fit, to 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 Justices.

Pardon for non-payment of money.

31. And be it further enacted, That it shall be lawful for the Queen's Majesty to extend Her Royal Mercy to any person imprisoned by virtue of this Ordinance, although he shall be imprisoned for non-payment of money to some person other than the Crown.

Summary conviction a bar to all other proceedings.

32. And be it further enacted, That in case any person convicted of any offence punishable upon summary conviction by virtue of this Ordinance, 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 discharged from his conviction in the manner aforesaid, in every such case, he shall be released from all further or other proceedings for the same cause.

Limitation of actions for the

33. And be it further enacted, for the protection of persons acting in the execution of this Ordinance, That

all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Ordinance, shall be commenced within three calendar months after the fact committed, and not otherwise.

34. And be it further enacted, That no conviction under this Ordinance shall be quashed for want of form, 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.

35. And be it further enacted, That this Ordinance shall take effect from and immediately after the promulgation thereof.

Passed in Council this thirty-first day of December, one thousand eight hundred and forty-two.

THOMAS F. JOHNSTON,

Clerk of Council.

No. 13.—1842.

AN ORDINANCE for the Prevention and Punishment of Forgery, and Assimilating the laws relating thereto to the Laws of England in like cases.

(L. S.) C. CHICHESTER,

Acting Governor, Lieut.-Colonel 81st Regiment.

WHEREAS it is expedient that the laws relating to forgery should be altered and amended, and assimilated to the Laws of England in like cases, and consolidated into this Ordinance: Be it therefore enacted, by his Excellency the Governor and Commander-in-Chief, in and over the said Island and its Dependencies, Vice-Admiral thereof, &c., &c., &c., by and with the advice and consent of the Council of Government thereof, That if any person shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any note or bill of exchange of the Governor and Company of the Bank of England, or of the Colonial Bank, or of the West India Bank, or any

acts done in
pursuance of this
Ordinance

Conviction
not to be
quashed for
want of form.

Ordinance to
take effect
from promul-
gation.

Forging Bank
Notes, Bills of
Exchange, or
acceptance or
indorsement
thereof, or
warrant, or
order for pay-
ment of money
—felony—and
punishment
thereof.