

No. 11.—1842.

AN ORDINANCE for assimilating the Laws of the Colony relative to Larceny and other Offences connected therewith to the Laws of England in like cases.

(L. S.) C. CHICHESTER,

Acting Governor, Lieut.-Colonel 81st Regiment.

Rule of construction.

WHEREAS it is expedient that the laws relative to Larceny and other offences, of stealing, and to burglary, robbery, and threats for the purpose of robbery or of extortion, and to embezzlement, false pretences, and the receipt of stolen property, should be assimilated to the laws of England in like cases, and 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, Vice-Admiral thereof, &c., &c., &c., by and with the advice and consent of the Council of Government thereof, and by the authority of the same, That from and after the promulgation of this Ordinance, whoever shall do or commit any act or acts, which if done or committed in England would amount to or constitute the offence of larceny, or robbery, or burglary, or embezzlement, shall be and be held to be guilty of larceny, robbery, burglary, or embezzlement as the case may be; and every offence mentioned in this Ordinance which would amount to a felony or a misdemeanor by the law of England, shall be held and taken to be a felony or misdemeanor, as the case may be, within this Colony.

Punishment for larceny.

2. And be it further enacted, That every person convicted of larceny, or of any felony hereby made punishable like larceny, shall (except in the cases hereinafter otherwise provided for) be liable, at the discretion of the Court, to be imprisoned for any term not exceeding three years.

The Court may for all offences within this Ordinance, order hard labour and solitary confinement.

3. And be it further enacted, That where any person shall be convicted of any felony or misdemeanor 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 to be imprisoned and kept to hard labour in the Royal Gaol, 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.

† 4. And be it further enacted, That if any person shall steal any tally, 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 whatsoever, or in any stock or fund of any body corporate, company, or society, or to any deposit in any savings bank, or shall steal any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever, for money or for payment of money, or shall steal any warrant or order for the delivery or transfer of any goods or valuable thing, every such offender shall be deemed 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 mentioned in the warrant or order; and each of the several documents hereinbefore enumerated, shall, throughout this Ordinance, be deemed for every purpose to be included under and denoted by the words "valuable security."

Stealing public or private securities for money, bond, bill, note, &c., or warrants or orders for goods, felony, and punishable as for stealing goods of the like value.

† 5. And be it further enacted, That whosoever shall rob any person, and at the time of, or immediately before or immediately after such robbery, shall stab, cut, or wound any person, shall be guilty of felony, and being convicted thereof, shall be liable 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.

Punishment of robbery attended with cutting or wounding.

† 6. And be it further enacted, That 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 person or persons, rob, or assault with intent to rob any person, or shall rob any person, and at the time of, or immediately before, or immediately after such robbery, shall beat, strike, or use

Punishment of robbery attended with violence.

any other personal violence to any person, 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, nor less than one year.

Sending letters containing menacing demands of money, &c., or threatening to accuse a party of an infamous crime to extort money, &c.

7. And be it further enacted, That if any person shall knowingly send or deliver any letter or writing, demanding of any person with menaces and without any reasonable or probable cause any chattel, money, or valuable security, or if any person shall accuse or threaten to accuse, or shall knowingly send or deliver any letter or writing accusing or threatening to accuse any person of any crime punishable by law with death or transportation, 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 to extort or gain from such person any chattel, money, or valuable security, 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; and if a male, to be once, twice, or thrice publicly or privately whipped, in addition to such punishment, if the Court shall so think fit.

Punishment.

What shall be deemed an infamous crime.

8. And for defining what shall be an infamous crime within the meaning of this Ordinance, be it enacted, That 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 Ordinance.

Punishment of stealing from the person.

9. And be it further enacted, That whosoever shall rob any person, or shall steal any property from the person of another, shall be guilty of felony, and shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding three years.

Punishment for assault with intent to rob.

10. And be it further enacted, That 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 Ordinance) be liable to be imprisoned for any term not exceeding three years.

11. And be it further enacted, That whosoever shall, with menaces or by force, demand any chattel, money, or valuable security 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 any term not exceeding three years.

Punishment for attempting to obtain property by menace.

12. And be it further enacted, That if any person shall break and enter any church or chapel, and steal therein any chattel, or having stolen any chattel in any church or chapel, shall break out of the same, every such offender being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years, nor less than one year.

Breaking and entering, a church or chapel and stealing therein.

Punishment.

13. And be it further enacted, That whosoever shall burglariously break and enter into any dwelling-house, and shall assault with intent to murder any person being therein, or shall stab, cut, wound, beat or strike any such person, 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.

Burglariously breaking and entering dwelling-house, assaulting, &c., persons being therein, &c.

Punishment.

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Section 14 is repealed by Ordinance 15 of 1877.

15. Provided always, and be it further enacted, That so far as the same is essential to the offence of burglary, the night shall be considered, and is hereby declared to commence at eight o'clock of the evening of each day, and to conclude at five o'clock of the morning of the next succeeding day.

Burglary at night time.

16. And be it further enacted, That whosoever shall break and enter any dwelling-house and steal therein any chattel, money, or valuable security to any value whatsoever, or shall steal any such property in any

House breaking—Stealing in a house, some person being put in fear.

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 any such punishment as last aforesaid.

Breaking dwelling-house and stealing therein.
Punishment.

17. And be it further enacted, That whosoever shall break and enter any dwelling-house and steal therein any chattel, money or valuable security to any value whatsoever, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years.

Stealing £5 sterling in dwelling-house.

Punishment.

18. And be it further enacted, That if any person shall steal in any dwelling-house, any chattel, money, or valuable security, to the value in the whole of five pounds sterling, or more, every such offender, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years.

What buildings only are part of a house in burglary and stealing in a house.

19. Provided always, and be it further enacted, That no building, although within the same curtilage with the dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for the purpose of burglary, or for any of the purposes aforesaid, unless there shall be a communication between such building and dwelling-house, either immediate or by means of a covered or enclosed passage leading from the one to the other.

Breaking and entering a building within the same curtilage as the house, but not privileged as part of the house, and stealing therein.

Punishment.

20. And be it further enacted, That if any person shall break and enter any building, and steal therein any chattel, money or valuable security, such building being within the curtilage of a dwelling-house, and occupied therewith, but not being part thereof according to the provision hereinbefore mentioned, every such offender, being convicted thereof, either upon an indictment for the same offence, or upon an indictment for burglary, house breaking, or stealing to the value of five pounds sterling, or more, in a dwelling-house, containing a separate count for such offence, shall be liable, at the discretion of the Court, to any such punishment as last aforesaid.

Breaking and entering a shop, warehouse, &c., and stealing therein.

21. And be it further enacted, That if any person shall break and enter any shop, warehouse, counting-house, store, boiling-house, still-house, curing-house, rum-cellar, granary, or other building, and steal therein

any chattel, money, or valuable security, every such offender, being convicted thereof, shall be liable to any such punishment as last aforesaid. Punishment.

+ 22. And be it further enacted, That if any person shall steal any goods or merchandize in any vessel, barge, flat, or boat of any description whatsoever, being at anchor within the Gulph of Paria, or in any of the waters surrounding this Island, or bound to or from any part of the coast of this Island, or any vessel within any port thereof, from or to any other part of the coast of the said Island, or any other vessel within any port therein, or in any port or usual place of discharge, or upon any navigable river or canal, or in any creek belonging to, or communicating with any such port, place of discharge, river or canal, or shall steal any goods or merchandize from any dock, wharf, embarcadiaire, or quay adjacent to any such port, place of discharge, river, canal, or creek, every such offender, being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years. Stealing goods from a vessel at anchor within the Gulph of Paria, &c., or bound to or from, or within any part thereof, &c.

+ 23. And be it further enacted, That if any person shall steal any sugar, rum, sling, syrup, or molasses, being in any boiling-house, or curing-house, or in any store or warehouse, or being in any cask or package in the neighbourhood of such boiling-house, curing-house, store, or warehouse; or any cocoa or coffee, or coffee berries, from any cocoa-house or coffee-house, or any other place on any plantation or estate where the same is placed for the purpose of being dried or cured, or in any store or warehouse, or from any sack, bag, cask, or package placed in the neighbourhood thereof, 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. Punishment.

* 24. And be it further enacted, That 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, merchandize, or articles of any kind belonging to such ship or vessel, and shall be convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding four years. Stealing sugar, rum, sling, syrup, or molasses, &c., or any cocoa, coffee, or coffee berries from cocoa-house or coffee house, &c.

25. And be it further enacted, That if any goods, merchandize, or articles of any kind, belonging to any Plundering a ship or cargo wrecked.

Punishment.

Persons in possession of ship-wrecked

goods not
giving a satis-
factory ac-
count.

ship or vessel in distress, or wrecked, stranded, or cast on shore as aforesaid, or belonging to any of the crew, officers, or passengers of such ship or vessel, shall, by virtue of a search warrant, to be granted as hereinafter mentioned, be found in the possession of any person, or on the premises of any person, with his knowledge, and such person being carried before any two Justices of the Peace shall not satisfy the Justices that he came lawfully by the same, then the same shall, by order of the Justices, be forthwith delivered over to or for the use of the rightful owner thereof, and the offender, on conviction of such offence before the Justices, shall forfeit and pay over and above the value of the goods, merchandize, or articles, such sum of money not exceeding the sum of twenty pounds sterling, as to the Justices shall seem meet.

Punishment.

Offering ship-
wrecked goods
for sale, the
goods may be
seized, &c.

26. And be it further enacted, That if any person shall offer or expose for sale any goods, merchandize, or article whatsoever, which shall have been unlawfully taken or reasonably suspected so to have been, from any ship or vessel in distress, or wrecked, stranded, or cast on shore, as aforesaid, 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 have offered or exposed the same for sale, being duly summoned to appear before such Justice and some other Justice or before any two Justices, shall not appear and satisfy the Justices that he came lawfully by such goods, merchandize, or article, then the same shall, by order of the Justices, 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 Justices,) to the person who seized the same, and the offender, on conviction of such offence by the Justices, shall forfeit and pay over and above the value of the goods, merchandize, or articles, such sum of money not exceeding the sum of twenty pounds sterling, as to the Justices shall seem meet.

Punishment.

Stealing, &c.,
records and
other proceed-
ings of Court
of Justice.

27. And be it further enacted, That if any person shall steal, or shall, for any fraudulent purpose, take from its place of deposit for the time being, or from any per-

son having the lawful custody thereof, or shall unlawfully and maliciously obliterate, injure or destroy any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, decree, or warrant of attorney, or any original document whatever, of, or belonging to any Court of Record, or relating to any cause or matter, begun, depending or terminated in any such Court, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be ^{Punishment.} liable, at the discretion of the Court, to suffer such punishment by fine or imprisonment, or by both, as the Court shall award, and it shall not in any indictment for ^{Indictment.} any such offence be necessary to allege that the article, in respect of which the offence is committed, is the property of any person or that the same is of any value.

* 28. And be it further enacted, That if any person shall, <sup>Stealing, &c.,
of wills.</sup> either during the life of the testator or testatrix, or after his or her death, steal, or for any fraudulent purpose destroy, alter, erase, either wholly or in part, or conceal any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, every such offender shall be guilty of misdemeanor, and being convicted thereof, shall be liable to any of the punishments which the Court may award, ^{Punishment.} as hereinbefore last mentioned, and it shall not in any indictment for such offence be necessary to allege that such will, codicil, or other instrument is the property of ^{Indictment.} any person, or that the same is of any value.

* 29. And be it further enacted, That if any person shall steal any paper or parchment, written or printed, or partly written and partly printed, being evidence of the title, or of any part of the title to any real estate, every such offender shall be deemed guilty of a misdemeanor, and being convicted thereof, shall be liable to any of the punishments which the Court may award, as ^{Punishment.} hereinbefore last mentioned, and in any indictment for ^{Indictment.} such offence, it shall be sufficient to allege the thing stolen to be evidence of the title, or of part of the title, of the person, or of some one of the persons having a present interest, whether legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof, and it shall not be necessary to allege the thing stolen to be of any value.

These provisions as to wills and writings not to deprive the party aggrieved of his remedy by action, &c., proviso.

30. Provided always, and be it further enacted, That nothing in this Ordinance contained relating to either of the misdemeanors aforesaid, 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 Ordinance had not been passed, but nevertheless, the conviction of any such offender shall not 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 either of the misdemeanors aforesaid, by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being indicted for such offence, have 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 *bona fide* instituted by any party aggrieved.

Stealing any horses, cows, mules, asses, and sheep.

* **31.** And be it further enacted, That if any person shall steal any horse, mare, gelding, colt or filly, or any mule or ass, or any bull, cow, ox, heifer or calf, or any ram, ewe, sheep or lamb, or shall wilfully kill any of such cattle with intent to steal the carcass or skin or any part of the cattle so killed, 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.

Punishment.

Suspected persons found in possession of carcass, &c., and not satisfactorily accounting for.

32. And be it further enacted, That if any of such cattle as are mentioned and enumerated in the above clause, or the carcass, head, skin, or any part thereof, shall, by virtue of a search warrant to be granted as hereinafter mentioned, be found in the possession of any person, or on the premises occupied by any person with his knowledge, and such person being carried before any two Justices of the Peace, shall not satisfy the said Justices that he came lawfully by such cattle, or the carcass, head, skin, or any part thereof, he shall on conviction thereof before the Justices, at the discretion of the said Justices, either forfeit and pay any sum not exceeding the sum of five pounds sterling, or 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 two calendar months; and if any

Punishment.

such person shall not, under the provisions aforesaid, be liable to conviction, then for the discovery of the party who actually killed or stole such animal as aforesaid, it shall be lawful for the Justices at their discretion, as the evidence given and the circumstances of the case shall require, to summon before them every person through whose hands such animal, or the carcass, head, skin, or other part thereof shall appear to have passed, and if the person from whom the same shall have been first received, or who shall have had possession thereof, shall not satisfy the said Justices that he came lawfully by the same, he shall, on conviction by the said Justices, be liable to the payment of such sum of money, or to such imprisonment as is hereinbefore last mentioned.

In case they cannot be convicted how the Justices may proceed.

* 33. And be it further enacted, That if any person shall steal any dog, or shall steal any beast or bird, ordinarily kept in a state of confinement, not being the subject of larceny by the Common Law of England, every such offender being convicted thereof before any two Justices of the Peace, shall for the first offence forfeit and pay over and above the value of the dog, beast, or bird, such sum of money not exceeding five pounds sterling money, as to the Justices shall seem meet, or shall suffer such imprisonment as hereinbefore last mentioned; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner before any two Justices, every such offender shall be committed to the Royal Gaol, there to be kept to hard labour for such term not exceeding six calendar months, as the said convicting Justices shall think fit.

Stealing dogs, or stealing beasts or birds, not the subjects of larceny.

Punishment.

Second offence.

Punishment.

34. And be it further enacted, That if any dog or any such beast, or the skin thereof, or any such bird, or any of the plumage thereof, shall be found in the possession or on the premises occupied by any person by virtue of a search warrant to be granted as hereinafter mentioned, the Justices by whom such warrant was granted may restore the same respectively to the owner thereof, and the person in whose possession or who was in the occupation of the premises where the same shall be so found, such person knowing that the dog, beast or bird has been stolen, or that the skin is the skin of a stolen dog or beast, or that the plumage is the

Persons found in possession of stolen dogs, &c.

Punishment. plumage of a stolen bird, 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 persons convicted of stealing any dog, beast or bird are hereinbefore made liable to.

Killing pigeons. **§35.** And be it further enacted, That if any person 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, every such offender being convicted thereof before any two Justices of the Peace, shall, at the discretion of the Justices, either forfeit and pay over and above the value of the bird any

Punishment. sum not exceeding two pounds, or be committed to the Gaol, there to be imprisoned only, or to be imprisoned and kept to hard labour for any term not exceeding one calendar month.

Taking fish in pond or water placed by owner, &c. **§36.** And be it further enacted, That if any person shall unlawfully and wilfully take or destroy any fish in any pond or water, which shall have been placed in any such pond or water, by or for the use of the owner or other person having the charge or use of such pond or water, every such offender shall, on conviction thereof before any two Justices of the Peace, at the discretion

Punishment. of such Justices, forfeit and pay over and above the value of the fish taken or destroyed (if any,) such sum of money not exceeding five pounds sterling, as to the Justices shall seem meet.

Stealing trees, shrubs, &c., growing in certain situations. **§37.** And be it further enacted, That if any person 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, every such offender (in case the value of the article or articles stolen, or the amount of the injury done shall exceed the sum of one pound sterling,) shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the

Punishment. same manner as in the case of simple larceny; and if any person shall steal, or shall cut, break, root up, or otherwise destroy or damage, with intent to steal, the

Stealing trees, s.rubs, &c.,

whole or any part of any tree, sapling, or shrub, or any underwood respectively, growing elsewhere than in any of the situations hereinbefore mentioned, every such offender (in case the value of the article or articles stolen, or 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 be punished in the same manner as in the case of simple larceny.

growing else-
where.

Punishment.

+ 38. And be it further enacted, That if any person 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 sterling at the least, every such offender being convicted before two Justices of the Peace, shall, for the first offence, 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 sterling, as to the Justices shall seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, 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 so 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 be punished in the same manner as in the case of simple larceny.

Stealing trees,
shrubs, &c., of
any value
above one shill-
ing sterling.

Punishment.

Second offence.

Punishment.

Third offence.

Punishment.

+ 39. And be it further enacted, That if any person 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, or rail, set up or used as a fence, or any stile 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 value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding five pounds sterling, as to the Justices shall

Stealing, &c.,
any live or
dead fence,
wooden fence,
stile or gate.
First offence.

Punishment.

Second offence seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall 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.

Punishment.

Suspected persons in possession of a tree, fence, gate, &c. not satisfactorily accounting for it.

40. And be it further enacted, That if the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, rail, stile or gate, or any part thereof, being of the value of ten shillings sterling at the least, shall, by virtue of a search warrant to be granted as hereinafter mentioned, be found in the possession of any person, or on the premises of any person with his knowledge, and such person being carried before a Justice of the Peace, shall not satisfy the Justice that he came lawfully by the same, such Justice shall associate himself with some other Justice of the Peace, and such person on conviction by such Justices, shall forfeit and pay over and above the value of the article or articles so found, any sum not exceeding two pounds sterling.

Punishment.

Stealing, &c., any fruit or vegetable production in a garden, &c.

+ 41. And be it further enacted, That if any person shall steal, or shall destroy or damage with intent to steal, 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 Justices, either 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 six calendar months, 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 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 guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

Second offence

Punishment.

Stealing, &c., sugar cane, cocoa tree, or coffee tree, or

+ 42. And be it further enacted, That if any person shall steal, or shall destroy, or damage with intent to steal, any sugar cane, cocoa tree, or coffee tree, or any

cultivated root or plant, used for the food of man or beast, or for medicine, or dyeing, or for distilling, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden, orchard, or nursery ground, every such offender being convicted before two Justices of the Peace, shall, at the discretion of the Justices, either 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 one calendar 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 one pound 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 in like manner, every such offender shall 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.

vegetable productions not growing in gardens, &c.

Punishment.

Second offence

Punishment.

43. And be it further enacted, That if any person shall steal, or rip, cut, 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 respectively, fixed in or to any building whatever, 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, street or other place dedicated to public use or ornament, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same manner as in the case of simple larceny; and in case of any such thing fixed in any square, street, or other like place, it shall not be necessary to allege the same to be the property of any person.

Stealing glass, wood work, lead, iron, or fixtures of any kind from buildings, and metal fixtures from grounds.

Punishment.

Indictment.

44. And for the punishment of depredations committed by tenants and lodgers, be it further enacted, That if any person 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

Tenants and lodgers stealing from houses or apartments let to them.

or her, or by her husband), or by any person on behalf of him or her, or her husband), every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny, and in every such case of stealing any chattel, it shall be lawful to prefer an indictment in the common form as for larceny, and in every such case of stealing any fixture, to prefer an indictment 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.

Punishment.

Indictment.

Clerks and servants stealing property of their masters.

Punishment.

†45. And for the punishment of depredations committed by clerks and servants, be it further enacted, That if any clerk or servant shall steal any chattel, money, or valuable security belonging to or in the possession or power of his master, every such offender, being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years.

Clerks or servants receiving any money, &c., on their master's account and embezzling it.

Punishment.

†46. And for the punishment of embezzlements committed by clerks and servants, be it further enacted, That if any clerk or servant, or any person employed for the purpose, or in the capacity of clerk or servant shall, by virtue of such employment, receive or take into his possession any chattel, money, or valuable security for, or in the name, or on account of his master, and shall fraudulently embezzle the same, or any part thereof, every such offender shall be deemed to have feloniously stolen the same from his master, although such chattel, money, or security was not received into the possession of such master, otherwise than by the actual possession of his clerk, servant, or other person so employed, and every such offender, being convicted thereof, shall be liable, at the discretion of the Court, to such punishment as hereinbefore last mentioned.

Distinct counts of embezzlement may be charged in indictment; as to allegation and proof of the property embezzled.

†47. And be it further enacted, That it shall and may be lawful to charge in the indictment, and proceed against the offender for any number of distinct acts of embezzlement not exceeding three, which may have been committed by him against the same master within the space of six calendar months from the first to the last of such acts, and in every such indictment, except when the offence shall relate to any chattel, it shall be suffi-

cient to allege the embezzlement 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 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 any piece of coin or 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, and such part shall have been returned accordingly.

48. And for the punishment of embezzlements committed by agents entrusted with property, be it further enacted, That if any money or security for the payment of money shall be entrusted to any banker, merchant, broker, attorney, or other agent, with any direction in writing to apply such money or any part thereof, or the proceeds, or any part of the proceeds of such security for any purpose specified in such direction, and he shall in violation of good faith, and contrary to the purpose so specified in any wise convert to his own use or benefit such money, security or proceeds, or any part thereof respectively, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment by fine or imprisonment, or by both, as the Court shall award; and if any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, established by authority of Parliament, or of any foreign state, or in any stock or fund, of any body corporate, company or society, shall be entrusted to any banker, merchant, broker, attorney, or other agent for safe custody, or for any special purpose, without any authority to sell, negotiate, transfer, or pledge, and he 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 entrusted to him, sell, negotiate, transfer, pledge, or in any manner convert to his own use or benefit such chattel or security, or the proceeds of the same, or any part thereof, or the

Agents embezzling money entrusted to them to be applied to any special purpose, or embezzling any goods or valuable security, and entrusted to them for safe custody, or for any special purpose.

Punishment.

share or interest in the stock or fund, to which such power of attorney shall relate or any part thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to such punishment as the Court may award as hereinbefore last mentioned.

Not to affect trustees or mortgagees, nor bankers, &c., receiving money due on securities, or disposing of securities on which they have a lien.

✚49. Provided always, and be it further enacted, That nothing hereinbefore contained relating to agents shall affect any trustee in or under any instrument whatever, 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 Ordinance 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 to satisfy such lien, claim, or demand.

Factors pledging for their own use any goods or documents relating to goods entrusted to them for the purpose of sale

✚50. And be it further enacted, That if any factor or agent entrusted for the purpose of sale with any goods or merchandize, or entrusted with any bill of lading, warehouse keeper's or wharfinger's certificate, or warrant, or order for delivery of goods or merchandize, shall for his own benefit, and in violation of good faith, deposit or pledge any such goods or merchandize, or any of the said documents as a security for any money or negotiable instrument, borrowed or received by such factor or agent, at or before the time of making such deposit or pledge, or intended to be thereafter borrowed or received, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the Court, to suffer such punishment by fine or imprisonment, or by both, as the Court shall award;

Punishment.

Not to extend to cases where the pledge does not ex-

but no such factor or agent shall be liable to any prosecution for depositing or pledging any such goods or merchandize, or any of the said documents, 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 deposit or pledge was justly due, and owing to such factor or agent from his principal, together with the amount of any bill or bills of exchange, drawn by or on account of such principal, and accepted by such factor or agent.

†51. Provided always, and be it further enacted, That nothing in this Ordinance contained, nor any proceeding, conviction, or judgment to be had or taken thereupon, against any banker, merchant, broker, factor, attorney, or other agent as aforesaid, 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 Ordinance had not been passed; but nevertheless, the conviction of any such offender shall not be received in evidence in any action at law, or suit in equity against him, and no banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall be liable to be convicted by any evidence whatever, as an offender against this Ordinance, in respect of any act done by him, if he shall at any time previously to his being indicted for such offence have 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 bona fide instituted by any party aggrieved.

52. And whereas a failure of justice frequently arises from the subtle distinction between larceny and fraud, for remedy thereof, be it further enacted, That if any person shall, by any false pretence, obtain from any other person any chattel, money, or valuable security, with intent to cheat or defraud any person of the same, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment by fine or imprisonment as the Court shall award: Provided always, That if upon the trial of any person indicted for such misdemeanor it shall appear 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

ceed the amount of their lien.

These provisions as to agents shall not lessen any remedy which the party aggrieved now has.

In what cases agents not liable to be prosecuted.

Obtaining money, &c., by false pretences

Punishment.

No acquittal on the ground that the case proved amounts to larceny.

shall be liable to be afterwards prosecuted for larceny upon the same facts.

Where the original offence is felony the receivers of stolen property may be tried either as accessories after the fact, or for a substantive felony.

§ 53. And with regard to receivers of stolen property, be it further enacted, That if any person shall receive any chattel, money, valuable security or other property whatsoever, the stealing or taking whereof would amount to a felony by the Common Law of England, or by virtue of this Ordinance, or any other Ordinance now or hereafter to be in force in this Island, such person knowing the same to have been feloniously stolen, taken or obtained, every such receiver shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact, or for a substantive felony, whether in the latter case 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 any term not exceeding three years: Provided always, that no person howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Punishment.

Where the original offence is a misdemeanor, receivers may be prosecuted for a misdemeanor.

§ 54. And be it further enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, or converting whereof is made an indictable misdemeanor by this Ordinance, or any Ordinance now or hereafter to be in force in this Island, such person knowing the same to have been unlawfully stolen, taken, obtained, or converted, every such receiver shall be guilty of a misdemeanor, and may be indicted 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 shall, on conviction, be liable to be imprisoned for any term not exceeding two years.

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

§ 55. And to encourage the prosecution of offenders, be it further enacted, That if any person guilty of any felony or misdemeanor as aforesaid, in stealing, taking, obtaining, or converting, or in knowingly receiving any chattel, money, valuable security, or other property whatsoever, shall be indicted for any such offence by or on the behalf of the owner of the property, or his heir, executor, or administrator, and convicted thereof, in

such case the property shall be restored to the owner, or his representative, and the Court before whom any such person shall be so convicted shall have the 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 always, That if it shall appear before any award or order made that any valuable security shall have been bona fide paid or discharged by some person or body corporate, liable to the payment thereof, or being a negotiable instrument, shall have been bona fide taken or received by transfer or delivery by some person or body corporate for a just and valuable consideration without any notice or any reasonable cause to suspect that the same had, by any felony or misdemeanor, been stolen, taken, obtained, or converted as aforesaid, in such case the Court shall not award or order the restitution of such security.

Exception.

56. And be it further enacted, That if any person shall corruptly take any money or reward directly or indirectly, under pretence or on 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, or converted as aforesaid, every such person so taking money or reward, (unless he shall cause the offender to be apprehended and brought to trial for the same), shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding four years.

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

Punishment.

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

Advertising a reward for the return of stolen property, &c.

Penalty.

print or publish any such advertisement, in any of the above cases every such person shall forfeit the sum of fifty pounds sterling 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.

Receivers of property where the original offence is punishable on summary conviction.

58. And be it further enacted, That where the stealing or taking of any property whatsoever, is by this Ordinance, or by any Ordinance in force or to be in force in this Island, 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 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 Ordinance made liable.

Principals in the second degree and accessories, how punishable.

59. And be it further enacted, That in case of every 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 (except only a receiver of stolen property) 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.

Abettors in misdemeanors, how punishable.

60. And be it further enacted, That if any person shall aid, abet, counsel, or procure the commission of any offence which 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, every such offender shall, on conviction before two Justices of the Peace, 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, how punishable.

61. And for the more effectual apprehension and discovery of all offenders punishable under this Ordinance, be it further enacted, That any person found committing any offence punishable either upon indictment, or upon summary conviction by virtue of this Ordinance, may be immediately apprehended without a warrant, by any peace or police officer, or by the owner of the property, on or with respect to which the offence shall be committed, or by his servant, or by any person authorised by him, and forthwith taken 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 the premises occupied by him, any property whatsoever on or with respect to which any such offence shall have been committed, the Justice may grant a warrant under his hand and seal, 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 hereby required to apprehend and forthwith to carry before a Justice of the Peace, the party offering the same, together with such property, to be dealt with according to law.

A person in the act of committing any offence in this Ordinance may be arrested without warrant.

A Justice upon good grounds of suspicion may grant a search warrant.

Any person to whom stolen property is offered may seize party offering it.

62. 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 after the commission of the offence, and not otherwise; and the evidence of the party aggrieved shall be admitted in proof of the offence.

Limitation as to summary process; competency of witnesses.

63. And for the more effectual prosecution of all offences punishable on summary conviction under this Ordinance, be it further enacted, That where 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 before himself and some other Justice of the Peace, or any two Justices, 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

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

such person by delivering the same to him personally, or by leaving the same at his usual place of abode, the Justices may either proceed to hear and determine the case *ex parte*, or issue their warrant for apprehending such person and bringing him before themselves, or some other Justices 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 when otherwise specially directed), issue such warrant, and the Justices before whom the person charged shall appear or be brought shall proceed to hear and determine the case.

Application of
forfeitures and
penalties on
summary con-
viction.

64. And with regard to the application of all forfeitures and penalties upon summary convictions under this Ordinance, be it further enacted, That every sum of money which shall be forfeited 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 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 value or amount, or otherwise, shall be paid into the Public Treasury of this Island for the uses of the same: Provided always, That when 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 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 penalties are hereinbefore directed to be applied.

Proviso.

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

65. 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 value of the property stolen or taken, or for the amount of the injury done, or which shall be imposed as a penalty by any two Justices shall not be paid, either immediately after the conviction, or within such period as the said two Justices

shall at the time of the conviction appoint, it shall be lawful for the convicting Justices (unless when 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 said two Justices, for any term not exceeding two calendar months, when the amount of the sum forfeited, or of 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 four calendar months, in any other case the commitment to be determinable in each of the cases aforesaid, upon payment of the amount and costs.

Scale of imprisonment.

66. Provided always, and be it further enacted, That where any person shall be summarily convicted before any two Justices of the Peace of any offence against this Ordinance, and it shall be a first conviction, it shall be lawful for the two 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 said Justices.

The Justices may discharge the offender in certain cases.

67. 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 the non-payment of money to some other party other than the Crown.

Pardon for non-payment of money.

68. 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, if any, 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.

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

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

Ordinance when to take effect.

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

THOMAS F. JOHNSTON,

Clerk of Council.