

CHAPTER 4. No. 11.

LARCENY.

AN ORDINANCE RELATING TO LARCENY AND KINDRED
OFFENCES TRIABLE ON INDICTMENT.

Ordinance
Ch. 4. No. 11
-1940.

[19th May, 1919.]

Commence-
ment.

1. This Ordinance may be cited as the Larceny Ordinance. Short title.

2. (1) In this Ordinance—

Interpre-
tation.

“document of title to goods” includes any bill of lading, India warrant, dock warrant, warehouse-keeper’s certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought or 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 endorsement 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 lands” includes any Crown grant, certificate of title, instrument, deed, map, roll, register, 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;

“mail,” “mail bag,” “officer of the post office,” “postal packet,” “post office,” and “in course of transmission by post,” shall have the same meanings in this Ordinance as in the Post Office Ordinance;

“night” means the interval between eight o’clock in

the evening and five o'clock in the morning of the next succeeding day;

“property” includes any 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 also includes not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise;

“trustee” means a trustee on some express trust created by some deed, will, or instrument in writing, and includes 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 Receiver, assignee, liquidator, or other like officer acting under any present or future Ordinance relating to companies or bankruptcy;

“valuable security” includes any writing entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of any Commonwealth country, or of any foreign state, or in any stock, annuity, fund, or debt of any body corporate, company, or society, whether within or without any Commonwealth country, or to any deposit in any bank, and also includes any scrip, debenture, bill, note, warrant, order, or other security for payment of money, or any accountable receipt, release, or discharge, or any receipt or other instrument evidencing the payment of money, or the delivery of any chattel personal, and any document of title to lands or goods as hereinbefore defined.

(2) The expression “dwelling-house” does not include a building although within the same curtilage with any dwelling-house and occupied therewith unless there is a communication between such building and dwelling-house, either immediate or by means of a covered and enclosed passage leading from one to the other.

3. For the purposes of this Ordinance—

(1) a person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen, with intent, at the time of such taking permanently to deprive the owner thereof: Definitions.
"Steals."

Provided that a person may be guilty of stealing any such thing notwithstanding that he has lawful possession thereof, if, being a bailee or part owner thereof, he fraudulently converts the same to his own use or the use of any person other than the owners;

(2) (i) the expression "takes" includes obtaining the possession— "Takes."

(a) by any trick;

(b) by intimidation;

(c) under a mistake on the part of the owner with knowledge on the part of the taker that possession has been so obtained;

(d) by finding, where at the time of the finding the finder believes that the owner can be discovered by taking reasonable steps;

(ii) the expression "carries away" includes any removal of anything from the place which it occupies, but, in the case of a thing attached, only if it has been completely detached; "Carries away."

(iii) the expression "owner" includes any part owner, or person having possession or control of, or a special property in, anything capable of being stolen; "Owner."

(3) everything which has value and is the property of any person, and if adhering to the realty then after severance therefrom, shall be capable of being stolen: Property.

Provided that—

(a) save as hereinafter expressly provided with respect to fixtures, growing things, ore from mines, and mineral oils, anything attached to or forming part of the realty shall not be capable of being stolen by the person who severs the same from the realty, unless after severance he has abandoned possession thereof; and Fixtures.

Wild
animals.

(b) the carcass of a creature wild by nature and not reduced into possession while living shall not be capable of being stolen by the person who has killed such creature, unless after killing it he has abandoned possession of the carcass.

Simple
larceny.

4. Stealing for which no special punishment is provided under this or any other Ordinance for the time being in force shall be simple larceny and a felony punishable with imprisonment for five years.

Larceny of
cattle.

5. Every person who steals any cattle shall be guilty of felony and liable to imprisonment for seven years.

"Cattle."

In this section, the term "cattle" includes horses, asses, mules, kine, sheep, goats, and swine, as well as all horned cattle.

Killing
animals with
intent to
steal.

6. Every person who wilfully kills any animal with intent to steal the carcass, skin, or any part of the animal killed, shall be guilty of felony and liable to the same punishment as if he had stolen such animal, provided that the offence of stealing the animal so killed would have amounted to felony.

Larceny, etc.
of dogs.

7. Every person who—

(a) steals any dog after a previous summary conviction of any such offence, or

(b) unlawfully has in his possession or on his premises any stolen dog, or the skin thereof, knowing such dog or skin to have been stolen, after a previous summary conviction of any such offence, or

(c) corruptly takes any money or reward, directly or indirectly, under pretence or upon such account of aiding any person to recover any stolen dog, or any dog which is in the possession of any person not being the owner thereof,

shall be guilty of a misdemeanor and liable to imprisonment for eighteen months.

Larceny of
wills.

8. Every person who steals any will, codicil, or other testamentary instrument, either of a dead or of a living

person, shall be guilty of felony and liable to imprisonment for ten years.

9. Every person who steals the whole or any part of—

(a) any document of title to lands, or

(b) any record, writ, return, panel, petition, process, interrogatory, deposition, affidavit, rule, order, warrant of attorney, or any original document of or belonging to any court of record, or relating to any cause or matter, civil or criminal, begun, depending, or terminated in any such court, or

(c) any original document relating to the business of any office or employment under His Majesty, and being or remaining in any office appertaining to any court of justice, or in any Government building or public office,

shall be guilty of felony and liable to imprisonment for five years.

Larceny of documents of title to land and other legal documents.

10. Every person who—

(a) steals, or, with intent to steal, rips, cuts, severs, or breaks—

(i) any glass or woodwork belonging to any building, or

(ii) any metal or utensil or fixture fixed in or to any building, or

(iii) anything made of metal fixed in any land being private property, or as 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;

(b) steals, or, with intent to steal, cuts, breaks, roots up, or otherwise destroys or damages the whole or any part of any tree, sapling, shrub, or underwood growing—

(i) in any place whatsoever, the value of the article stolen or the injury done being to the amount of twenty-four cents at the least, after two previous summary convictions of any such offence, or

Damaging fixtures, trees, etc. with intent to steal.

(ii) in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, the value of the article stolen or the injury done exceeding the amount of four dollars and eighty cents, or

(iii) in any place whatsoever, the value of the article stolen or the injury done exceeding the amount of twenty-four dollars;

(c) steals, or, with intent to steal, destroys or damages any plant, root, fruit, or vegetable production growing in any garden, orchard, pleasure ground, or nursery ground, after a previous summary conviction of any such offence,

shall be guilty of felony and liable to be punished as in the case of simple larceny.

Abstracting
electricity.

11. Every person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses any electricity shall be guilty of felony and liable to be punished as in the case of simple larceny.

Larceny, etc.
of ore
from mines,
mineral oil,
etc.

12. Every person who steals, or severs with intent to steal, the ore of any metal, or any coal, asphalt, or manjack from any mine, bed; or vein thereof, or steals mineral oil from any stratum, well, reservoir, or pipe, shall be guilty of felony and liable to imprisonment for two years.

Larceny of
postal
packets, etc.

13. Every person who—

(a) steals a mail bag, or

(b) steals from a mail bag, post office, officer of the Post Office, or mail, any postal packet in course of transmission by post, or

(c) steals any chattel, money, or valuable security out of a postal packet in course of transmission by post, or

(d) stops a mail with intent to rob the mail,

shall be guilty of felony and liable to imprisonment for ten years.

Larceny in
dwelling-
houses.

14. Every person who steals in any dwelling-house any chattel, money, or valuable security shall—

(a) if the value of the property stolen amounts to twenty-four dollars, or

(b) if he by any menace or threat puts any person being in such dwelling-house in bodily fear, be guilty of felony and liable to imprisonment for ten years.

15. Every person who steals any chattel, money, or valuable security from the person of another shall be guilty of felony and liable to imprisonment for ten years. Larceny from the person.

16. Every person who steals—

(a) any goods in any vessel, barge, flat, or boat of any description whatsoever within the Gulf of Paria or in any of the waters surrounding the Colony, or bound to or from any part of the coast of the Colony from or to any other part of the coast of the Colony, or upon any navigable river or canal or in any creek or basin within the Colony, or

(b) any goods from any dock, wharf, embarcadere, or quay within the Colony, or

(c) any part of any vessel in distress, wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such vessel,

shall be guilty of felony and liable to imprisonment for ten years.

Larceny from ships, docks, etc.

17. Every person who, being a tenant or lodger, or the husband or wife of any tenant or lodger, steals any chattel or fixture let to be used by such person in or with any house or lodging, shall be guilty of felony and liable—

(a) if the value of such chattel or fixture exceeds the sum of twenty-four dollars, to imprisonment for five years;

(b) in all other cases, to imprisonment for two years.

Larceny by tenants or lodgers.

18. Every person who—

(a) being a clerk or servant or person employed in the capacity of a clerk or servant—

(i) steals any chattel, money, or valuable security belonging to or in the possession or power of his master or employer, or

Larceny and embezzlement by clerks or servants.

(ii) fraudulently embezzles the whole or any part of any chattel, money, or valuable security delivered to or received or taken into possession by him for or in the name or on the account of his master or employer;

(b) being employed in the public service of His Majesty or being a member of or employed in the Police Force—

(i) steals any chattel, money, or valuable security belonging to or in the possession of His Majesty or entrusted to or received or taken into possession by such person by virtue of his employment, or

(ii) embezzles or in any manner fraudulently applies or disposes of for any purpose whatsoever except for the public service any chattel, money, or valuable security entrusted to or received or taken into possession by him by virtue of his employment,

shall be guilty of felony and liable to imprisonment for ten years, and, in the case of a clerk or servant or person employed for the purpose or in the capacity of a clerk or servant, if a male under the age of sixteen years, to undergo corporal punishment as provided for under the Corporal Punishment Ordinance, in addition to any other punishment to which he may by law be liable.

Stealing or
embezzle-
ment by
officer of
Post Office.

19. Every person who, being an officer of the Post Office department or employed therein, steals or embezzles a postal packet in course of transmission by post shall be guilty of felony and liable—

(a) if the postal packet contains any chattel, money, or valuable security, to imprisonment for life;

(b) in all other cases, to imprisonment for seven years.

General
deficiency.

20. In an indictment against a person for larceny or embezzlement, the accused person may be charged and proceeded against for the amount of a general deficiency in account, notwithstanding that such general deficiency is made up of any number of specific sums of money the taking of which extended over any space of time, and without showing any particular sums received and not accounted for

21. (1) Every person who—

Conversion.

(a) being entrusted either solely or jointly with any other person with any power of attorney for the sale or transfer of any property, fraudulently sells, transfers, or otherwise converts the property 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 entrusted, or

(b) being a director, member, or officer of any body corporate or public company, fraudulently takes or applies 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, or

(c) being entrusted either solely or jointly with any other person with any property in order that he may retain in safe custody or apply, pay, or deliver, for any purpose or to any person, the property or any part thereof or any proceeds thereof, fraudulently converts to his own use or benefit, or the use or benefit of any other person, the property or any part thereof or any proceeds thereof, or

(d) having either solely or jointly with any other person received any property for or on account of any other person, fraudulently converts to his own use or benefit, or the use or benefit of any other person, the property or any part thereof or any proceeds thereof,

shall be guilty of a misdemeanor and liable to imprisonment for seven years.

(2) Nothing in paragraphs (c) and (d) of subsection (1) of this section shall apply to or affect any trustee under any express trust created by a deed or will, or any mortgagee of any property, real or personal, in respect of any act done by the trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage.

22. Every person who, being a trustee as hereinbefore defined of any property for the use or benefit either wholly or partially of some other person, or for any public or charitable purpose, with intent to defraud, converts or appropriates the same or any part thereof to or for his own

Conversion
by trustee.

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 disposes of or destroys such property or any part thereof, shall be guilty of a misdemeanor and liable to imprisonment for seven years: Provided that no prosecution for any offence included in this section shall be commenced—

(a) by any person without the sanction of the Attorney General;

(b) by any person who has taken any civil proceedings against such trustee, without the sanction also of the court or Judge before whom such civil proceedings have been had or are pending.

Factors
obtaining
advances on
the property
of their
principals.

23. (1) Every person who, being a factor or agent entrusted 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, 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 entrusted, and in violation of good faith—

(a) consigns, deposits, transfers, or delivers any goods or document of title so entrusted to him as and by way of a pledge, lien, or security for any money or valuable security borrowed or received, or intended to be borrowed or received by him, or

(b) accepts 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 liable to imprisonment for seven years:

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.

(2) (a) Any factor or agent entrusted as aforesaid and in possession of any document of title to goods shall be deemed to have been entrusted with the possession of the goods represented by such document of title.

(b) 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.

(c) Any such factor or agent as aforesaid shall be deemed to be in possession of such goods or documents whether the same are in his actual custody or are held by any other person subject to his control, or for him or on his behalf.

(d) Where any loan or advance is made in good faith to any factor or agent entrusted with and in possession of any such goods or documents 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 documents of title are actually 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 documents of title and within the meaning of this section, though such goods or documents of title are not actually received by the person making such loan or advance till the period subsequent thereto.

(e) 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 this section.

(f) Any contract or agreement whether made direct with such factor or agent as aforesaid or with any person on his behalf shall be deemed to be a contract or agreement with such factor or agent.

(g) Any factor or agent entrusted as aforesaid, and in possession of any goods or document of title to goods, shall be deemed, for the purposes of this section, to have been entrusted therewith by the owner thereof unless the contrary be shown in evidence.

Robbery.

24. (1) Every person who—

(a) being armed with any offensive weapon or instrument, or being together with one other person or more, robs, or assaults with intent to rob, any person,

(b) robs any person and, at the time of or immediately before or immediately after such robbery, uses any personal violence to any person,

shall be guilty of felony and liable to imprisonment for fifteen years.

(2) Every person who robs any person shall be guilty of felony and liable to imprisonment for ten years.

(3) Every person who assaults any person with intent to rob shall be guilty of felony and liable to imprisonment for five years.

Sacrilege.

25. Every person who—

(a) breaks and enters any place of divine worship and commits any felony therein, or

(b) breaks out of any place of divine worship, having committed any felony therein,

shall be guilty of felony called sacrilege and liable to imprisonment for ten years.

Burglary.

26. Every person who in the night—

(a) breaks and enters the dwelling-house of another with intent to commit any felony therein, or

(b) breaks out of the dwelling-house of another, having—

(i) entered the said dwelling-house with intent to commit any felony therein, or

(ii) committed any felony in the said dwelling-house,

shall be guilty of felony called burglary and liable to imprisonment for fifteen years.

27. Every person who—

(a) breaks and enters any dwelling-house, or any building within the curtilage thereof and occupied therewith, or any school-house, shop, warehouse,

House-breaking and committing felony.

counting-house, office, store, garage, pavilion, factory, or workshop, or any building belonging to His Majesty, or to any Government department, or to any municipal or other public authority, and commits any felony therein, or

(b) breaks out of the same, having committed any felony therein,

shall be guilty of felony and liable to imprisonment for ten years.

28. Every person who, with intent to commit any felony therein—

(a) enters any dwelling-house in the night, or

(b) breaks and enters any dwelling-house, place of divine worship, or any building within the curtilage, or any school-house, shop, warehouse, counting-house, office, store, garage, pavilion, factory, or workshop, or any building belonging to His Majesty, or to any Government department, or to any municipal or other public authority,

shall be guilty of felony and liable to imprisonment for seven years.

House-breaking with intent to commit a felony.

29. Every person who shall be found by night—

(a) armed with any dangerous or offensive weapon or instrument, with intent to break or enter into any building and to commit any felony therein, or

(b) having in his possession without lawful excuse (the proof whereof shall lie on such person) any key, picklock, crow, jack, bit, or other implement of house-breaking, or

(c) having his face blackened or disguised with intent to commit any felony, or

(d) in any building with intent to commit any felony therein,

shall be guilty of a misdemeanor and liable—

(i) if he has been previously convicted of any such misdemeanor or of any felony, to imprisonment for ten years; and

(ii) in all other cases, to imprisonment for five years.

Being found by night armed or in possession of house-breaking implements.

Demanding
money, etc.,
with
menaces.

30. (1) Every person who—

(a) utters, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property or valuable thing,

(b) utters, knowing the contents thereof, any letter or writing accusing or threatening to accuse any other person (whether living or dead) of any crime to which this section applies, with intent to extort or gain thereby any property or valuable thing from any person,

(c) with intent to extort or gain any property or valuable thing from any person, accuses or threatens to accuse either that person or any other person (whether living or dead) of any such crime,

shall be guilty of felony and liable to imprisonment for ten years.

Intent to
defraud or
injure.

(2) Every person who, with intent to defraud or injure any other person—

(a) by any unlawful violence to or restraint of the person of another, or

(b) by accusing or threatening to accuse any person (whether living or dead) of any crime to which this section applies, or of any felony,

compels or induces any person to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix the name of any person, company, firm, or co-partnership, or the seal of any body corporate, company, or society upon or to any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as a valuable security, shall be guilty of felony and liable to imprisonment for ten years.

(3) This section applies to any crime punishable with death, or imprisonment for not less than five years, or any assault with intent to commit any rape, or any attempt to commit any rape, or any solicitation, persuasion, promise, or threat offered or made to any person whereby to move or induce such person to commit or permit the abominable crime of buggery, either with mankind or with any animal.

(4) For the purposes of this Ordinance, it is immaterial whether any menaces or threats be of violence, injury, or accusation to be caused or made by the offender or by any other person.

31. Every person who, with menaces or by force, demands of any person anything capable of being stolen, with intent to steal the same, shall be guilty of felony and liable to imprisonment for five years. Demanding with menaces, with intent to steal.

32. Every person who, with intent—

(a) to extort any valuable thing from any person, or
(b) to induce any person to confer or procure for any person any appointment or office of profit or trust—

Threatening to publish, with intent to extort.

(i) publishes or threatens to publish any libel upon any other person (whether living or dead),
or

(ii) directly or indirectly threatens to print or publish, or directly or indirectly proposes to abstain from or offers to prevent the printing or publishing of, any matter or thing touching any other person (whether living or dead),

shall be guilty of a misdemeanor and liable to imprisonment for two years.

33. (1) Every person who, by any false pretence, with intent to defraud, obtains from any other person any chattel, money, or valuable security, or causes or procures any money to be paid, or any chattel or valuable security to be delivered, to himself or to any other person for the use or benefit or on account of himself or any other person, shall be guilty of a misdemeanor and liable to imprisonment for five years. False pretences.

(2) Every person who, by any false pretence, with intent to defraud or injure any other person, fraudulently causes or induces any other person—

(a) to execute, make, accept, endorse, or destroy the whole or any part of any valuable security, or

(b) to write, impress, or affix his name or the name of any other person, or the seal of any body corporate 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 liable to imprisonment for five years.

Fraudulently
obtaining
credit or
disposing of
property.

(3) Any person shall, in each of the cases following, be guilty of a misdemeanor and liable to imprisonment for one year, that is to say,—

(a) if in incurring any debt or liability, he has obtained credit under false pretences, or by means of any other fraud;

(b) if he has, with intent to default his creditors or any of them, made or caused to be made any gift, delivery, transfer, or sale of or any charge on his property;

(c) if he has with intent to defraud his creditors or any of them, concealed or removed any part of his property since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against him:

It shall be *prima facie* proof of such false pretences or of intent to defraud if it be established by evidence that at the time such person incurred the debt or liability, or obtained the credit, he had not a reasonable prospect of paying the amount due, or that after any conversion or disposal by such person of the property, he failed to pay the amount due.

Receiving.

34. (1) Every person who receives any property knowing the same to have been stolen or obtained in any way whatsoever under circumstances which amount to felony or misdemeanor, shall be guilty of an offence of the like degree (whether felony or misdemeanor) and liable—

(a) in the case of felony, to imprisonment for ten years;

(b) in the case of misdemeanor, to imprisonment for five years.

Postal
packets.

(2) Every person who receives any mail bag, or any postal packet, or any chattel, or money, or valuable security, the stealing, or taking, or embezzling, or secreting whereof amounts to a felony under the Post Office Ordinance or this Ordinance, knowing the same to have been so

feloniously stolen, taken, embezzled, or secreted, and to have been sent or to have been intended to be sent by post, shall be guilty of felony and liable to the same punishment as if he stole, taken, embezzled, or secreted the same.

(3) Every such person may be indicted and convicted whether the principal offender has or has not been previously convicted, or is or is not amenable to justice

(4) Every person who, without lawful excuse, knowing the same to have been stolen or obtained in any way whatsoever under such circumstances that if the act had been committed in the Colony the person committing it would have been guilty of felony or misdemeanor, receives or has in his possession any property so stolen or obtained outside the Colony, shall be guilty of an offence of the like degree (whether felony or misdemeanor) and liable to imprisonment for seven years.

Receiving goods stolen outside Colony.

35. Every person who corruptly takes any money or reward, directly or indirectly, under pretence or upon account of helping any person to recover any property which has, under circumstances which amount to felony or misdemeanor, been stolen or obtained in any way whatsoever, or received, shall (unless he has used all due diligence to cause the offender to be brought to trial for the same) be guilty of felony and liable to imprisonment for seven years.

Corruptly taking a reward.

36. Every person who knowingly and wilfully aids, abets, counsels, procures, or commands the commission of an offence punishable under this Ordinance shall be liable to be dealt with, indicted, tried, and punished as a principal offender.

Accessories and abettors.

37. (1) A wife shall have the same remedies and redress under this Ordinance for the protection and security of her own property as if she were a feme sole:

Husband and wife.

Provided that no proceedings under this Ordinance shall be taken by any wife against her husband while they are living together as to or concerning any property claimed by her, nor while they are living apart as to or concerning

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any act done by the husband while they were living together concerning property claimed by the wife, unless such property has been wrongfully taken by the husband when leaving or deserting or about to leave or desert his wife.

(2) A wife doing an act with respect to any property of her husband, which, if done by the husband in respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Ordinance, shall be in like manner liable to criminal proceedings by her husband.

Punishments. **38.** (1) Every person who commits the offence of simple larceny after having been previously convicted of felony shall be liable to imprisonment for ten years.

Simple larceny. (2) Every person who commits the offence of simple larceny, or any offence made punishable like simple larceny, after having been previously convicted—

(a) of any misdemeanor punishable under this Ordinance, or

(b) twice summarily of larceny or damage to property,

shall be liable to imprisonment for seven years.

Fine. (3) On conviction of a misdemeanor punishable under this Ordinance, the court instead of or in addition to any other punishment which may be lawfully imposed, may fine the offender.

Recognisances. (4) On conviction of a felony or misdemeanor punishable under this Ordinance, the court, instead of or in addition to any other punishment which may lawfully be imposed for the offence, may require the offender to enter into his own recognisances, with or without sureties, for keeping the peace and being of good behaviour: Provided that a person shall not be imprisoned for more than one year for not finding sureties.

Proof. **39.** (1) An allegation in an indictment that money or bank notes have been embezzled or obtained by false pretences can, so far as regards the description of the property, be sustained by proof that the offender embezzled or obtained any piece of coin or any bank note or any

portion of the value thereof, although such piece of coin or bank note may have been delivered to him in order that some part of the value thereof should be returned to any person and such part has been returned accordingly.

(2) In an indictment for receiving any property under this Ordinance, any number of persons who have at different times so received such property or any part thereof may be charged and tried together.

Trial of persons together.

(3) If any person who is a member of any co-partnership, or is one of two or more beneficial owners of any property, steals or embezzles any such property of or belonging to such co-partnership or to such beneficial owners, he shall be liable to be dealt with, tried, and punished as if he had not been or was not a member of the co-partnership or one of such beneficial owners.

Co-partnership property.

40. (1) Any person found committing any offence punishable under this Ordinance, except an offence under section 32, may be immediately apprehended without a warrant by any person and forthwith taken, together with the property, if any, before a Magistrate or Justice to be dealt with according to law.

Arrest without warrant.

(2) Any person to whom any property is offered to be sold, pawned, or delivered, if he has reasonable cause to suspect that any offence has been committed against this Ordinance with respect to such property, shall, if in his power, apprehend and forthwith take before a Magistrate or Justice the person offering the same, together with such property, to be dealt with according to law.

Arrest on suspicion.

(3) Any constable may take into custody without warrant any person whom he finds lying or loitering in any highway, yard, or other place during the night, and whom he has good cause to suspect of having committed or being about to commit any felony in this Ordinance mentioned, and shall take such persons as soon as reasonably may be before a Magistrate or Justice to be dealt with according to law.

41. (1) If it is made to appear by information on oath before a Magistrate or Justice that there is reasonable cause to believe that any person has in his custody or

Search warrants.

possession or on his premises any property whatsoever, with respect to which any offence against this Ordinance has been committed, such Magistrate or Justice may grant a warrant to search for and seize the same.

(2) (a) Any constable may, if authorised in writing by a chief officer of Police, enter any house, shop, warehouse, yard, or other premises, and search for and seize any property he believe to have been stolen, and, where any property is seized in pursuance of this section, the person on whose premises it was at the time of seizure or the person from whom it was taken shall, unless previously charged with receiving the same knowing it to have been stolen, be summoned before a Magistrate to account for his possession of such property, and such Magistrate shall make such order respecting the disposal of such property and may award such costs as the justice of the case may require.

(b) It shall be lawful for any chief officer of Police to give such authority as aforesaid—

(i) when the premises to be searched are or within the preceding twelve months have been in the occupation of any person who has been convicted of receiving stolen property or of harbouring thieves; or

(ii) when the premises to be searched are in the occupation of any person who has been convicted of any offence involving fraud or dishonesty and punishable with imprisonment.

(c) It shall not be necessary for such chief officer of Police on giving such authority to specify any particular property, but he may give such authority if he has reason to believe generally that such premises are being made a receptacle for stolen goods.

(3) In this section “chief officer of Police” means the Commissioner of Police or other officer having the chief command in any Police District.

Evidence.

42. (1) Whenever any person is being proceeded against for receiving any property knowing it to have been stolen, or for having in his possession stolen property, for the purpose of proving guilty knowledge there may be given in evidence at any stage of the proceedings—

(a) the fact that other property stolen within the

period of twelve months preceding the date of the offence charged was found or had been in his possession;

(b) the fact that within the five years preceding the date of the offence charged he was convicted of any offence involving fraud or dishonesty:

This last-mentioned fact may not be proved unless—

(i) seven days' notice in writing has been given to the offender that proof of such previous conviction is intended to be given;

(ii) evidence has been given that the property in respect of which the offender is being tried was found or had been in his possession.

(2) No person shall be liable to be convicted of any offence against sections 8, 9 paragraph (a), 21, 22, and 23 upon any evidence whatever in respect of any act done by him, if at any time previously to his being charged with such offence he has 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 has been *bonâ fide* instituted by any person aggrieved.

Compulsory disclosure in civil action.

(3) In any proceedings in respect of any offence against sections 8, 9 paragraph (a), 21, 22, and 23, a statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy shall not be admissible in evidence against that person.

Compulsory disclosure in bankruptcy.

43. (1) If, on the trial of any indictment for robbery, it is proved that the defendant committed an assault with intent to rob, the jury may acquit the defendant of robbery and find him guilty of an assault with intent to rob, and thereupon he shall be liable to be punished accordingly.

Verdict of assault on charge of robbery.

(2) If, on the trial of any indictment for any offence against section 18 (relating to embezzlement), it is proved that the defendant stole the property in question, the jury may find him guilty of stealing, and thereupon he shall be liable to be punished accordingly; and on the trial of any indictment for stealing, the jury may in like manner find the defendant guilty of embezzlement or of fraudulent

Verdict of stealing on charge of embezzlement, and *vice versa*.

application or disposition, as the case may be, and thereupon he shall be liable to be punished accordingly.

Verdict of obtaining by false pretences on charge of stealing.

(3) If, on the trial of any indictment for stealing, it is proved that the defendant took any chattel, money, or valuable security in question in any such manner as would amount in law to obtaining it by false pretences with intent to defraud, the jury may acquit the defendant of stealing and find him guilty of obtaining the chattel, money, or valuable security by false pretences, and thereupon he shall be liable to be punished accordingly.

Verdict of stealing on charge of false pretences:

(4) If, on the trial of any indictment for obtaining any chattel, money, or valuable security by false pretences, it is proved that the defendant stole the property in question, he shall not by reason thereof be entitled to be acquitted of obtaining such property by false pretences.

(5) If, on the trial of any two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part of such property, the jury may convict upon such indictment such of the said persons as are proved to have received any part of such property.

Restitution.

44. (1) If any person guilty of any such felony or misdemeanor as is mentioned in this Ordinance, in stealing, taking, obtaining, extorting, embezzling, converting, or disposing of, or in knowingly receiving, any property, is prosecuted to conviction by or on behalf of the owner of such property, the property shall be restored to the owner or his representative.

Writ of restitution.

(2) In every case in this section referred to, the Court before whom such offender is convicted 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 where goods as defined in the Sale of Goods Ordinance have been obtained by fraud or other wrongful means not amounting to stealing, the property in such goods shall not re-vest in the person who was the owner of the goods or his personal representative, by reason only of the conviction of the offender:

Provided also that nothing in this section shall apply to the case of—

(a) any valuable security which has been in good faith paid or discharged by some person or body corporate liable to the payment thereof, or, being a negotiable instrument, has been in good faith 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 been stolen;

(b) any offence against sections 21, 22, and 23.

(3) On the restitution of any stolen property, if it appears to the court by the evidence that the offender has sold the stolen property to any person, and that such person has had no knowledge that the same was stolen, and that any moneys have been taken from the offender on his apprehension, the court may, on the application of such purchaser, order that out of such moneys a sum not exceeding the amount of the proceeds of such sale be delivered to the said purchaser.

Payment to purchaser from moneys found on offender.

45. Where an offence against this Ordinance is by any other Ordinance made punishable on summary conviction, proceedings may be taken either under such other Ordinance or under this Ordinance.

Offences punishable on summary conviction.