

TRINIDAD AND TOBAGO.

No. 10.—1919.

I ASSENT,

[L.S.]

W. M. GORDON,
Acting Governor.

19th May, 1919.

AN ORDINANCE to consolidate and simplify the law relating to Larceny triable on indictment and kindred offences.

[19th May, 1919.]

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Larceny Ordinance, 1919. Short Title.

2.—(1.) In this Ordinance, unless the context otherwise requires— Interpretation.

“Constable” means a member of the Constabulary Force :

“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, 1918 ;

“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 joint stock 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 part of His Majesty’s Dominions, or of any foreign state, or in any stock, annuity, fund or debt of any body corporate, company or society, whether within or without His Majesty’s Dominions, 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 herein-before 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.) References in this Ordinance to any Ordinance in force at the commencement of this Ordinance shall be held to include a reference to that Ordinance as amended, extended, or applied by any other Ordinance.

3. For the purposes of this Ordinance—

Definition.

- (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:

Provided that a person may be guilty of stealing any such thing notwithstanding that he has lawful possession thereof, it, 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 owner :

- (2)—(i) the expression “takes” includes obtaining the possession—
- (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 ;
- (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 :
- (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 :

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

(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.

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 with or without hard labour for any term not exceeding five years, and the offender, if a male under the age of sixteen years, shall be liable to undergo corporal punishment in addition to any other punishment to which he may by law be liable.

5. Every person who steals any cattle shall be guilty of felony, and on conviction thereof liable to imprisonment with or without hard labour for any term not exceeding seven years.

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

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 on conviction thereof 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.

7. Every person who—

- (1.) steals any dog after a previous summary conviction of any such offence; or
- (2.) 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
- (3.) corruptly takes any money or reward, directly or indirectly, under pretence or upon 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 misdemeanour, and on conviction thereof liable to imprisonment for any term not exceeding eighteen months, with or without hard labour.

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 on conviction thereof liable to imprisonment, with or without hard labour, for any term not exceeding ten years.

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

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

- (1) any document of title to lands; or
- (2) 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
- (3) 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 on conviction thereof liable to imprisonment for any term not exceeding five years, with or without hard labour.

Damaging
fixtures, trees,
&c., with
intent to steal.

10. Every person who—

- (1) Steals, or, with intent to steal, rips, cuts, severs or breaks—
 - (a) any glass or woodwork belonging to any building; or
 - (b) any metal or utensil or fixture, fixed in or to any building; or
 - (c) 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:

- (2) 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 under-wood growing—

(a) in any place whatsoever, the value of the article stolen or the injury done being to the amount of one shilling at the least, after two previous summary convictions of any such offence; or

(b) 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 £1; or

(c) in any place whatsoever, the value of the article stolen or the injury done exceeding the amount of £5 :

- (3) 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 on conviction thereof liable to be punished as in the case of simple larceny.

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

12. Every person who steals, or severs with intent to steal, the ore of any metal, or any coal, asphalt or manjack Larceny, &c., of ore from mines, mineral oil, etc. from any mine bed or vein thereof, or steals mineral oil from any stratum, well, reservoir or pipe shall be guilty of felony and on conviction thereof liable to imprisonment for any term not exceeding two years with or without hard labour.

Larceny of
postal packets,
&c.

13. Every person who—

- (1.) steals a mail bag ; or
- (2.) steals from a mail bag, post office, officer of the Post Office, or mail, any postal packet in course of transmission by post ; or
- (3.) steals any chattel, money or valuable security out of a postal packet in course of transmission by post ; or

(4.) stops a mail with intent to rob the mail ;
shall be guilty of felony and on conviction thereof liable to imprisonment with or without hard labour, for any term not exceeding 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 £5 ; 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 on conviction thereof liable to imprisonment for any term not exceeding ten years, with or without hard labour.

Larceny from
the person.

15. Every person who steals any chattel, money, or valuable security from the person of another shall be guilty of felony and on conviction thereof liable to imprisonment, with or without hard labour, for any term not exceeding ten years.

Larceny
from ships,
docks, &c.

16. Every person who steals—

- (1.) 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 this Colony or bound to or from any part of the coast of this Colony from or to any other part of the coast of the said Colony or upon any navigable river or canal or in any creek or basin within this Colony ; or
- (2.) any goods from any dock, wharf, embarcadere or quay within this Colony ; or

- (3.) any part of any vessel in distress, wrecked, stranded or cast on shore or any goods merchandize or articles of any kind belonging to such vessel

shall be guilty of felony and on conviction thereof liable to imprisonment for any term not exceeding ten years, with or without hard labour.

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 on conviction thereof liable—

Larceny by tenants or lodgers.

- (a.) if the value of such chattel or fixture exceeds the sum of £5, to imprisonment for any term not exceeding five years, with or without hard labour ;
- (b.) in all other cases, to imprisonment for any term not exceeding two years, with or without hard labour ;
- (c.) in any case, if a male under the age of sixteen years, to undergo corporal punishment in addition to any other punishment to which he may by law be liable.

18. Every person who—

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

Larceny and embezzlement by clerks or servants.

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

(b) 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 :

- (2) being employed in the public service of His Majesty or being a member of or employed in the Constabulary Force—

(a) 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

(b) 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 on conviction thereof liable to imprisonment for any term not exceeding 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 in addition to any other punishment to which he may by law be liable.

Stealing or
embezzlement
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 on conviction thereof liable—

(a) if the postal packet contains any chattel, money or valuable security, to imprisonment for life, with or without hard labour;

(b) in all other cases to imprisonment for any term not exceeding seven years, with or without hard labour.

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.

- (i.) 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
- (ii.) 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
- (iii.)—(a.) 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; or
(b.) 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 misdemeanour and on conviction thereof liable to imprisonment for any term not exceeding seven years, with or without hard labour.

(2.) Nothing in paragraph (iii) of sub-section (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.

Conversion
by trustee.

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 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 misdemeanour and on conviction thereof liable to imprisonment with or without hard labour for any term not exceeding 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—

- (i.) 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
- (ii.) 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 misdemeanour, and on conviction thereof, liable to imprisonment, with or without hard labour, for any term not exceeding 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 document of title on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver such goods or documents of title, and such goods or 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 on conviction thereof liable to imprisonment with or without hard labour for any term not exceeding fifteen years and, in addition, if a male, to undergo corporal punishment.

(2.) Every person who robs any person shall be guilty of felony and on conviction thereof liable to imprisonment for any term not exceeding ten years, with or without hard labour.

(3.) Every person who assaults any person with intent to rob shall be guilty of felony and on conviction thereof liable to imprisonment for any term not exceeding five years, with or without hard labour.

Sacrilege.

25. Every person who—

(1.) breaks and enters any place of divine worship and commits any felony therein ; or

(2.) breaks out of any place of divine worship, having committed any felony therein ;

shall be guilty of felony called sacrilege and on conviction thereof liable to imprisonment, with or without hard labour for any term not exceeding ten years.

26. Every person who in the night—

Burglary.

- (1.) breaks and enters the dwelling-house of another with intent to commit any felony therein ; or
- (2.) breaks out of the dwelling-house of another, having—
 - (a.) entered the said dwelling-house with intent to commit any felony therein ; or
 - (b.) committed any felony in the said dwelling-house ;

shall be guilty of felony called burglary and on conviction thereof liable to imprisonment, with or without hard labour, for any term not exceeding fifteen years.

27. Every person who—

House-breaking and committing felony.

- (1.) breaks and enters any dwelling house, or any building within the curtilage thereof and occupied therewith, 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, and commits any felony therein ; or
- (2.) breaks out of the same, having committed any felony therein ;

shall be guilty of felony and on conviction thereof liable to imprisonment for any term not exceeding ten years, with or without hard labour.

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

House-breaking with intent to commit felony.

- (1.) enters any dwelling-house in the night ; or
- (2.) 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 on conviction thereof liable to imprisonment for any term not exceeding seven years, with or without hard labour.

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

29. Every person who shall be found by night—

- (1.) 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
- (2.) 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
- (3.) having his face blackened or disguised with intent to commit any felony ; or
- (4.) in any building with intent to commit any felony therein ;

shall be guilty of a misdemeanour and on conviction thereof liable—

- (a.) if he has been previously convicted of any such misdemeanour or of any felony, to imprisonment for any term not exceeding ten years, with or without hard labour ;
- (b.) in all other cases, to imprisonment for any term not exceeding five years, with or without hard labour.

Demanding money, &c., with menaces.

30.—(1.) Every person who—

- (i.) 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 ;
- (ii.) 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 ;
- (iii.) 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 on conviction thereof liable to imprisonment with or without hard labour for any term not exceeding ten years, and if a male under the age of sixteen years, to undergo corporal punishment in addition to any other punishment to which he may by law be liable.

(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 such crime 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 on conviction thereof liable to imprisonment with or without hard labour for any term not exceeding 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 on conviction thereof liable to imprisonment for any term not exceeding five years, with or without hard labour.

Demanding
with menaces,
with intent
to steal.

Threatening
to publish,
with intent
to extort.

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,

- (1.) publishes or threatens to publish any libel upon any other person (whether living or dead); or

- (2.) 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 misdemeanour and on conviction thereof liable to imprisonment, with or without hard labour, for any term not exceeding two years.

False pre-
tences.

33. Every person who by any false pretence—

- (1.) 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; or

- (2.) 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 misdemeanour and on conviction thereof liable to imprisonment with or without hard labour for any term not exceeding five years.

34.—(1.) Every person who receives any property know- ^{Receiving.} ing the same to have been stolen or obtained in any way whatsoever under circumstances which amount to felony or misdemeanour, shall be guilty of an offence of the like degree (whether felony or misdemeanour) and on conviction thereof liable—

- (a.) in the case of felony, to imprisonment for any term not exceeding ten years, with or without hard labour;
- (b.) in the case of misdemeanour, to imprisonment for any term not exceeding five years, with or without hard labour;
- (c.) in either case, if a male under the age of sixteen years, to undergo corporal punishment in addition to any punishment to which he may by law be liable.

(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, 1918, 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 on conviction thereof liable to the same punishment as if he had stolen, 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 misdemeanour, 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 misdemeanour) and on conviction thereof liable to imprisonment for any term not exceeding seven years, with or without hard labour.

Corruptly
taking a
reward.

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 misdemeanour, 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 on conviction thereof liable to imprisonment for any term not exceeding seven years, and if a male under the age of sixteen years, to undergo corporal punishment in addition to any other punishment to which he may by law be liable.

Accessories
and abettors.

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.

Husband
and wife.

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

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 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.

38.—(1.) Every person who commits the offence of simple larceny after having been previously convicted of felony shall be liable to imprisonment for any term not exceeding ten years, with or without hard labour. Punishments.

(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 indictable misdemeanour punishable under this Ordinance; or

(b.) twicesummarily of larceny or damage to property, shall be liable to imprisonment, with or without hard labour, for any term not exceeding seven years.

(3.) In every case in this section before mentioned, the offender, if a male under the age of sixteen years, may be sentenced to undergo corporal punishment in addition to any other punishment to which he may by law be liable.

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

(5.) On conviction of a felony punishable under this Ordinance the court, in addition to imposing a sentence of imprisonment, may require the offender to enter into his own recognizances, with or without sureties, for keeping the peace and being of good behaviour.

(6.) On conviction of a misdemeanour 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 recognizances, with or without sureties, for keeping the peace and being of good behaviour.

(7.) Provided that a person shall not be imprisoned for more than one year for not finding sureties.

39.—(1.) An allegation in an indictment that money or banknotes 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 banknote or any portion of the value thereof, although such piece of coin or Procedure.

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.

(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 such co-partnership or one of such beneficial owners.

Arrest without
warrant.

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.

(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.

Evidence.

41.—(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 sub-section (1), 21, 22 and 23 of this Ordinance 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 *bond fide* instituted by any person aggrieved.

(3.) In any proceedings in respect of any offence against sections 8, 9 sub-section (1), 21, 22, and 23 of this Ordinance, 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.

42.—(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.

(2.) If on the trial of any indictment for any offence against section 18 of this Ordinance (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 application or disposition, as the case may be, and thereupon he shall be liable to be punished accordingly.

(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.

(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.

43.—(1.) If any person guilty of any such felony or misdemeanour 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.

(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, No. 64, 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 :

And provided 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 of this Ordinance.

(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.

44. Where an offence against this Ordinance is by any other Ordinance, whether passed before or after the commencement of this Ordinance, made punishable on summary conviction, proceedings may be taken either under such other Ordinance or under this Ordinance.

Provided that where such an offence was at the commencement of this Ordinance punishable only on summary conviction, it shall remain only so punishable.

45. The enactments mentioned in the Schedule to this Ordinance are hereby repealed to the extent specified in the third column of the said schedule. ^{Repeal.}

Passed in Council this Second day of May, in the year of Our Lord one thousand nine hundred and nineteen.

J. M. FARFAN,
Acting Clerk of the Council.

SCHEDULE.

Enactments Repealed.

| Ordinance No. or No. and year. | Short Title. | Extent of Repeal. |
|-----------------------------------|--|--|
| 18 ... | The Criminal Procedure Ordinance ... | Sections 35, 37 and 38. |
| 15 ... | The Larceny Ordinance ... | The whole except Sections 46 and 62. |
| 28 ... | The Libel and Defamation Ordinance ... | Section 6. |
| 10-1918 | The Post Office Ordinance ... | Sections 49, 51 and so much of Section 54 as relates to stealing and embezzling. |