

No. 11—1925.

[L.S.]

I ASSENT,

H. A. BYATT,
Governor.

3rd April, 1925.

AN ORDINANCE to consolidate and amend the law relating to Malicious Injuries to Property.

[3rd April, 1925.]

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 Malicious Short title. Damage Ordinance, 1925.

2. In this Ordinance, unless the context otherwise requires, the expression "Constable" means any member of the Constabulary Force and includes any Rural, Estate, City or Borough Constable. Interpretation.

Injuries by fire to buildings, and goods therein.

3. Whosoever shall unlawfully and maliciously set fire to any church, chapel, meeting-house, or other place of divine worship, shall be guilty of felony, and being Setting fire to churches, &c.

[Price 8d.]

convicted thereof shall be liable to be imprisoned for life or for any term of years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Setting fire
to a dwelling
house, any
person being
therein.

4. Whosoever shall unlawfully and maliciously set fire to any dwelling-house, any person being therein, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life or for any term of years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Setting fire
to a house,
outhouse,
warehouse,
&c.

5. Whosoever shall unlawfully and maliciously set fire to any house, stable, coach-house, outhouse, warehouse, office, store, shop, mill, boiling-house, curing-house, still-house, store-house, megass-house, cocoa-house, barn, granary, shed, hovel, or fold, or to any building or erection used in the cultivation, collection, or manufacture of sugar, cocoa, coffee, or other produce, or in carrying on any trade or manufacture, or any branch thereof, with intent thereby to injure or defraud any person, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life or for any term of years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Setting fire
to any public
building.

6. Whosoever shall unlawfully and maliciously set fire to any building, other than such as are in this Ordinance before mentioned, belonging to the King, or to any city, borough, town, ward, parish, or place, or to any court of justice, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life or for any term of years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Setting fire
to other
buildings.

7. Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this Ordinance before mentioned shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any

term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

8. Whosoever shall unlawfully and maliciously set fire to any matter or thing, being in, against, or under any building under such circumstances that if the building were thereby set fire to the offence would amount to a felony, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Setting fire to goods in buildings, the setting fire to which is felony.

9. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any building, or any matter or thing in the last preceding section mentioned, under such circumstances that if the same were thereby set fire to, the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Attempting to set fire to buildings, &c.

10. Whosoever shall place in, against, or under any building any petroleum or any mineral, vegetable, or other oil, or any hay, straw, cotton-waste or other combustible or inflammable material, with intent to set fire to such building, under such circumstances that if fire were set to the building the offender would be guilty of felony, or to render such building liable to take fire under such circumstances as aforesaid, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

Placing inflammable materials with intent to set fire.

11. All persons who conspire, confederate, or agree to set fire to any building under such circumstances that the actual setting of such fire would be felony, and whosoever solicits, encourages, persuades, or endeavours to persuade, or proposes to any person to set fire to any building, under

Conspiracy to set fire.

such circumstances as aforesaid, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

Injuries by explosive substances to Buildings and Goods therein.

Destroying
or damaging
a house with
gunpowder,
any person
being
therein.

12. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroy, throw down, or damage the whole or any part of any dwelling-house, any person being therein, or of any building whereby the life of any person shall be endangered, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life or for any term of years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Attempting
to destroy
buildings
with gun-
powder.

13. Whosoever shall unlawfully and maliciously place or throw in, into, upon, under, against, or near any building any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods, or chattels, shall, whether or not any explosion takes place, and whether or not any damage be effected, be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Injuries to Buildings by Rioters, &c.

Rioters
destroying
church,
building,
machinery,
&c.

14. If any persons riotously or tumultuously assembled together shall unlawfully and with force demolish, or pull down or destroy, or begin to demolish, pull down or destroy, any church, chapel, meeting-house, or other place of divine worship, or any house, stable, coach-house, outhouse, warehouse, office, store, shop, mill, boiling-house, curing house, still-house, store-house, megass-house, cocoa-house, barn, granary, shed, hovel, or fold, or any building or erection used in the collection or manufacture of sugar, cocoa,

coffee, or other produce, or in carrying on any trade or manufacture, or any branch thereof, or any building, other than such as are in this section before mentioned, belonging to the King, or to any city borough, town, ward, parish, or place, or to any court of justice, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture, or in any branch thereof, or upon or for the purposes of any railway, or any steam engine or other engine, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

15. If any persons riotously or tumultuously assembled together shall unlawfully and with force injure or damage any property as is in the last preceding section mentioned, every such offender shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour: Provided that if upon the trial of any person for any felony in the last preceding section mentioned the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of any offence in this section mentioned, then the jury may find him guilty thereof, and he may be punished accordingly.

Rioters
injuring
building,
machinery,
&c.

Injuries to Buildings by Tenants.

16. Whosoever, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, shall unlawfully and maliciously pull down or demolish, or begin to pull down or demolish, the same or any part thereof, or shall unlawfully and maliciously pull down or sever from the freehold any fixture being fixed in or to such dwelling-house or building, or part of such dwelling-house or building, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

Tenants of
houses, &c.,
maliciously
injuring
them.

Injuries to Machinery, &c.

Destroying
machines.

17. Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any machine or engine, or any tool or implement, whether fixed or moveable, used or intended to be used for any agricultural operation, or any machine or engine, or any tool or implement, whether fixed or moveable, prepared for or employed in the manufacture of sugar, cocoa, or coffee, or any other manufacture whatsoever, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Injuries to Crops, Trees, Vegetable Productions, &c.

Setting fire
to crops.

18. Whosoever shall unlawfully and maliciously set fire to any crop of sugar-canes, whether standing or cut down, or to any crop of hay, grass, corn, grain, or to any cultivated vegetable produce, whether standing or cut down, or to any stack or stacked heap of straw, trash, ground-cane, megass, cane-tops, corn-stalks, wood, or other matter used for fuel, or to any plantation of cocoa, coffee, or other trees, or to any part of any wood, coppice, or plantation of trees or valuable plants, or ground produce, wheresoever the same may be growing, or to any trash reserved or placed on any land in course of cultivation, shall be guilty of felony, and being convicted shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Setting fire
to hay, straw,
or imple-
ments.

19. Whosoever shall unlawfully and maliciously set fire to any hay, straw, trash, megass, cane-tops or corn-stalks, or to any coal, wood, charcoal, or other substance whatsoever, or to any implement of husbandry, being in any building whatsoever, with intent thereby to set fire to such building and to injure or defraud, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

20. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any matter or thing as in either of the last two preceding sections mentioned, under such circumstances that, if the same were thereby set fire to, the offender would be, under either of such sections, guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Attempting to set fire to crops, hay, &c.

21. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, growing in any park, pleasure-ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling house (in case the amount of the injury done shall exceed the sum of one pound), shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Destroying trees, shrubs, &c., to the value of more than £1 growing in a pleasure ground, &c.

22. Whosoever shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any underwood, growing elsewhere than in any park, pleasure-ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the amount of the injury done shall exceed the sum of five pounds), shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Destroying trees, &c., not in pleasure ground.

Injuries to Sea and River Banks, Canals, Ponds, &c.

23. Whosoever shall unlawfully and maliciously break down or cut down or otherwise damage or destroy any sea bank, or sea wall, or the bank, dam, or wall of or belonging to any river, canal, drain, reservoir, or marsh, whereby any land or building shall be or shall be in danger of being

Destroying sea banks, works on canals or rivers, or certain dams or reservoirs.

(46-1920) overflowed or damaged, or shall unlawfully and maliciously throw, break, or cut down, level, undermine, or otherwise destroy any quay, wharf, jetty, lock, sluice, or floodgate, or other work belonging to any port, harbour, dock, or reservoir, or on or belonging to any navigable river or canal, or shall unlawfully and maliciously damage or destroy any dam or reservoir constructed under the provisions of the Oil Pollution and Water Conservation Ordinance, 1920, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Removing the piles of any sea bank, &c., or doing any damage to obstruct the navigation of a river or canal.

24. Whosoever shall unlawfully and maliciously cut off, draw up, or remove any piles, chalk, or other materials fixed in the ground, and used for securing any sea bank or sea wall, or the bank, dam, or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty, or lock, or shall unlawfully and maliciously open or draw up any floodgate or sluice, or do any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Breaking down dam of fish-pond or mill-dam.

25. Whosoever shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam, floodgate, or sluice of any fish-pond, or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully and maliciously put any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish that may then be or that may thereafter be put therein, or shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam or floodgate of any mill pond, reservoir, or pool, shall be guilty of a misdemeanor,

and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Injuries to Bridges, &c.

26. Whosoever shall unlawfully and maliciously pull or throw down, or in anywise destroy any bridge (whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct, or aqueduct, any highway, railway, or canal shall pass, or do any injury with intent, and so as thereby to render such bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Injury to a public bridge.

Injuries to Works of Art.

27. Whosoever shall unlawfully and maliciously destroy or damage any book, manuscript, picture, statue, bust, or vase, or any other article or thing kept for the purpose of art, science, or literature, or as an object of curiosity, in any museum, gallery, cabinet, library or other repository, which museum, gallery, cabinet, library or other repository is either at all times or from time to time open for the admission of the public or of any considerable number of persons, to view the same, either by the permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, statue, monument, or other memorial of the dead, painted glass, or other ornament, or work of art, in any church, chapel, meeting-house, or other place of divine worship, or in any building belonging to the King, or to any city, borough, town, ward, parish, or place, or to any court of justice, or in any street, square, church yard, burial ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing, or fence surrounding such statue or monument, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years,

Destroying books, works of art, &c.

with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment: Provided that nothing in this section contained shall be deemed to affect the right of any person to recover, by action at law, damages for the injury so committed.

Injuries to Cattle.

Killing or maiming cattle.

28. Whosoever shall unlawfully and maliciously kill, maim, or wound any cattle shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years, with or without hard labour.

For the purposes of this section, the expression "cattle" includes horses, asses, mules, kine, sheep, goats, and swine, as well as all horned cattle.

Injuries to ships, &c.

Setting fire to ships with intent to prejudice the owners or underwriters.

29. Whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel or of any goods on board the same, or any person that has underwritten, or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for life or for any term of years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Attempting to set fire to a ship.

30. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to, cast away, or destroy any ship or vessel, under such circumstances that if the ship or vessel were thereby set fire to, cast away, or destroyed, the offender would be guilty of felony, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

31 Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any ship or vessel any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working tools, goods, or chattels, shall, whether or not any explosion take place, and whether or not any injury be effected, be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Placing gunpowder on or near a ship with intent to damage it.

32. Whosoever shall unlawfully and maliciously damage, otherwise than by fire, gunpowder, or other explosive substance, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or to render the same useless, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Damaging ships otherwise than by fire.

33. Whosoever shall unlawfully mask, alter, or remove any light or signal, or unlawfully exhibit any false light or signal, with intent to bring any ship, vessel, or boat, into danger, or shall unlawfully and maliciously do anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinbefore provided, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Exhibiting false signals, &c.

34. Whosoever shall unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall unlawfully and maliciously do any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall in any other manner unlawfully and maliciously injure or conceal any boat, buoy, rope, perch, or mark used or intended for the guidance of seamen for the purpose of

Removing or concealing buoys and other sea marks.

navigation, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Destroying wrecks or any articles belonging thereto.

35. Whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding seven years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Sending letters threatening to burn or destroy.

Sending letters threatening to burn or destroy buildings, crops, ships, &c.

36. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn, or other building, or any growing crop, or any agricultural produce, or any ship, or vessel, or to kill, maim, or wound any cattle, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Injuries to Valuable Securities, Documents of Title, Wills, &c.

Destroying, &c., valuable securities.

37.—(1) Whosoever shall unlawfully and maliciously, or for any fraudulent purpose, destroy, injure, cancel, or obliterate the whole or any part of any valuable security, or any document of title to lands or goods, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

(2) For the purposes of this section, the expression "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 the expression

" 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 ; and the expression

" 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.

38. Whosoever shall, either during the life of the testator or after his death, unlawfully and maliciously, or for any fraudulent purpose, destroy, injure, cancel, obliterate, or conceal, the whole or any part of any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour. Destroying,
&c., wills.

39. Whosoever shall unlawfully and maliciously, or for any fraudulent purpose, destroy, injure, cancel, or obliterate, the whole or any part of any record, writ, return, panel, process, interrogatory, deposition, affidavit, order, or decree, Destroying,
&c., documents of
record, &c.

or of any original document whatsoever of or belonging to any court of justice, or relating to any cause or matter, civil or criminal, begun, depending, or terminating in any court of justice, or of any original document in anywise relating to the business of any office or employment under His Majesty, or being or remaining in any office appertaining to any court of justice, or in any Government or public office, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Injuries not before provided for.

Persons committing malicious injuries not before provided for exceeding the amount of £5.

40. Whosoever shall unlawfully and maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, the damage, injury, or spoil being to an amount exceeding five pounds, shall be guilty of a misdemeanor and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Making explosive substance to commit offences, and searching for the same.

Making or having explosive substances with intent to commit offence against this Ordinance.

41. Whosoever shall make or manufacture, or knowingly have in his possession, any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent by means thereof to commit, or for the purpose of enabling any other person to commit, any of the felonies in this Ordinance mentioned, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years with or without hard labour, and, if a male under the age of sixteen years, with or without corporal punishment.

Power to search and arrest suspected persons.

42. Where there is reasonable cause to suspect that any combustible or inflammable material is concealed or placed in, against, or under, any house, building or other place for the purpose of being used in committing any of the felonies in this Ordinance mentioned, it shall be lawful for

any Justice of the Peace, by warrant under his hand, to authorise any constable, with such assistance as may be necessary, to enter and search at any time of the day or night such house, building, or other place and any adjacent premises; and, if any combustible or inflammable material is found, to convey the same forthwith before any Magistrate, or to guard the same on the spot or in some place of security subject to the orders of any Magistrate, and to apprehend and convey before any Magistrate the person or persons in, against, or under, whose house, building or place such material is found, if any constable acting under any such warrant as aforesaid has reasonable cause to suspect any such person of having been privy to the concealment or placing of such material, and also any other person found in or near such house, building or place who appears to have been privy to the concealment or placing of such material.

Supplemental Provisions.

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

Persons loitering at night, and suspected may be apprehended.

44. Every punishment by this Ordinance imposed on any person maliciously committing any offence shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

Malice against owner not essential to offence.

45. Every provision of this Ordinance not hereinbefore applied shall apply to every person who, with intent to injure or defraud any other person, shall do any of the acts hereinbefore made penal, although the offender shall be the owner or be in possession of the property against or in respect of which such act shall be done.

Ordinance to apply to owner or person in possession of property injured.

Intent to injure particular person need not be proved.

46. On the trial of any person for any offence against this Ordinance, it shall not be necessary to prove an intent to injure or defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to injure or defraud (as the case may be).

Fine and sureties for keeping the peace.

47. Whenever any person shall be convicted of any misdemeanor punishable under this Ordinance, the court may, if it shall think fit, in addition to or in lieu of any of the punishments by this Ordinance authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour; and in case of any felony punishable under this Ordinance, the court may, if it shall think fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Ordinance authorized; provided that no person shall be imprisoned under this section for not finding sureties for any period exceeding one year.

Repeal.
(24-1908)

(12-1916)

(18-1921)

48. The Malicious Injury to Property Ordinance, No. 16, the Malicious Injury to Property Ordinance, 1908, paragraph 1 of Schedule II of the Corporal Punishment Ordinance, 1916, and section 104 of the Wills and Probate Ordinance, 1921, are hereby repealed.

Passed in Council this thirteenth day of March, in the year of Our Lord one thousand nine hundred and twenty-five.

JOHN DE NOBRIGA,
Clerk of the Council.

OBJECTS AND REASONS.

The existing local law relating to indictable offences of malicious injuries to property (Ordinance No. 16) is practically a copy of an English Act which was passed in 1827 (7 & 8 Geo. 4, c. 30). This Act was superseded by the Malicious Damage Act, 1861 (24 & 25 Vic. c. 97) which represents the present English law on this subject. The object of this Bill therefore is to bring the local law as far as possible into line with that in force in England.

To a great extent the Bill makes no substantial change in the existing law as contained in Ordinance No. 16, but a number of new provisions are inserted, the more important of which may be dealt with briefly as follows :—

The provisions of Clause 23 are extended so as to include injury to any dam or reservoir constructed under the provisions of the Oil Pollution and Water Conservation Ordinance, 1920.

Clause 34 deals with the offence of removing, injuring or concealing buoys or other sea marks intended for purposes of navigation, no provision for which exists at present.

Clauses 37 to 39 are taken from unrepealed provisions of the Larceny Act of 1861 so far as those provisions relate to the destruction of or injury to valuable securities, wills and documents of record. The substance of clause 38 at present appears in section 104 of the Wills Ordinance, No. 18 of 1921, which it is now proposed to repeal.

Clause 47 enables the Court, in addition to or in lieu of any punishment authorized by the Ordinance, to fine any person convicted under the Ordinance and to require him to enter into recognizances to keep the peace and be of good behaviour.

The provisions dealing with the infliction of corporal punishment have been altered. Under Schedule II of the Corporal Punishment Ordinance, 1916, corporal punishment may be ordered to be inflicted upon any male person convicted of certain Malicious Injury Offences. In the Bill, however, the English Act has been followed and corporal punishment has been provided for in respect of a number of additional offences but the power to order corporal punishment is limited to cases where the offender is under the age of sixteen years.