

LARCENY ACT

CHAPTER 11:12

Act

10 of 1919

Amended by

29 of 1925

20 of 1936

25 of 1936

14 of 1939

36 of 1951

172/1961

52 of 1976

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17 of 1989

28 of 1996

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LARCENY ACT

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CHAPTER 11:12

LARCENY ACT

An Act relating to Larceny and Kindred Offences triable on indictment.

1950 Ed.
Ch. 4 No. 11.
10 of 1919.

[19TH MAY 1919]

Commencement.

1. This Act may be cited as the Larceny Act.

Short title.

2. (1) In this Act—

Interpretation.

“document of title to goods” includes any bill of lading, India warrant, dock warrant, warehousekeeper’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 State 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”, “employee of Trinidad and Tobago Post”, “postal article”, “Trinidad and Tobago Post” and “in course of transmission by post” have the same meanings in this Act as in the Post Office Act;

Ch. 47:01.

“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 the 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 the trust has 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 Act 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 defined above.

(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 the building and dwelling house, either immediate or by means of a covered and enclosed passage leading from one to the other.

Definitions.

“Steals”.

3. For the purposes of this Act—

- (a) 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 the taking permanently to deprive the

owner thereof; but 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;

(b) the expression “takes” includes obtaining the possession—

- (i) by any trick;
- (ii) by intimidation;
- (iii) under a mistake on the part of the owner with knowledge on the part of the taker that possession has been so obtained;
- (iv) by finding, where at the time of the finding the finder believes that the owner can be discovered by taking reasonable steps;

(c) 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;

(d) the expression “owner” includes any part owner, or person having possession or control of, or a special property in, anything capable of being stolen;

(e) everything which has value and is the property of any person, and if adhering to the realty then after severance therefrom, is capable of being stolen except that—

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

Wild animals.

- (ii) the carcase of a creature wild by nature and not reduced into possession while living is not capable of being stolen by the person who has killed the creature, unless after killing it he has abandoned possession of the carcase.

Simple larceny.

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

Larceny of or interference with motor vehicles. [17 of 1989].

4A. (1) Any person who—

- (a) steals a motor vehicle;
 (b) with intent to steal, removes, obliterates, defaces, tampers with or renders in any way illegible or alters the engine number or chassis number of a motor vehicle; or
 (c) without the consent of the owner, repaints or alters in any way the appearance of a motor vehicle; or
 (d) receives, or is in possession of, a motor vehicle knowing the same to have been stolen,

is liable upon summary conviction to imprisonment for ten years and upon conviction on indictment to imprisonment for fifteen years.

Ch. 48:50.

(2) In this section the term “motor vehicle” shall have the same meaning ascribed to it under the Motor Vehicles and Road Traffic Act.

Ch. 4:20.

(3) The penalty on summary conviction provided in this section shall have effect notwithstanding the provisions contained in subsection (5) of section 100 of the Summary Courts Act.

Larceny of cattle.

5. Any person who steals any cattle is 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.

6. Any person who wilfully kills any animal with intent to steal the carcase, skin, or any part of the animal killed is liable to the same punishment as if he had stolen the animal, provided that the offence of stealing the animal so killed would have amounted to an arrestable offence.

Killing animals with intent to steal.

7. Any person who—

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

Larceny, etc., of dogs.

is liable to imprisonment for eighteen months.

8. Any person who steals any Will, codicil, or other testamentary instrument, either of a dead or of a living person, is liable to imprisonment for ten years.

Larceny of Wills.

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

- (a) any document of title to lands;
- (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, pending or terminated in any such Court; or
- (c) any original document relating to the business of any office or employment under the State, and being or remaining in any office appertaining to any Court of Justice, or in any Government building or public office,

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

is liable to imprisonment for five years.

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

10. Any person who—

- (a) steals or, with intent to steal, rips, cuts, severs or breaks—
- (i) any glass or woodwork belonging to any building;
 - (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-five cents at the least, after two previous summary convictions of any such offence;
 - (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 five dollars; or
 - (iii) in any place whatsoever, the value of the article stolen or the injury done exceeding the amount of twenty-five 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,

is liable to be punished as in the case of simple larceny.

11. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity is liable to be punished as in the case of simple larceny.

Abstracting
electricity.

12. Any 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 is liable to imprisonment for two years.

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

13. Any person who—

- (a) steals a mail bag;
- (b) steals from a mail bag, Trinidad and Tobago Post, employee of Trinidad and Tobago Post or mail, any postal article in course of transmission by post;
- (c) steals any chattel, money or valuable security out of a postal article in course of transmission by post; or
- (d) stops a mail with intent to rob the mail,

Larceny of
postal articles,
etc.

is liable to imprisonment for ten years.

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

Larceny in
dwelling houses.

- (a) if the value of the property stolen amounts to twenty-five dollars; or
- (b) if he by any menace or threat puts any person being in such dwelling house in bodily fear,

is liable to imprisonment for ten years.

15. Any person who steals any chattel, money or valuable security from the person of another is liable to imprisonment for ten years.

Larceny from
the person.

16. Any 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 Trinidad and

Larceny from
ships, docks,
etc.

Tobago or bound to or from any part of the coast of Trinidad and Tobago from or to any other part of the coast of Trinidad and Tobago, or upon any navigable river or canal or in any creek or basin within Trinidad and Tobago;

(b) any goods from any dock, wharf, embarcadere, or quay within Trinidad and Tobago; 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 the vessel,

is liable to imprisonment for ten years.

Larceny by tenants or lodgers.

17. Any 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 is liable—

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

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

Larceny and embezzlement by clerks or servants.

18. Any 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

(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—

(i) steals any chattel, money or valuable security belonging to or in the possession of the State 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,

is 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 (Offenders Not Over Sixteen) Act, in addition to any other punishment to which he may by law be liable. Ch. 13:03.

19. Any person who, being an employee of Trinidad and Tobago Post department or employed therein, steals or embezzles a postal article in course of transmission by post is liable— Stealing or embezzlement by employee of Trinidad and Tobago Post.

- (a) if the postal article contains any chattel, money or valuable security, to imprisonment for life;
- (b) in all other cases, to imprisonment for seven years.

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 the 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. General deficiency.

21. (1) Any 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;

- (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 the body corporate or public company;
- (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,

is liable to imprisonment for seven years.

(2) Nothing in subsection (1)(c) and (d) 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.
[172/1961
8/1962
136/1976].

22. (1) Any person who, being a trustee as defined above 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 the person as aforesaid, or for any purpose other than the public or charitable purpose as aforesaid, or otherwise disposes of or destroys such property or any part thereof, is liable to imprisonment for seven years.

(2) No prosecution for any offence included in this section shall be commenced—

- (a) by any person without the sanction of the Director of Public Prosecutions;
- (b) by any person who has taken any civil proceedings against such trustee, without the sanction also of the Court before whom the civil proceedings have been had or are pending.

23. (1) Any 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—

Factors obtaining advances on the property of their principals.

- (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,

is liable to imprisonment for seven years; but no such factor or agent is 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 the consignment, deposit, transfer or delivery, was justly due and owing to the agent from his principal, together with the amount of any bill of exchange drawn by or on account of the principal and accepted by the factor or agent.

(2) (a) Any factor or agent entrusted as mentioned above 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 the document of title.

(b) Every contract pledging or giving a lien upon the document of title as mentioned above 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 mentioned above 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 the goods or documents of title are actually received by the person making the loan or advance, without notice that the 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 the 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 mentioned above, and in possession of any goods or documents 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 is shown in evidence.

Robbery.
[17 of 1989].

24. (1) Any 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 the robbery, uses any personal violence to any person,

is liable upon summary conviction to imprisonment for ten years, and upon conviction on indictment to imprisonment for fifteen years.

(2) Any person who robs any person is liable on summary conviction to imprisonment for six years, and upon conviction on indictment to imprisonment for ten years.

(3) Any person who assaults any person with intent to rob is liable upon summary conviction to imprisonment for three years, and upon conviction on indictment to imprisonment for five years.

(4) The penalty on summary conviction provided in this section shall have effect notwithstanding the provisions contained in subsection (5) of section 100 of the Summary Courts Act.

Ch. 4:20.

25. (*Repealed by Act No. 17 of 1989*).

26. Any person who—

Sacrilege.

- (a) breaks and enters any place of divine worship and commits any arrestable offence therein; or
(b) breaks out of any place of divine worship, having committed any arrestable offence therein,

is guilty of sacrilege and liable to imprisonment for ten years.

27. Any person who in the night—

Burglary.

- (a) breaks and enters the dwelling house of another with intent to commit any arrestable offence therein; or
(b) breaks out of the dwelling house of another, having—
(i) entered the said dwelling house with intent to commit any arrestable offence therein; or
(ii) committed any arrestable offence in the said dwelling house,

is guilty of burglary and liable to imprisonment for fifteen years.

Housebreaking and committing arrestable offence. [28 of 1996 19 of 2005].

28. Any 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, counting-house, office, store, garage, pavilion, factory or workshop, or any building belonging to the State, or to any Government department, or to any Municipal or other public authority, and commits any arrestable offence therein; or
- (b) breaks out of the same, having committed any arrestable offence therein,

is liable to imprisonment for ten years.

Housebreaking with intent to commit an arrestable offence. [28 of 1996 19 of 2005].

29. Any person who, with intent to commit any arrestable offence 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 the State, or to any Government department, or to any Municipal or other public authority,

is liable to imprisonment for seven years.

Being found by night armed or in possession of housebreaking implements. [28 of 1996 19 of 2005].

30. Any person who is 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 arrestable offence therein;
- (b) having in his possession without lawful excuse (the proof whereof lies on such person) any key, picklock, crow, jack, bit or other implement of housebreaking;
- (c) having his face blackened or disguised with intent to commit any arrestable offence; or

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

is liable to imprisonment for ten years.

31. (1) Any 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;

Demanding money, etc., with menaces. [21 of 2003].

(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,

is liable to imprisonment for fifteen years.

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

Intent to defraud or injure.

(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 arrestable offence,

compels or induces any person to execute, make, accept, indorse, 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, is liable to imprisonment for fifteen 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 Act, 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.

Demanding with menaces, with intent to steal.

32. Any person who, with menaces or by force, demands of any person anything capable of being stolen, with intent to steal the same, is liable to imprisonment for five years.

Threatening to publish, with intent to extort.

33. Any 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—
 - (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),

is liable to imprisonment for two years.

False pretences.

34. (1) Any 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, is liable to imprisonment for five years.

(2) Any 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, indorse, 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,

is liable to imprisonment for five years.

(3) Any person who commits any of the following offences is liable to imprisonment for one year, that is to say:

Fraudulently obtaining credit or disposing of property.

- (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 defraud 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 is 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.

35. (1) Any person who receives any property knowing the same to have been stolen or obtained in any way whatsoever under circumstances which amount to an indictable offence is liable to imprisonment for ten years.

Receiving.
[45 of 1979].

Postal articles.

(2) Any person who receives any mail bag or any postal article or any chattel or money or valuable security, the stealing or taking or embezzling or secreting whereof amounts to an arrestable offence under the Post Office Act or this Act, knowing the same to have been unlawfully stolen, taken, embezzled or secreted, and to have been sent or to have been intended to be sent by post, is liable to the same punishment as if he had stolen, taken, embezzled or secreted the same.

Ch. 47:01.

(3) Any 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.

Receiving goods
stolen outside
Trinidad and
Tobago.
[45 of 1979].

(4) Any 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 Trinidad and Tobago the person committing it would have been guilty of an indictable offence receives or has in his possession any property so stolen or obtained outside Trinidad and Tobago is liable to imprisonment for seven years.

(5) For the purposes of this section and of any other written law relating to receivers or receiving, a person shall be treated as receiving property if he dishonestly undertakes or assists in its retention, removal, disposal or realisation, or if he arranges to do so.

Punishments.
[45 of 1979].

36. (1) Any person who commits the offence of simple larceny after having been previously convicted of an arrestable offence is liable to imprisonment for ten years.

Simple larceny.

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

(a) of an offence other than an arrestable offence punishable under this Act; or

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

is liable to imprisonment for seven years.

37. (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 the part has been returned accordingly.

Proof.

(2) In an indictment for receiving any property under this Act, 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) 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 the co-partnership or to such beneficial owners, is 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 the beneficial owners.

Co-partnership property.

38. (1) Any person found committing any offence punishable under this Act, except an offence under section 33, 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.
[45 of 1979].

(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 Act 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 the property, to be dealt with according to law.

Arrest on suspicion.

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

Search warrants.

(2) 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 believes 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 the Magistrate shall make such order respecting the disposal of the property and may award such costs as the justice of the case may require.

(3) Any chief officer of Police may give such authority as mentioned above—

- (a) 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
- (b) 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.

(4) It shall not be necessary for the 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 the premises are being made a receptacle for stolen goods.

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

Evidence.

40. (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 the 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 is liable to be convicted of any offence against sections 8, 9(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 *bona fide* instituted by any person aggrieved.

Compulsory disclosure in civil action.

(3) In any proceedings in respect of any offence against sections 8, 9(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.

41. (1) 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 is 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 is liable to be punished accordingly.

Possible verdicts on charges of embezzlement, larceny or false pretences. [45 of 1979].

(2) 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 is liable to be punished accordingly.

(3) 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.

(4) 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 the property, the jury may convict upon the indictment such of the said persons as are proved to have received any part of the property.

Restitution.

42. (1) If any person guilty of any such offence as is mentioned in this Act, 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 the 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 the 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 except that where goods as defined in the Sale of Goods Act have been obtained by fraud or other wrongful means not amounting to stealing, the property in the 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.

Ch. 82:30.

- (3) 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.

(4) 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 the purchaser, order that out of such moneys a sum not exceeding the amount of the proceeds of the sale be delivered to the purchaser.

Payment to purchaser from moneys found on offender.

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

Offences punishable on summary conviction.

44. Any 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 an indictable offence, been stolen or obtained in any way whatsoever or received, is (unless he has used all due diligence to cause the offender to be brought to trial for the same) liable to imprisonment for seven years.

Corruptly taking a reward.