



ST. CHRISTOPHER AND NEVIS

CHAPTER 4.16

LARCENY ACT

Revised Edition

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LARCENY ACT

Act 24 of 1944 ... in force 13th December 1944

Amended by: Act 12 of 1967

Act 6 of 1976

Act 7 of 1976

Act 9 of 1986

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CHAPTER 4.16

LARCENY ACT

AN ACT TO MAKE PROVISION RESPECTING LARCENY; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

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

Interpretation.

2. (1) In this Act—

“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;

“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 enactment relating to companies or bankruptcy;

(Amended by Act 6 of 1976)

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

(Amended by Act 6 of 1976)

(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.

Definitions.

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 such taking, permanently to deprive the owner thereof:

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

- (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, shall be capable of being stolen:
- Provided that—
- (i) save as hereinafter expressly provided with respect to fixtures and growing things, 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 or she has abandoned possession thereof; and
 - (ii) 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 or she has abandoned possession of the carcass.

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 a felony punishable with imprisonment with hard labour for any term not exceeding three years.

Larceny of cattle.

5. (1) A person who steals any cattle commits a felony, and on conviction is liable to imprisonment with hard labour for any term not exceeding five years.

(2) Where any person is charged with an offence under subsection (1), such charge may be heard, tried and determined summarily by a Magistrate and, on conviction, the Magistrate may sentence the person charged to a fine not exceeding seven hundred and fifty dollars or to imprisonment with hard labour for any term not exceeding six months, and upon a subsequent conviction on a similar charge, to a fine not exceeding one thousand five hundred dollars or to imprisonment with hard labour for a term not exceeding twelve months.

(3) In this section, the term “cattle” includes horses, asses, mules, kine, sheep, goats, deer and swine, as well as all horned cattle.

(Amended by Acts 7 of 1976 and 9 of 1986)

Killing animals with intent to steal.

6. A person who wilfully kills any animal with intent to steal the carcass, skin, or any part of the animal killed, commits a felony, and, on conviction, is liable to the same punishment as if he or she had stolen such animal, if the offence of stealing the animal so killed would have amounted to felony.

Larceny, etc., of dogs.

7. A person who—

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

commits a misdemeanour, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding eighteen months.

Larceny of wills.

8. A person who steals any will, codicil, or other testamentary instrument, either of a dead or living person, commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding ten years.

Larceny of documents of title to land, etc.

9. A 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, depending, or terminated in any such court; or
- (c) any original document relating to the business of any office or employment under the Crown, and being or remaining in any office appertaining to any court of justice, or in any Government building or public office,

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding five years.

Taking, destroying, etc., documents for a fraudulent purpose.

10. A person who, for any fraudulent purpose, takes and carries away, destroys, damages, or obliterates, the whole or any part of—

- (a) any will, codicil, or other testamentary instrument, either of a dead or living person;
- (b) any valuable security;
- (c) 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
- (d) any original document relating to the business of any office or employment under the Crown, and being or remaining in any office appertaining to any court of justice, or in any Government building or public office,

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding three years.

Damaging fixtures with intent to steal.

11. A person who steals, or, with intent to steal, rips, cuts, severs, or breaks—

- (a) any glass or woodwork belonging to any building;
- (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,

commits a felony, and, on conviction, is liable to be punished as in the case of simple larceny.

Praedial larceny.

12. (1) A person who 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, underwood, plant, root, fruit or vegetable production growing in any place commits a felony, and, on conviction, is liable to be punished as in the case of simple larceny.

(2) Where a person is charged with an offence under subsection (1), such charge may be heard, tried and determined summarily by a Magistrate and, on conviction, the Magistrate may sentence the person charged to a fine not exceeding seven hundred and fifty dollars, or to imprisonment with hard labour for any term not exceeding six months, and upon a subsequent conviction on a similar charge, to a fine not exceeding one thousand five hundred dollars, or to imprisonment with hard labour for a term not exceeding twelve months.

(Amended by Acts 7 of 1976 and 9 of 1986)

Larceny of goods in process of manufacture.

13. A person who steals, to the value exceeding twenty-four dollars, any goods, articles, or produce, at any stage in the process of manufacture commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding seven years.

Larceny in dwelling houses.

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

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

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding ten years.

(Amended by Act 10 of 1998)

Larceny from the person.

15. A person who steals any chattel, money, or valuable security from the person of another commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding seven years.

Larceny from ships, docks, etc.

16. A person who steals—

- (a) any goods in any vessel, barge, or boat of any description within the territorial waters surrounding the State, or in any haven or in any port of entry or discharge, or upon any canal or in any creek or basin belonging to or communicating with any such haven, port, or canal;
- (b) any goods from any dock, wharf, jetty, or quay within the State; or
- (c) any part of any vessel in distress, wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such vessel,

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding seven years.

Larceny by tenants or lodgers.

17. A 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, commits a felony, and, on conviction, is liable—

- (a) if the value of such chattel or fixture exceeds the sum of twenty-four dollars, to imprisonment for a term not exceeding five years; and
- (b) in all other cases, to imprisonment with hard labour for a term not exceeding two years.

Larceny and embezzlement by clerks or servants.

18. A 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 or her 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 or her for or in the name or on the account of his or her master or employer;
- (b) being employed in the public service of the Crown or being a member of or employed in the Police Force—
 - (i) steals any chattel, money, or valuable security belonging to or in the possession of the Crown, or entrusted to or received or taken into possession by such person by virtue of his or her employment; or
 - (ii) embezzles or in any manner fraudulently applies or disposes of for any purpose except for the public service any chattel, money, or valuable security entrusted to or received or taken into possession by him or her by virtue of his or her employment,

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding seven years.

Conversion.

19. (1) A person who—

- (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 of the property to his or her own use or benefit, or the use or benefit of any person other than the person by whom he or she was entrusted;
- (b) being a director, member, or officer of any body corporate or public company, fraudulently takes or applies for his or her 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;
- (c) being entrusted either solely or jointly with any other person with any property in order that he or she may retain in safe custody or apply, pay, or deliver, for any purpose or to any person, the property or any part of the property or any proceeds of the property, fraudulently converts to his or her own use or benefit, or the use or benefit of any other person, the property or any part of the property or any proceeds of the property; 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 or her own use or benefit or the use or benefit of any other person, the property or any part of the property or any proceeds of the property,

commits a misdemeanour, and, on conviction, is liable to imprisonment with or without hard labour for a term not exceeding seven years.

(2) Nothing in paragraphs (c) and (d) of subsection (1) 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.

20. A person who, being a trustee 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 of the property to, or for his or her own use or benefit, or for the use or benefit of any person other than the person entitled to the property, or for any purpose other than such public or charitable purpose, or otherwise disposes of or destroys such property or any part of the property, commits a misdemeanour, and, on conviction, is liable to imprisonment with or without hard labour for a 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 Director of Public Prosecutions;
- (b) by any person who has taken civil proceedings against such trustee, without the sanction also of the court or Judge before whom such civil proceedings were heard or are pending.

(Amended by Act 12 of 1967)

Factors obtaining advances on the property of their principals.

21. (1) A 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 or her principal in that behalf, for his or her own use or benefit, or for the use or benefit of any person other than the person by whom he or she was so entrusted, and in violation of good faith—

- (a) consigns, deposits, transfers or delivers, any goods or document of title so entrusted to him or her 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 her; 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,

commits a misdemeanour, and, on conviction, is liable to imprisonment with or without hard labour for a 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 document 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 or her 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 factor or agent entrusted as provided in this section 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.

(3) A 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.

(4) The factor or agent as provided in this section, shall be deemed to be in possession of such goods or documents whether they are in his or her actual custody or are held by any other person subject to his or her control, or for him or her or on his or her behalf.

(5) Where any loan or advance is made in good faith to any factor or agent entrusted with and in possession of the goods or document of title on the faith of any contract or agreement in writing to consign, deposit, transfer, or deliver the goods or document of title, and the goods or document of title are actually received by the person making such loan or advance, without notice that the factor or agent was not authorised to make the pledge or security, the loan or advance shall be deemed to be a loan or advance on the security of the goods or document of title and within the meaning of this section, though such goods or document of title are not actually received by the person making such loan or advance till the period subsequent thereto.

(6) 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.

(7) A contract or agreement whether made direct with such factor or agent as provided in this section or with any person on his or her behalf shall be deemed to be a contract or agreement with such factor or agent.

(8) A factor or agent entrusted as provided in this section, 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.

Fraud by directors, etc.

22. A person who—

- (a) being a director, public officer, or manager, of any body corporate or public company—
 - (i) as such, receives or possesses himself or herself of any property of such body corporate or public company and, with intent to defraud, omits to make, or causes to be made, a full and true entry thereof in the books and accounts of such body corporate or public company;
 - (ii) makes, circulates, or publishes, or concurs in making, circulating, or publishing, any written statement or account which he or she knows to be false in any material particular with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or public company; or with intent to induce any person

to become a shareholder or partner therein, or to entrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof.

- (b) being a director, public officer, manager, or member, of any body corporate or public company with intent to defraud—
 - (i) destroys, alters, mutilates, or falsifies, any book, paper, writing or valuable security, belonging to such body corporate or public company;
 - (ii) makes or concurs in the making of any false entry, or omits or concurs in omitting any material particular in any book of account or other document,

commits a misdemeanour, and, on conviction, is liable to imprisonment with or without hard labour for a term not exceeding seven years.

Falsification of accounts.

23. A person who—

- (a) being a clerk or servant or person employed in the capacity of a clerk or servant wilfully and with intent to defraud—
 - (i) destroys, alters, mutilates, or falsifies, any book, paper, writing, valuable security, or account, belonging to or in the possession of his or her employer, or received by him or her for or on account of his or her employer; or
 - (ii) makes or concurs in making any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from, or in such book or any document or account;
- (b) being employed in the public service of the Crown, or being a member of or employed in the Police Force—
 - (i) destroys, alters, mutilates, or falsifies, any book, paper, writing, valuable security, or account, belonging to, or in the possession of the Crown, or received by him or her for or on behalf of the Crown; or
 - (ii) makes or concurs in making any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from or in any such book or any document or account,

commits a misdemeanour, and, on conviction, is liable to imprisonment with or without hard labour for a term not exceeding five years.

Personation with intent to obtain land, etc.

24. A person who falsely and deceitfully personates any person, or the heir, executor, administrator, wife, widow, next of kin, or relation, of any person, with intent to fraudulently obtain any land, estate, chattel, money, valuable security, or property, commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding five years.

False pretences.

25. A person who, by any false pretence—

- (a) 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 herself or to any person for the use or benefit or on account of himself or herself or any other person; or
- (b) with intent to defraud or injure any other person, fraudulently causes or induces any other person—
 - (i) to execute, make, accept, endorse, or destroy, the whole or any part of any valuable security; or
 - (ii) to write, impress, or affix, his or her 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 it may be afterwards made or converted into, or used or dealt with as, a valuable security,

commits a misdemeanour, and, on conviction, is liable to imprisonment with or without hard labour for a term not exceeding five years.

Sacrilege.

26. A person who—

- (a) breaks and enters any place of divine worship and commits any felony in that place; or
- (b) breaks out of any place of divine worship having committed any felony in that place;

commits a felony called sacrilege, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding seven years.

Burglary.

27. A person who, in the night—

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

commits a felony called burglary, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding twenty years.

(Amended by Act 10 of 1998)

Housebreaking and committing felony.

28. A 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, workshop, or other building, or any building belonging to the Crown, or to any Government department, or to any municipal or other public authority, and commits any felony therein; or
- (b) breaks out of any such place, having committed any felony therein,

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding ten years.

(Amended by Act 10 of 1998)

Housebreaking with intent to commit felony.

29. A person who, with intent to commit any felony therein—

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

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding five years.

Being found by night armed or in possession of housebreaking implements.

30. (1) A person who is found at night—

- (a) armed with any dangerous or offensive weapon or instrument, with intent to break or enter into any building and to commit any felony in the building;
- (b) having in his or her possession without lawful excuse (the proof of which shall lie on such person) any key, picklock, crow, jack, bit, or other implement of housebreaking;
- (c) having his or her face blackened or disguised with intent to commit any felony; or
- (d) in any building with intent to commit any felony in the building,

commits a misdemeanour.

(2) A person referred to in subsection (1) is liable, on conviction—

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

(Amended by Act 10 of 1998)

Robbery.

31. (1) A 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; or
- (b) robs any person and, at the time of or immediately before or immediately after such robbery, uses any personal violence to any person,

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding twenty years.

(Amended by Act 10 of 1998)

(2) A person who robs any person commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding ten years.

(Amended by Act 10 of 1998)

(3) A person who assaults any person with intent to rob commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding seven years.

(Amended by Act 10 of 1998)

Demanding money, etc., with menaces.

32. (1) A person who—

- (a) without any reasonable or probable cause, utters, knowing the contents thereof, any letter or writing demanding of any person with menaces, any property or valuable thing;
- (b) with intent to extort or gain thereby any property or valuable thing from any person, 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; or
- (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,

commits a felony, and, on conviction, is liable to imprisonment with hard labour for a term not exceeding seven years.

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

- (a) by any unlawful violence to, or restraint of the person of another; or
- (b) by accusing or threatening to accuse any person (whether living or dead) of any crime to which this section applies, or of any felony,

compels or induces any person to execute, make, accept, endorse, alter, or destroy, the whole or any part of any valuable security, or to write, impress, or affix, the name of any person, company, firm, or 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, commits a felony, and, on conviction, is, liable to imprisonment with hard labour for a term not exceeding seven years.

(3) This section applies to any crime punishable with death, or imprisonment for not less than five years, or to any assault with intent to commit any rape, or to any attempt to commit any rape, or to 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.

33. A person who, with menace or by force, demands of any person anything capable of being stolen, with intent to steal such thing, commits a felony, and, on conviction, is, liable to imprisonment with hard labour for a term not exceeding five years.

Threatening to publish, with intent to extort.

34. A 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),

commits a misdemeanour, and, on conviction, is liable to imprisonment with or without hard labour for a term not exceeding two years.

Receiving.

35. (1) A person who receives any property knowing the same to have been stolen or obtained in any way under circumstances which amount to felony or misdemeanour, commits an offence of the like degree (whether felony or misdemeanour) and on conviction thereof is liable—

- (a) in the case of felony, to imprisonment with hard labour for a term not exceeding ten years;
- (b) in the case of misdemeanour, to imprisonment with or without hard labour for a term not exceeding five years.

(2) The person referred to in subsection (1) may be indicted and convicted whether the principal offender has or has not been previously convicted, or is or is not amenable to justice.

(3) A person who, without lawful excuse, receives or has in his or her possession any property stolen or obtained outside the State, knowing it to have been stolen or obtained in any way, under such circumstances that if the act had been committed in the State the person committing it would have been guilty of felony or misdemeanour, commits an offence of the like degree (whether felony or misdemeanour) and, on conviction, is liable to imprisonment with or without hard labour for a term not exceeding seven years.

Corruptly taking a reward.

36. A 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 or received, (unless he or she has used all due diligence to cause the offender to be brought to trial for such offence) commits a felony, and, on

conviction, is liable to imprisonment with hard labour for a term not exceeding five years.

Procedure.

37. (1) On the trial of an indictment for obtaining or attempting to obtain any chattel, money, or valuable security, by any false pretence, it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged with intent to defraud.

(2) An allegation in an indictment that money or bank notes have been embezzled or obtained by false pretences may, 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 or her in order that some part of the value thereof should be returned to any person and such part has been returned accordingly.

(3) 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 indicted and tried together.

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

General deficiency.

38. 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.

Accessories and abettors.

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

Husband and wife.

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

Provided that no proceedings under this Act 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 Act, shall be in like manner liable to criminal proceedings by her husband.

Arrest without warrant.

41. A person who is found committing any offence punishable under this Act, except an offence under section 34, may be immediately apprehended without a warrant by any person, and forthwith taken, together with the property, if any, before a Magistrate to be dealt with according to law.

Search warrants.

42. If it be made to appear by information on oath before a Magistrate that there is reasonable cause to believe that any person has in his or her custody or possession, or on his or her premises any property, with respect to which any offence against this Act has been committed, the Magistrate may grant a warrant to search for and seize the same.

Compulsory disclosure in civil action or bankruptcy.

43. (1) A person shall not be liable to be convicted of any offence against sections 8, 9(a), 19, 20 and 21 upon any evidence in respect of any act done by him or her, if at any time previously to his or her being charged with such offence he or she 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.

(2) In any proceedings in respect of any offence against sections 8, 9(a), 19, 20 and 21, 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.

Venue.

44. (1) A person charged with any offence against this Act may be dealt with, indicted, tried, and punished in any circuit or place in which he or she was apprehended or is in custody as if the offence had been committed in that circuit or place; and for all purposes incidental to or consequential on the prosecution, trial, or punishment of the offence, it shall be deemed to have been committed in that circuit or place.

(2) A person who steals or otherwise feloniously takes any property in any one part of the State may be dealt with, indicted, tried, and punished in any other part of the State where he or she has the property in his or her possession in the same manner as if he or she had actually stolen or taken it in that part.

Punishments.

45. (1) A person who commits the offence of simple larceny, after having been previously convicted of felony, shall be liable to imprisonment with hard labour for a term not exceeding seven years.

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

(a) of any misdemeanour punishable under this Act; or

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

shall be liable to imprisonment with or without hard labour for a term not exceeding five years.

(3) On conviction of a felony or misdemeanour punishable under this Act, the court, instead of or in addition to any other punishment which may lawfully be imposed for the offence—

- (a) may fine the offender; or
- (b) may require the offender to enter into his or her own recognizances, with or without sureties, for keeping the peace and being of good behaviour:

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

Verdict.

46. (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 the robbery and find him or her guilty of an assault with intent to rob, and thereupon he or she shall be liable to be punished accordingly.

(2) If, on the trial of any indictment for any offence against section 18 (relating to embezzlement), it is proved that the defendant stole the property in question, the jury may find him or her guilty of stealing, and thereupon he or she 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 or she 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 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 or her guilty of obtaining the chattel, money, or valuable security, by false pretences, and thereupon he or she 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 or she 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.

47. (1) If any person who commits such felony or misdemeanour as is mentioned in this Act, in stealing, taking, obtaining, extorting, embezzling, converting, having in his or her possession, 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 or her 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 hereinafter defined in this section) 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 or her personal representative, by reason only of the conviction of the offender:

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

- (a) any valuable security which has been in good faith paid or discharged by some person or body corporate liable to the payment thereof, or, being a negotiable instrument, has been in good faith taken or received by transfer or delivery by some person or body corporate for a just and valuable consideration without any notice or without any reasonable cause to suspect that it had been stolen;
- (b) any offence against sections 19, 20 and 21.

(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 or her 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 shall be delivered to the said purchaser.

(4) For the purposes of this section “goods” include all chattels personal other than things in action and money; the term includes emblements, industrial growing crops, and things attached to or forming part of land.

Offences punishable on summary conviction.

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

(Amended by Act 6 of 1976)
