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such orders shall be made, to the use of the said Seaman or Mariner; and in default thereof, the said person so detaining the same, to be committed to gaol, there to remain without bail, until the payment of the sum so ordered, and costs aforesaid: Provided always, that no proceedings shall be had unless the value of the articles alleged to be detained shall not exceed ten pounds; and provided also, that no Innholder or Tavern keeper, or other such person shall be allowed to make any claim before the said Justices, for any lien on the said articles mentioned in the said Warrant, or any debt due from the said Seaman or Mariner, if it shall appear that the said Seaman or Mariner was at the time of such application a deserter from or belonging to any ship or vessel.

Proviso as to value of articles and lien of Tavern Keepers.

X. And be it enacted, That all prosecutions instituted for the recovery of any of the penalties imposed for the breach or breaches of any of the provisions of this Act, may be brought in the name of the owner or owners, master, agent or consignee of the ship or vessel to which such Mariner or Mariners, at the time of such breach or breaches shall belong, on account of whom such penalty or penalties shall be incurred.

Prosecutions for penalties may be instituted in the name of the owner, &c. of the vessel to which the Mariner shall belong.

XI. And be it enacted, That this Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight hundred and forty five.

Limitation.

Revised by 13<sup>th</sup> Dec  
Cap 53

CAP. LXIII.

An Act further to regulate proceedings in Replevin, by allowing damages in certain cases to the Defendant.

Passed 31st March 1840.

WHEREAS great injustice is sometimes committed by the wrongful Replevin of goods and chattels, in consequence of the party from whose possession such goods and chattels may be taken by Replevin not being entitled to recover damages where a return may be awarded; Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That if, upon the trial of any issue respecting the property in any action of Replevin, or of any other issue which, upon the same being found in his favour, will entitle the Defendant to judgment for the return of the goods and chattels replevied, or any part thereof, the Jury shall find such issue in favor of the Defendant, such Jury may if they shall think fit, give damages to the Defendant; and the Defendant may enter up his judgment thereupon with such damages and the costs of suit, and may issue execution for such damages and costs in like manner as he now may for the costs of suit only.

Jury may give damages to the Defendant where he would be entitled to judgment for return of goods replevied.

Judgment may be entered up for damages and costs.

II. And whereas it may often be of advantage to allow the goods and chattels which may be wrongfully replevied to be valued by the Jury at the trial of any such issue as aforesaid, and such value to be awarded to the Defendant in damages; Be it enacted, That in all cases where the property may not have been already restored to the Defendant, the Jury on the trial of any such issue as aforesaid may, at the instance and request of the Defendant in whose favour such issue may be found, award to such Defendant the value of the goods and chattels in damages; and in such case it shall be so specifically stated in the rendering of their verdict; and the Defendant shall be thereupon entitled to enter up his judgment for the recovery of such damages, and to issue execution thereupon, instead of entering up judgment *de retorno habendo* as heretofore accustomed; and upon the award of such value in damages and judgment thereupon, the Defendant's right and interest in such goods and chattels shall become vested in the Plaintiff.

Jury may award the value of the goods in damages at the request of the Defendant.

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III.

a) See 50 Geo. 3. c. 21 440 di 4. c. 38

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Obligors in Replevin Bonds to be liable for the damages awarded.

Justices of Supreme Court to prescribe forms for Replevin Bonds and entering verdict or judgment.

Forms to be applicable to the Common Pleas.

Commencement of Act.

III. And be it enacted, That all obligors in Replevin Bonds to be made after this Act takes effect, shall become liable and bound to the payment of any such damages as may be awarded to the Defendant by virtue of this Act.

IV. And be it enacted, That the Justices of the Supreme Court, or any three of them, shall have power and they are hereby authorized and required at any Term of the said Court which may occur after the time of passing this Act, to frame and prescribe proper and suitable forms for the Replevin Bonds hereafter to be taken, and for the entering of any verdict or judgment pursuant to this Act, which shall be published in the Royal Gazette; and such forms shall, from the time of this Act taking effect, be observed and complied with in the same manner as if the same were in this Act specified and contained; and such forms shall be applicable to the Inferior Court of Common Pleas as well as the Supreme Court.

V. And be it enacted, That this Act shall commence and take effect on the first day of January in the year of our Lord one thousand eight hundred and forty one: Provided always, that in the mean time the Justices of the Supreme Court may frame and prescribe the forms mentioned in the fourth Section: Provided also, that nothing in this Act contained shall extend or be construed to extend to affect any proceedings in any action of Replevin commenced before this Act goes into operation.

CAP. LXIV.

Act in addition to the Acts for the amendment of the Criminal Law.

Passed 31st March 1840.

Offenders convicted of specified offences as misdemeanors may be sentenced to imprisonment with or without hard labor, be fined and required to find sureties for keeping the Peace.

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That where any person shall be charged with and convicted of any of the following offences as misdemeanors, that is to say, of any riot, falsely making or counterfeiting any coin, uttering any counterfeit coin knowing the same to be counterfeit, any subornation of perjury, keeping any bawdy house, gaming house or other disorderly house, or of any act of open lewdness or indecency, in any such case the Court may sentence the offender to be imprisoned with or without hard labour in the Common Gaol or House of Correction for any term not exceeding two years, and may also, if it shall so think fit, fine the offender and require him to find sureties for keeping the Peace and being of good behaviour.

II. And whereas in and by the fourth, fifth, sixth and seventh sections respectively of an Act made and passed in the first year of the Reign of His late Majesty King William the Fourth, intituled "An Act for improving the administration of Justice in Criminal cases," it is enacted that the Justice or Justices or Coroner, as the case may be, by whom any examinations, informations, evidence, inquisitions, bailments and recognizances which are in and by the said respective sections of the said Act required, shall be taken, shall deliver or transmit the same to the proper Officer of the Court in which the trial is to be, before or at the opening of the Court; and whereas great inconvenience and detriment to the course of public justice are found to arise from the delays which occur in such delivery or transmission: for remedy whereof, Be it enacted, That the Justice or Justices or Coroner, as the case may be, by or before whom shall be taken any such examinations, informations, evidence, inquisitions, bailments or recognizances as are in the said respective sections of the said Act required or mentioned, shall deliver or transmit the same to the proper Officer of the Court where the trial is to be, forthwith after the same shall be taken, any thing contained

Examinations, Informations, bailments, recognizances, &c. to be delivered to the proper officer of the Court forthwith after the same shall be taken.

Section referred to  
Act - c. 91

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11 W. 4, c. 14.