

## CAP. XXIX.

An Act to consolidate and amend the several Acts of Assembly relating to the Criminal Law of this Province, so far as relates to the definition of certain indictable offences, and the punishment thereof.

Passed 27th March 1849.

**W**HEREAS it is expedient that the several Acts of the Legislature now in force in this Province relating to Felonies and Misdemeanors, should be amended, arranged and consolidated in one Act, defining the said offences, and specifying the punishment due to the same, to the end that the Laws against crime may be the better understood, the more fully obeyed, and the more completely enforced ;

Preamble.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the sixth and seventh sections of an Act made and passed in the twenty sixth year of the Reign of His late Majesty George the Third, intituled *An Act to prevent Gaming* ; also, an Act passed in the same year of the same Reign, intituled *An Act against tumults and disorders, upon pretence of preparing or presenting public Petitions or other Addresses to the Governor or General Assembly* ; also, the eighth section of another Act made and passed in the thirty first year of the same Reign, intituled *An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery and Fornication* ; also, another Act made and passed in the thirty fourth year of the same Reign, intituled *An Act for apprehending persons in any County or place upon Warrants granted by Justices of the Peace of any other County* ; also, another Act made and passed in the forty first year of the same Reign, intituled *An Act for the rendering Justices of the Peace more safe in the execution of their office, and for indemnifying Constables and others acting in obedience to their Warrants* ; also, another Act made and passed in the forty seventh year of the same Reign, intituled *An Act to prevent divers misdemeanors in idle and disorderly persons* ; also, another Act made and passed in the ninth and tenth years of the Reign of His late Majesty George the Fourth, intituled *An Act for the more speedy and effectual punishment of persons keeping disorderly Houses* ; also, the second section of another Act made and passed in the same year of the same last mentioned Reign, intituled *An Act for amending the Laws of Evidence in certain cases* ; also, another Act made and passed in the same year of the said last mentioned Reign, intituled *An Act to amend the Statute Law relative to offences against the person, and to provide for the more effectual punishment of such offences* ; also, another Act made and passed in the tenth and eleventh years of the same last mentioned Reign, intituled *An Act to provide for the conveyance of Criminals from County to County within the Province* ; also, another Act made and passed in the said last mentioned year, intituled *An Act for the more summary punishment of persons guilty of maliciously killing, maiming, disfiguring or otherwise injuring Cattle* ; also, another Act made and passed in the said last mentioned year, intituled *An Act in addition to and explanatory of an Act to amend the Statute Law relative to offences against the person, and to provide for the more effectual punishment of such offences* ; also, another Act made and passed in the first year of the Reign of His late Majesty William the Fourth, intituled *An Act for improving the administration of Justice in Criminal cases* ; also, another Act made and passed in the same year of the same last mentioned Reign, intituled *An Act for consolidating and amending the Laws relative to Larceny, and other offences connected therewith* ; also, another Act made and passed in the same last mentioned year, intituled *An Act for amending the Laws relative to malicious injuries to property* ; also, another Act made and passed in the same last men-

Repealing clause.

26 G 3, c 26, s 6, 7.

26 G 3, c 58.

31 G 3, c 5, s 8.

34 G 3, c 2.

41 G 3, c 2.

47 G 3, c 7.

9 & 10 G 4, c 8.

9 & 10 G 4, c 9, s 2.

9 & 10 G 4, c 21.

10 & 11 G 4, c 19.

10 & 11 G 4, c 22.

10 & 11 G 4, c 32.

1 W 4, c 14.

1 W 4, c 15.

1 W 4, c 16.

tioned

- tioned year, intituled *An Act further to amend the Laws relative to offences against the person*; also, another Act made and passed in the same last mentioned year, intituled *An Act to provide for setting and keeping to hard labour persons adjudged to that punishment*; also, another Act made and passed in the same last mentioned year, intituled *An Act for further improving the administration of Justice in Criminal cases*; also, another Act made and passed in the same last mentioned year, intituled *An Act to repeal the Act now in force against the profanation of the Lord's Day, commonly called Sunday, and for the suppression of immorality, and to make other provisions in lieu thereof*; also, another Act made and passed in the third year of the said last mentioned Reign, intituled *An Act to explain an Act, intituled 'An Act for the more summary punishment of persons guilty of maliciously killing, maiming, disfiguring or otherwise injuring Cattle*; also, another Act made and passed in the fourth year of the said last mentioned Reign, intituled *An Act to provide for the punishment of cruelty to animals*; also, another Act made and passed in the same last mentioned year, intituled *An Act to facilitate summary proceedings before Justices of the Peace, and the execution of Warrants by Constables*; also, another Act made and passed in the said last mentioned year, intituled *An Act to prevent Desertion from His Majesty's Forces, and to punish unlawful dealings with Soldiers or Deserters*; also, another Act made and passed in the said last mentioned year, intituled *An Act more effectually to punish the crime of Forgery*; also, another Act made and passed in the said last mentioned year, intituled *An Act for further improving the administration of Justice in Criminal cases*; also, another Act made and passed in the fifth year of the said last mentioned Reign, intituled *An Act for prohibiting and suppressing of Lotteries in this Province*; also, another Act made and passed in the fifth year of the said last mentioned Reign, intituled *An Act to define the crime of Forgery*; also, another Act made and passed in the first year of the Reign of Her present Majesty Queen Victoria, intituled *An Act in addition to the Act for defining the crime of Forgery*; also, another Act made and passed in the third year of Her present Majesty's Reign, intituled *An Act for enabling persons indicted of Felony to make their defence by Counsel*; also, another Act made and passed in the said last mentioned year, intituled *An Act in addition to the Acts for the amendment of the Criminal Law*; also, the thirteenth and fourteenth sections of another Act made and passed in the said last mentioned year, intituled *An Act relating to wrecked property*; also, another Act made and passed in the fifth year of the said last mentioned Reign, intituled *An Act to amend the Law relating to the punishment of offences*; also, another Act made and passed in the said last mentioned year, intituled *An Act to amend the Law relating to Burglary*; also, another Act made and passed in the said last mentioned year, intituled *An Act further to amend the Law relating to offences against the person*; also, another Act made and passed in the said last mentioned year, intituled *An Act to amend the Law relating to Robbery*; also, another Act made and passed in the said last mentioned year, intituled *An Act to amend the Laws relating to burning or destroying Buildings and Ships*; also, another Act made and passed in the sixth year of Her present Majesty's Reign, intituled *An Act in further amendment of the Criminal Law*; also, another Act made and passed in the said last mentioned year, intituled *An Act to amend an Act made and passed in the fifth year of the Reign of Her present Majesty Queen Victoria, intituled "An Act further to amend the Law relating to offences against the person,"* also, another Act made and passed in the said last mentioned year, intituled *An Act to amend an Act made and passed in the fifth year of the Reign of Her present Majesty Queen Victoria, intituled "An Act to amend the Law relating to Burglary,"* also, another Act made and passed in the said last mentioned
- 1 W 4, c 17.  
1 W 4, c 18.  
1 W 4, c 29.  
1 W 4, c 38.  
3 W 4, c 33.  
4 W 4, c 13.  
4 W 4, c 17.  
4 W 4, c 18.  
4 W 4, c 23.  
4 W 4, c 29.  
5 W 4, c 12.  
5 W 4, c 35.  
1 V c 10.  
3 V c 40.  
3 V c 64.  
3 V c 68, s 13, 14.  
5 V c 31.  
5 V c 32.  
5 V c 33.  
5 V c 34.  
5 V c 35.  
6 V c 28.  
6 V c 29.  
6 V c 30.

mentioned year, intituled *An Act to amend an Act made and passed in the fifth year of the Reign of Her present Majesty Queen Victoria, intituled "An Act to amend the Law relating to Robbery;"* also, another Act made and passed in the said last mentioned year, intituled *An Act to amend an Act made and passed in the fifth year of the Reign of Her present Majesty Queen Victoria, intituled "An Act to amend the Laws relating to burning or destroying Ships;"* also, another Act made and passed in the ninth year of Her present Majesty's Reign, intituled *An Act to facilitate the carrying into effect conditional pardons granted by the Crown;* also, another Act made and passed in the said last mentioned year, intituled *An Act relating to the crime of Manslaughter;* also, another Act made and passed in the tenth year of Her present Majesty's Reign, intituled *An Act for the safe custody of insane persons charged with offences, and for the confinement of insane prisoners;* also, another Act made and passed in the said last mentioned year, intituled *An Act to amend an Act, intituled "An Act for improving the administration of Justice in Criminal cases;"* be and the same are hereby repealed, except so far as the said Acts, or any of them, may repeal the whole or any part of any other Act not hereby repealed.

II. And be it enacted, That the Schedule to this Act annexed, shall be deemed and taken to be parcel of this Act, and that the Analysis, and all the Chapters of such Schedule, and all the Sections of such Chapters, and all the Articles of such Sections, and the Headings, Summaries of Contents, and Numbers thereof respectively, shall all be deemed and taken to be enacted by this present Act, as if such Analysis, and every of such Chapters, Sections, Articles, Headings and Numbers, had been expressly and in terms herein recited with the usual words and in the usual forms of enactment or declaration or provisoe as the case may be; and that from the time of this Act taking effect, every one guilty of any offence described in or defined by the said Schedule, shall be liable to such punishment as is therein appointed in respect of such offence.

The Schedule to this Act annexed to be deemed part thereof.

III. Provided always, and be it enacted, That as regards any offence perpetrated before the first day of April in the present year of our Lord one thousand eight hundred and forty nine, and also as regards any offence in part perpetrated by any act done before that day, and which offence shall be completed or consummated on or after that day, the offender shall be punishable as if this Act had not been passed, and this Act shall only commence and take effect from the said first day of April next.

Offences committed before 1st April, 1849, punished as if this Act had not been passed.

IV. Provided also, That nothing in this Act contained shall extend or be construed to extend to affect or annul any conviction, judgment, sentence or commutation of punishment heretofore or which before the first day of April next, may be had, made, passed or allowed, under and by virtue of any Act or Acts hereby repealed, but that all such convictions, judgments, sentences and commutations of punishment, shall be as valid and effectual as if the Acts hereby repealed, continued and remained in full force and effect.

Nothing in this Act to affect or annul former convictions, &c.

V. And be it enacted, That this Act may be repealed, altered or varied at any time during the present Session.

Act may be amended.

## ANALYSIS OF THE FOLLOWING SCHEDULE.

Analysis of  
Schedule.CHAPTER I.—*Offences against the Government.*

Section 1.—Illegal Petitioning.

2.—Offences relating to the Army.

CHAPTER II.—*Offences against Religion.*

Section 1.—Disturbing Religious Assemblies.

2.—Profaning the Lord's Day.

CHAPTER III.—*Offences against Public Morals and Decency.*CHAPTER IV.—*Offences against the Law of Marriage.*CHAPTER V.—*Offences against the Public Peace.*CHAPTER VI.—*Offences against the administration of Justice.*CHAPTER VII.—*Homicide, and other offences against the Person.*CHAPTER VIII.—*Offences against the Habitation.*

Section 1.—Burglary and Breaking.

2.—Arson.

CHAPTER IX.—*Fraudulent Appropriations.*

Section 1.—Robbery and Theft, and other offences connected therewith.

2.—Obtaining by false pretences.

3.—Embezzlement.

4.—Receiving stolen or other Goods.

CHAPTER X.—*Forgery and offences relating to the Coin.*CHAPTER XI.—*Malicious Injuries to Property.*CHAPTER XII.—*Definitions of Terms, and Explanations.*

## SCHEDULE TO WHICH THIS ACT REFERS.

## CHAPTER I.

CAP. I.

## OFFENCES AGAINST THE GOVERNMENT.

## SUMMARY OF CONTENTS.

SECTION 1.—*Illegal Petitioning.*SECTION 2.—*Offences relating to the Army.*

## SECTION 1.

*Illegal Petitioning.*

## ART. 1.

Whosoever shall solicit, labour or procure the getting of hands, or other consent of any persons, above the number of twenty, or more, to any petition, complaint, remonstrance, declaration, or other address to the Legislative Assembly, or either Branch of it, for alteration of matters established by Law, unless the matter thereof have been first consented unto and ordered by three or more of the Justices of the County, or by the majority of the Grand Jury of the County where the same matter shall arise, at their public Assizes or General Quarter Sessions: And whosoever shall repair to the Legislature, or either Branch of it, upon pretence of presenting or delivering any petition, complaint, remonstrance, or declaration, or other addresses, accompanied with excessive number of people, or at any other time, with more than the number of ten persons, shall be guilty of a Misdemeanor, and upon conviction thereof, within six months after the offence committed, and by the oaths of two or more credible witnesses, forfeit and pay a fine not exceeding one hundred pounds, and be imprisoned for the term of three months.

## ART. 2.

Provided that nothing in the preceding Article contained shall be construed to extend to debar or hinder any person or persons, not exceeding the number of twenty, to present any public or private grievance or complaint to any Member or Members of the Legislative Council or Assembly during the sitting of the General Assembly, or to the Lieutenant Governor or the Administrator of the Government for the time being, for any remedy to be thereupon had; nor to extend to any address whatsoever to the Lieutenant Governor or Administrator of the Government for the time being, by all or any of the Members of the Legislative Council and Assembly, or either of them, during the sitting of the General Assembly, but that they may enjoy their freedom of access to His Excellency as heretofore has been used.

## SECTION 2.

*Offences relating to the Army.*

## ART. 1.

Whosoever shall directly or indirectly procure, persuade or solicit any Soldier to desert Her Majesty's Service, or shall assist any Deserter from Her Majesty's Service, knowing him to be such, in deserting or in concealing himself from such service, shall be guilty of a Misdemeanor, and shall, on conviction, be liable to pay a fine of twenty pounds, or in default of payment, be imprisoned for a term not exceeding six months.

Persuading Soldiers  
to desert or conceal-  
ing Deserters.

## ART. 2.

Buying from Soldiers or Deserters any Arms, &c.

Whosoever shall buy, exchange, or detain, or otherwise receive from any Soldier or Deserter, upon any account whatever, any arms, clothing, caps, or other furniture belonging to Her Majesty, or any such articles belonging to any Soldier or Deserter as are generally deemed regimental necessaries according to the custom of the Army, or shall exchange, buy or receive from any Soldier any provisions, unless by consent of the Officer Commanding the Regiment or Detachment to which such Soldier shall belong, shall be guilty of a Misdemeanor, and on conviction, shall pay a fine of five pounds, or be imprisoned for a term not exceeding six months.

CAP. II.

## CHAPTER II.

## OFFENCES AGAINST RELIGION.

## SUMMARY OF CONTENTS.

SECTION 1.—*Disturbing Religious Assemblies.*SECTION 2.—*Profaning the Lord's Day.*

## SECTION 1.

*Disturbing Religious Assemblies.*

Disturbing Religious Assemblies.

Whosoever shall maliciously or contemptuously disquiet or disturb any meeting, assembly, or congregation whatsoever of persons, assembled for Religious worship, or shall in any wise disturb, molest, or misuse any Preacher, Teacher, or person officiating at such meeting, assembly, or congregation, or any person or persons there assembled, and shall be convicted thereof, by the oath of one or more credible witnesses, before any one of Her Majesty's Justices of the Peace in any County within this Province, shall, for every such offence, forfeit and pay a sum of not less than ten shillings nor more than forty shillings, at the discretion of such Justice, and in default of payment, shall be committed to the Common Gaol of the County where the offence may be committed, for any term not less than twenty four hours nor more than ten days, at the discretion of the said Justice.

## SECTION 2.

*Profaning the Lord's Day.*

Profaning the Lord's Day.

Any person who shall be convicted, by the oath of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace in any County within this Province, of shooting, gaming, sporting, playing, hunting, drinking, or frequenting tippling houses, or of servile labour, (works of necessity and mercy excepted,) on the Lord's Day, commonly called Sunday, shall for every such offence, forfeit and pay a sum not less than five shillings nor more than forty shillings, at the discretion of such Justice, and on default of payment, shall be committed to the Common Gaol of the County where the offence may be committed, for a term not less than twelve hours nor more than four days, at the discretion of such Justice.

CAP. III.

## CHAPTER III.

## OFFENCES AGAINST PUBLIC MORALS AND DECENCY.

## SUMMARY OF CONTENTS.

Article 1, Drunkenness; Art. 2, Incest, Adultery and Fornication; Art. 3, Gaming House, Bawdy House, and other disorderly House; Art. 4, Who Master or Mistress of Gaming House, &c.; Art. 5 and 6, Lotteries.

ART. 1.

## ART. 1.

Any person who shall be convicted of Drunkenness, either on view or by the oath of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace, shall, for every such offence, forfeit and pay a sum not less than five shillings nor more than twenty shillings, at the discretion of such Justice, and in default of payment, shall be committed to the Common Gaol of the County where the offence may be committed, for a term not less than twelve hours nor more than four days, at the discretion of such Justice.

Drunkenness.

## ART. 2.

Any person who shall be lawfully convicted of incest, adultery, or fornication, by any Court of Oyer and Terminer or General Gaol Delivery in this Province, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years.

Incest, Adultery and Fornication.

## ART. 3.

Any person who shall keep any common gaming house, bawdy house, or other disorderly house, room, or place, and being thereof lawfully convicted before any Court of Oyer and Terminer or General Gaol Delivery, or General Sessions of the Peace, shall be liable to be imprisoned for any term not exceeding two years.

Gaming house, bawdy house, or other disorderly house.

## ART. 4.

Any person who shall appear, act, or behave himself or herself as Master or Mistress, or as the person having the care, government or management of any gaming house, bawdy house, or other disorderly house, shall be deemed and taken to be the keeper thereof, and shall be liable to be prosecuted and punished as such, notwithstanding he or she shall not in fact be the real owner or keeper thereof.

Who master or mistress of gaming house, &amp;c.

## ART. 5.

Whosoever shall set up, or shall by writing or printing, publish the setting up of any Lottery with intent to have such Lottery drawn, or to induce persons to purchase tickets for any such Lottery, or shall play, throw or draw at any such Lottery, or shall purchase any lot, card or ticket for any such Lottery, shall be guilty of a Misdemeanor, and shall be liable to be fined or imprisoned, or both, at the discretion of the Court.

Publishing or drawing Lotteries.

## ART. 6.

Nothing in the last preceding Article shall extend or be construed to extend to affect the disposal or allotment of Fishing Lots or Drafts in the City of Saint John, under the direction of the Mayor, Aldermen and Commonalty of the said City, in manner heretofore accustomed.

Exceptions.

## CHAPTER IV.

CAP. IV.

## OFFENCES AGAINST THE LAW OF MARRIAGE.

## SUMMARY OF CONTENTS.

Article 1, Bigamy; Art. 2, Exceptions; Art. 3, Persons not authorized celebrating or assisting at a Marriage; Art. 4, Celebrating Marriage without Bans or Licence; Art. 5, Limitation.

## ART. 1.

Whosoever being married shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in this Province or elsewhere, shall be guilty of Felony, and being convicted thereof, shall

Bigamy.

shall be liable to be imprisoned for any term not exceeding two years, and also fined, if the Court should so award.

## ART. 2.

Exceptions.

Provided that nothing in the last preceding Article contained, shall extend to any second marriage contracted out of this Province by any other than a subject of Her Majesty, or to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any person who at the time of such second marriage shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any Court of competent jurisdiction.

## ART. 3.

Person not authorized, celebrating or assisting at a marriage.

Whosoever not being first thereto duly authorized, shall presume to solemnize or celebrate marriage, or shall officiate or assist in solemnizing or celebrating or making any [marriage, or contract of present marriage, between any persons whomsoever, any such offender being thereof convicted upon indictment or information of Her Majesty's Attorney General before any Court of Oyer and Terminer and General Gaol Delivery, shall for every such offence forfeit and pay a fine to the use of Her Majesty, not exceeding one hundred pounds nor less than fifty pounds, and suffer twelve months imprisonment.

## ART. 4.

Celebrating Marriage without Bans or Licence.

Whosoever being duly authorized to solemnize marriage, shall presume to solemnize or celebrate marriage between any persons whomsoever, before proclamation or notification of Bans of Matrimony between them first made according to Law, except a Licence be first had and obtained therefor by and under the Hand and Seal of the Lieutenant Governor or Administrator of the Government for the time being, shall be guilty of a Misdemeanor, and shall be liable on conviction, to pay a fine of twenty pounds.

## ART. 5.

Limitation.

Provided that any prosecution for any offence or penalty under the last preceding Article, shall be commenced within twelve months after such offence committed, and not afterwards.

CAP. V.

## CHAPTER V.

## OFFENCES AGAINST THE PUBLIC PEACE.

## SUMMARY OF CONTENTS.

Article 1, Unlawful Assemblies continuing together after Proclamation; Art. 2, Order and Form of Proclamation; Art. 3, Obstructing persons making Proclamation; Art. 4, Not dispersing after Proclamation; Art. 5, Unlawful Assembly; Art. 6, Riotously pulling down Buildings, &c.; Art. 7, Riot; Art. 8 and 9, Affray; Art. 10, Rout.

## ART. 1.

Unlawful Assemblies continuing together after Proclamation to disperse.

If any persons to the number of twelve or more, being unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace, and being required or commanded by the Sheriff or his Under Sheriff, or any Justice of the Peace of the County, or by the Mayor or other head Officer for the time being, or any Justice of the Peace of any City or Town Corporate, where such assembly shall be, by Proclamation to be made in the form hereinafter in the



the next succeeding Article, directed to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, shall to the number of twelve or more, (notwithstanding such Proclamation made,) unlawfully, riotously and tumultuously remain or continue together by the space of one hour after such Proclamation shall have been made, every such offender shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding four years.

## ART. 2.

The order and form of such Proclamation as is mentioned in the last preceding Article shall be as follows, (that is to say,) the person authorized by that Article to make such Proclamation shall, among the rioters, or as near as he can safely come, with a loud voice, command or cause to be commanded silence while Proclamation is making, and immediately after that shall openly and with a loud voice make or cause to be made Proclamation in the words following, or to the like effect:—‘Our Sovereign Lady the Queen charges and commands all persons being here assembled immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, or they will incur the penalty of the Law against unlawful assemblies.—GOD SAVE THE QUEEN.’

Order and form of Proclamation.

## ART. 3.

Whosoever shall forcibly oppose or hurt, or in any manner hinder or obstruct any person lawfully making or endeavouring to make such Proclamation, as in the last two preceding Articles is mentioned, whereby such Proclamation shall not be made, shall be liable to be imprisoned for any term not exceeding two years.

Obstructing persons making Proclamation.

## ART. 4.

If any persons, to the number of twelve or more, being unlawfully, riotously and tumultuously assembled together, to whom Proclamation should or ought to have been made if the same had not been obstructed or hindered, as in the last preceding Article is mentioned, shall, knowing of such obstruction and hindrance, continue together and not disperse themselves within one hour after such obstruction and hindrance made, any such offender shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years.

Not dispersing after Proclamation obstructed.

## ART. 5.

If three or more persons shall assemble, or having assembled, shall continue together with intent, without lawful authority, to execute any common purpose with force and violence, or in so violent and tumultuous a manner, and under such circumstances as are calculated to create terror and alarm amongst Her Majesty's subjects, such persons shall be deemed to be guilty of an unlawful assembly, and each of them shall be liable to be imprisoned for a term not exceeding two years.

Unlawful Assembly.

## ART. 6.

If any persons riotously and tumultuously assembled together, to the disturbance of the public peace, shall unlawfully and with force, demolish, pull down or destroy, or begin to demolish, pull down, or destroy any church, chapel, or meeting house, for the exercise of any mode or form of Religious worship, or any house, stable, coach house, out house, warehouse, office, shop, mill, malt house, barn, or granary, or any building or erection used in carrying on any trade or manufacture or any branch thereof, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture, or in any branch thereof, any such offender

Riotously pulling down Buildings, &amp;c.

offender shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years.

## ART. 7.

Riot. If three or more persons shall assemble, or being assembled, shall continue together with such intent, to execute any common purpose, as is essential to constitute an unlawful assembly, within the meaning of Article 5 of this Chapter, and shall wholly, or in part, execute such purpose with force and violence, or in so violent and tumultuous a manner, and under such circumstances as are calculated to create terror and alarm amongst Her Majesty's subjects, such persons shall be deemed to be guilty of a Riot, and each of them shall be liable to be imprisoned for any term not exceeding two years.

## ART. 8.

Affray by fighting ; If two or more persons shall fight together in a public place, in such a manner and under such circumstances as are calculated to create terror and alarm amongst Her Majesty's subjects, such persons shall be deemed to be guilty of an Affray, and each of them shall be liable to be imprisoned for any term not exceeding two years.

## ART. 9.

By carrying weapons. If two or more persons shall openly carry dangerous and unusual weapons in any public place, in such a manner and under such circumstances as are calculated to create terror and alarm amongst Her Majesty's subjects, such persons shall be deemed to be guilty of an Affray, and each of them shall be liable to be imprisoned for any term not exceeding twelve months.

## ART. 10.

Rout. If three or more persons shall assemble, or being assembled, shall continue together with such intent, to execute any common purpose as is essential to constitute an unlawful assembly, within the meaning of Article 5 of this Chapter, and shall use any endeavour to execute such purpose, such persons, although such purpose shall not be executed, either wholly or in part, shall be deemed to be guilty of a Rout, and each of them shall be liable to be imprisoned for any term not exceeding two years.

CAP. VI.

## CHAPTER VI.

## OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE.

## SUMMARY OF CONTENTS.

Article 1, Assault upon Peace Officers, &c. ; Art. 2, Assault to resist apprehension for Offence ; Art. 3, Shooting, Stabbing, Wounding, &c., to resist or prevent apprehension ; Art 4, Perjury or subornation of Perjury ; Art. 5, Rescue or breach of Prison ; Art 6, False copy of Order or Certificate of Indictment, &c. ; Art. 7, Stealing or injuring Instruments of Justice ; Art. 8, Not to affect civil remedy ; Art. 9, Taking reward for helping to stolen goods.

## ART. 1.

Assault upon Peace Officer, Revenue Officer, &amp;c.

Whosoever shall be charged with and convicted of any assault upon any Peace Officer, Constable, Marshal, or Revenue Officer, in the due execution of his duty, or upon any person acting in aid of such Officer, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years, and fined if the Court shall so direct.

## ART. 2.

Assault to resist apprehension for offence.

Whosoever shall assault any person with intent to resist the lawful apprehension or detainer of the party so assaulting, or of any other person for any offence  
for

for which he or they may be liable by Law to be apprehended or detained, shall in such case be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years, and fined if the Court shall so direct.

## ART. 3.

Whosoever shall maliciously shoot at any other person, or shall, by drawing a trigger or in any other manner attempt to discharge any kind of loaded arms at any other person, or shall maliciously stab, cut or wound any other person, with intent, in any of the cases aforesaid, to resist or prevent the lawful apprehension or detainer of the party so offending, or of any of his accomplices, for any offence for which he or they may be respectively liable by Law to be apprehended or detained, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Shooting, stabbing, &c.; to resist or prevent apprehension.

## ART. 4.

Whosoever shall be charged with and convicted of Perjury or subornation of Perjury, shall be guilty of a Misdemeanor, and shall be liable in any such case to be imprisoned for any term not exceeding two years.

Perjury or subornation of Perjury.

## ART. 5.

Whosoever shall be charged with and convicted of any rescue or breach of Prison, shall be guilty of a Misdemeanor, and shall be liable in any such case to be imprisoned for any term not exceeding two years.

Rescue or breach of Prison.

## ART. 6.

Whosoever being Clerk of any Court of Justice, or other Officer having the custody of the Records of such Court, or being the Deputy of such Clerk or Officer, shall certify an order as true, knowing the same to be false, any false copy or certificate of any Indictment or Conviction, or shall utter any such copy or certificate with a false or forged signature thereto, knowing the same to be false or forged, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding three years.

False copy of Order or Certificate of Indictment, &c.

## ART. 7.

Whosoever shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall maliciously obliterate, injure or destroy any written instrument of justice, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years, and fined at the discretion of the Court.

Stealing or injuring Instruments of Justice.

## ART. 8.

Nothing in the last preceding Article contained shall in any wise affect any civil remedy of any parties.

Not to affect civil remedy.

## ART. 9.

Whosoever shall corruptly take any money, or receive directly or indirectly, under pretence or upon account of helping any person, to any chattel, money, valuable security, or moveable thing, which shall by any felony or misdemeanor have been stolen, taken, detained, or converted, shall (unless the person so taking, agreeing, or consenting to take such money or reward, shall cause the offender to be apprehended and brought to trial for the same,) be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Taking reward for helping to stolen goods.

## CHAPTER VII.

## HOMICIDE AND OTHER OFFENCES AGAINST THE PERSON.

## SUMMARY OF CONTENTS.

SECTION 1.—*Homicide.*

Article 1, Murder; Art. 2, Petit Treason, Murder; Art. 3, Manslaughter; Art. 4, When no forfeiture, &c.

## SECTION 2.

Article 1, Administering Poison, or by means manifesting a design to kill, causing bodily harm, with intent to kill; Art. 2, Attempt to kill, although no bodily harm be caused; Art. 3, Grievous bodily harm; Art. 4, By means manifesting a design to do grievous bodily harm, attempting to cause such harm; Art. 5, Setting fire to, casting away, or destroying Ship, with intent to murder, or put life in danger; Art. 6, Hindering person from saving his life from Vessel in distress; Art. 7, Attempting to procure Abortion; Art. 8, Exception; Art. 9, Secreting dead body of child with intent to conceal birth; Art. 10, Rape; Art. 11, Carnally knowing girl under ten years of age; Art. 12, Carnally knowing girl above ten and under twelve years of age; Art. 13, Buggery; Art. 14, What constitutes carnal knowledge; Art. 15, Unlawful abduction of girl under sixteen years of age; Art. 16, Assault with intent to commit Felony; Art. 17, On trial for Felony may convict for Assault.

## SECTION 1.

*Homicide.*

## ART. 1.

Murder.

Every person who shall be convicted of Murder, or being an accessory before the fact to Murder, shall suffer death as a Felon; and being an accessory after the fact to Murder, shall be liable to be imprisoned for any term not exceeding four years, and fined if the Court shall so direct.

## ART. 2.

Petit Treason made Murder.

Every offence which, before the ninth and tenth years of the Reign of King George the Fourth, would have amounted to Petit Treason, shall be deemed to be Murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or accessories, shall be punished as principals and accessories in Murder.

## ART. 3.

Manslaughter.

Any person convicted of Manslaughter shall be liable to be imprisoned for any term not exceeding fourteen years.

## ART. 4.

No punishment or forfeiture when by misfortune, &amp;c.

Provided that no punishment or forfeiture shall be incurred by any person who shall kill another by misfortune, or in his own defence, or in any other manner without Felony.

## SECTION 2.

*Other Offences against the Person.*

## ART. 1.

Administering poison, or by means manifesting a design to kill, causing bodily harm, with intent to kill.

Whosoever shall administer to or cause to be taken by any other person any poison, or other destructive thing, or shall by any means manifesting a design to kill, cause bodily harm to any other person, with intent, in any of such cases, to kill, shall be guilty of Felony; and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years.

## ART. 2.

## ART. 2.

Whosoever shall by any means, manifesting a design to kill, other than the actually administering or causing to be taken poison, or any other destructive thing, attempt to kill, shall, although no bodily harm be caused, be guilty of Felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years.

Attempt to kill, although no bodily harm be caused.

## ART. 3.

Whosoever shall maliciously cause to any other person any grievous bodily harm, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years.

Grievous bodily harm.

## ART. 4.

Whosoever shall maliciously, by any means manifesting a design to cause grievous bodily harm, attempt to cause grievous bodily harm, to any other person, shall, whether any bodily harm be caused to such person or not, be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding four years.

By means manifesting a design to cause grievous bodily harm, attempting to cause such harm.

## ART. 5.

Whosoever shall unlawfully and maliciously set fire to, cast away, or in any wise destroy any ship or vessel, either with intent to murder any other person, or whereby the life of any person shall be put in danger, shall be guilty of Felony, and shall suffer death.

Setting fire to, casting away, or destroying ships, with intent to murder or put life in danger.

## ART. 6.

Whosoever shall maliciously prevent or impede any person being on board of or having quitted any ship or vessel which shall be in distress, or wrecked, stranded or cast on shore, in his endeavour to save his life, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years nor less than three years.

Hindering person saving his life from vessel in distress.

## ART. 7.

Every woman being with child, who, with intent to procure her own miscarriage, shall maliciously administer to herself any poison or other noxious thing, or use any instrument or other means whatever; and every person who, with intent to procure the miscarriage of any woman, shall maliciously administer to or cause to be taken by her, any poison or other noxious thing, or using any instrument or other means whatsoever, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years.

Attempting to procure abortion.

## ART. 8.

Provided that no person, by reason of any act specified in the last preceding Article, shall be punishable when such act is done in good faith, with the intention of saving the life of the woman whose miscarriage is intended to be procured.

Exception.

## ART. 9.

Where any woman shall have been delivered of a child, any person who shall by any secret disposition of the dead body of such child, whether such child died before, at, or after its birth, endeavour to conceal the birth of such child, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years.

Secreting dead body of child with intent to conceal birth.

## ART. 10.

Whosoever shall unlawfully and carnally know any woman against her will, and by force, or whilst she is insensible, shall be guilty of Rape, and shall suffer death as a felon.

Rape.

## ART. 11.

Carnally knowing girl under ten years of age.

Whosoever shall unlawfully and carnally know and abuse any girl under the age of ten years, shall be guilty of Felony, and shall suffer death as a felon.

## ART. 12.

Carnally knowing girl above ten and under twelve years of age.

Whosoever shall unlawfully and carnally know and abuse any girl being above the age of ten years and under the age of twelve years, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for such term as the Court shall award.

## ART. 13.

Buggery.

Whosoever shall commit the crime of Buggery, either with mankind or with a brute animal, shall be guilty of Felony, and shall suffer death as a felon.

## ART. 14.

What sufficient to constitute carnal knowledge.

Any the least degree of penetration, although there be no emission of seed, shall be sufficient to constitute carnal knowledge, as regards the crimes mentioned in Articles 10, 11, 12 and 13 of this Section.

## ART. 15.

Unlawful abduction of girl under sixteen years of age.

Whosoever shall unlawfully take or cause to be taken, whether with or without her consent, any unmarried girl, being under the age of sixteen years, out of the possession or against the will of her father or mother, or of any other person having the lawful care or charge of her, shall be guilty of a Misdemeanor, and shall be liable to suffer such punishment by fine or imprisonment, or both, as the Court shall award.

## ART. 16.

Assault with intent to commit felony.

Whosoever shall assault any other person with intent to commit a felony, shall be liable to be imprisoned for any term not exceeding two years, and fined if the Court shall so direct.

## ART. 17.

On trial for felony may convict of assault.

Whosoever on a trial for any felony whatever, and which shall include an assault, shall be convicted of assault, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding three years.

CAP. VIII.

## CHAPTER VIII.

## OFFENCES AGAINST THE HABITATION.

## SUMMARY OF CONTENTS.

SECTION 1.—*Burglary and Breaking.*

Article 1, Burglary and Breaking; Art. 2, Entering House with felonious intent, and breaking out in night time; Art. 3, What buildings part of House for Burglary; Art. 4, Burglar using violence; Art. 5, Breaking into other buildings than dwelling Houses in night time; Art. 6, Definition of "night;" Art. 7, Breaking into House, &c., in day time; Art. 8, On verdict for Burglary may be convicted of Misdemeanor under Art. 7; Art. 9, No defence on trial for Misdemeanor, that offence Burglary.

SECTION 2.—*Arson.*

Article 1, Arson; Art. 2, Destroying Dwelling House by explosive substance.

## SECTION 1.

*Burglary and Breaking.*

## ART. 1.

Burglary.

Whosoever shall commit the crime of Burglary, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years.

ART. 2.

## ART. 2.

If any person shall enter the dwelling house of another with intent to commit Felony, or being in such dwelling house, shall commit any felony, and shall in either case break out of the said house in the night time, such person shall be deemed guilty of Burglary, and liable to the punishment prescribed therefor in the last preceding Article.

Entering house with felonious intent, and breaking out in night time.

## ART. 3.

Provided always, that no building, although within the same curtilage with the dwelling house, and occupied therewith, shall be deemed to be part of such dwelling house, for the purpose of Burglary, unless there shall be a communication between such building and dwelling house, either immediately or by means of a covered and enclosed passage leading from one to the other.

What buildings part of house for Burglary.

## ART. 4.

Whosoever shall burglariously break and enter into any dwelling house, or any inner part thereof, and shall assault with intent to murder any person being therein, or shall cause any bodily harm, or do any personal violence to such person, shall be guilty of Felony, and shall suffer death.

Burglar using violence.

## ART. 5.

If any person shall, in the night time, break and enter any building, being within the curtilage of a dwelling house, and occupied therewith, but not being part thereof, according to the provisions in the third Article of this Chapter mentioned, or any public office, or other public building, or any shop, warehouse, counting house, bank, office, or other building used or occupied for carrying on any trade or business, such public office, public building, shop, warehouse, counting house, bank, office, or other building, not being a dwelling house, for the purpose of Burglary, with intent in such any case to commit felony, every such offender shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Breaking into other buildings than dwelling houses in night time.

## ART. 6.

So far as the same is essential to the offence of Burglary, the night shall be considered, and is hereby declared to commence at nine of the clock of the evening of each day, and to conclude at six o'clock in the morning of the next succeeding day.

Definition of night.

## ART. 7.

Whosoever shall, in the day time, wrongfully and unlawfully break and enter any dwelling house, or building within the curtilage of a dwelling house, or any public office, or other public building, or any shop, warehouse, counting house, banking house, office, or other building, used or occupied for carrying on any trade or business, or any stable, barn, or store house, or into any Church, Chapel, or Meeting House, for the exercise of any mode or form of Religious Worship whatever, with intent in any such case to commit felony, every such offender shall be guilty of a Misdemeanor, and shall be liable to be punished by fine or imprisonment, or both, such imprisonment not to exceed three years.

Breaking into house, &c. in day time.

## ART. 8.

Whosoever shall be indicted for any burglary, may, where the breaking and entering shall be proved at the trial to have been made in the day time, and not in the night time, and no breaking out shall appear to have been made in the night time, or where it shall be left doubtful whether such breaking and entering,

Indicted for burglary may be convicted of misdemeanor.

or

or breaking out, took place in the day time or night time, be acquitted of the felony, and convicted of the offence specified in Article 7 of this Section.

## ART. 9.

No defence for  
misdemeanor that  
offence was  
Burglary.

It shall not be available, by way of defence, to a person charged with the offence specified in Article 7 of this Section, that the breaking and entering were such as to amount in Law to Burglary, provided that the offence shall not be afterwards prosecuted for Burglary upon the same facts; but it shall be open to the Court or Judge before whom the trial for such offence shall take place, upon the application of the Officer conducting the prosecution, to allow an acquittal for the misdemeanor, on the ground that the offence, as proved, amounts to Burglary; and if an acquittal takes place on such ground, and be so returned by the Jury, in delivering their verdict, the same shall be recorded, together with the verdict, and such acquittal shall not then avail as a bar or defence upon any indictment for such Burglary.

## SECTION 2.

*Arson.*

## ART. 1.

Arson.

Whosoever shall maliciously set fire to any dwelling house, any person being therein, shall be guilty of Felony, and shall suffer death.

## ART. 2.

Destroying  
dwelling house by  
explosive sub-  
stances.

Whosoever shall maliciously, by the explosion of gunpowder or other explosive substance, destroy, throw down, or damage the whole or any part of any dwelling house, any person being therein, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years nor less than three years.

CAP. IX.

## CHAPTER IX.

## FRAUDULENT APPROPRIATIONS.

## SUMMARY OF CONTENTS.

SECTION 1.—*Robbery and Theft, and other offences connected therewith.*

Article 1, Robbery; Art. 2, Assault with intent to Rob; Art. 3, Robbery with grievous bodily harm; Art. 4, Being armed with offensive weapon shall rob or attempt to rob and do grievous bodily harm; Art. 5, Demanding property with menaces with intent to steal; Art. 6, Plundering Vessel in distress; Art. 7, Accusing or threatening to accuse of abominable crime, &c., with intent to extort gain; Art. 8, Theft when possession of thing stolen obtained by means of accusing of certain crimes; Art. 9, Definition of infamous crime; Art. 10, Attempts to commit theft by accusing of certain crimes; Art. 11, What is a sending of a letter; Art. 12, Larceny under forty shillings before three Justices; Art. 13, Larceny; Art. 14, Stealing or destroying Testamentary Instrument; Art. 15, Stealing Muniment of Title; Art. 16, Stealing valuable security; Art. 17, Stealing Cattle, or killing with intent to steal carcass or skin; Art. 18, Not to affect civil remedy; Art. 19, Stealing by Clerks or Servants.

SECTION 2.—*Obtaining by false pretences.*

Article 1, Obtaining by false pretences; Art. 2, Definition of false pretences; Art. 3, Cheating at games, &c.

SECTION 3.—*Embezzlement.*SECTION 4.—*Receiving or otherwise unlawfully dealing with property stolen, embezzled or wrongfully detained.*

SECTION



## SECTION 1.

*Theft and other offences connected therewith.*

## ART. 1.

Whosoever shall rob any person shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years nor less than three years.

Robbery.

## ART. 2.

Whosoever shall assault any person with intent to rob shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding three years.

Assault with intent to rob.

## ART. 3.

Whosoever shall rob any person, and at the time of, or immediately before, or immediately after such robbery, shall cause any grievous bodily harm to any person, shall be guilty of Felony, and shall suffer death.

Robbery with grievous bodily harm.

## ART. 4.

Whosoever shall, being armed with any offensive weapon or instrument, rob or assault with intent to rob any person, or shall, together with one or more person or persons, rob or assault, with intent to rob any person, and at the time of, or immediately before, or immediately after such robbery, shall cause any bodily harm, or do any violence to the person of another, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years.

Being armed with offensive weapon; shall rob or attempt to rob and do bodily harm.

## ART. 5.

Whosoever shall with menaces or by force, demand any property of any person, with intent to steal the same, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding three years.

Demanding property with menaces with intent to steal.

## ART. 6.

Whosoever shall plunder or steal any part of any ship or vessel wrecked, stranded or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years, nor less than three years.

Plundering vessel in distress.

## ART. 7.

Whosoever shall accuse or threaten to accuse any person of the abominable crime of Buggery, committed either with mankind or beast, or with any assault with intent to commit the said abominable crime, or of any attempt to endeavour to commit the said abominable crime, or of making or offering any solicitation, persuasion, promise or threat to any person, whereby to move or induce such person to commit or permit the said abominable crime, with a view or intent in any of the cases aforesaid, to extort or gain from such person, and shall by intimidating such person by such accusation or threat, extort or gain from such person any property, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years.

Accusing or threatening to accuse of abominable crime, &amp;c. with intent to extort gain.

## ART. 8.

Whosoever shall commit any theft, where the means by which possession is obtained of the thing stolen, are either the accusing or threatening to accuse, or the knowingly sending, delivering or uttering any letter or writing, accusing or threatening to accuse any person of any treason or felony, or of any assault, with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime, as hereafter in Article 9 of this Section defined, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Theft where possession of thing stolen obtained by means of accusing of certain crimes.

## ART. 9.

## ART. 9.

Definition of  
" Infamous crime."

The term " Infamous Crime " shall include the abominable crime of Buggery, committed either with mankind or beast, and any assault with intent to commit the said abominable crime, and any attempt or endeavour to commit the said abominable crime, and every solicitation, persuasion, promise or threat offered or made to any person, whereby to move or induce such person to commit or permit the said abominable crime.

## ART. 10.

Attempt to commit  
theft by accusing  
of certain crimes.

Whosoever shall by any of the means specified in Article 8 of this Section, attempt to commit any theft, or shall knowingly send, deliver, or utter any letter or writing, demanding of any person with menaces, and without any reasonable or probable cause, any thing, being the subject of theft, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

## ART. 11.

What is a sending  
of a letter.

Every species of parting with, placing or disposing of any such letter or writing as in the last preceding Article and Articles of this Section is mentioned, to the end that the same may be carried to, or otherwise reach or come into the possession of the person for whom it is intended, shall be deemed to be a sending of such letter within the meaning of those Articles.

## ART. 12.

Conviction for  
Larceny under 40s.  
before Justices.

Whosoever shall be convicted before any three Justices of the Peace, or before the Mayor, Recorder and Aldermen of the City of Saint John, or any three of them, of any Larceny wherein the value of the property stolen shall not exceed forty shillings, shall be imprisoned for any term not exceeding six months.

## ART. 13.

Larceny.

Whosoever shall be convicted of Larceny before any Court of Oyer and Terminer and General Gaol Delivery, or before any Court of General Sessions, shall be liable to be imprisoned for any term not exceeding seven years.

## ART. 14.

Stealing or destroy-  
ing testamentary  
instrument.

Whosoever shall steal, or for any fraudulent purpose destroy or conceal, any testamentary instrument, shall be guilty of a Misdemeanor, and shall be liable to suffer such punishment by fine or imprisonment, or by both, as the Court shall direct.

## ART. 15.

Stealing muniments  
of title.

Whosoever shall steal any muniment of title shall be deemed guilty of a Misdemeanor, and shall suffer such punishment by fine or imprisonment, or by both, as the Court shall direct.

## ART. 16.

Stealing valuable  
security.

Whosoever shall steal any valuable security, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years nor less than one year.

## ART. 17.

Stealing cattle, or  
killing with intent  
to steal carcass or  
skin.

Whosoever shall steal any Cattle, or shall wilfully kill any Cattle with intent to steal the carcass or skin, or any part of the Cattle so killed, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

## ART. 18.

Not to affect  
civil remedy.

Nothing in the four last preceding Articles of this Section contained shall in any wise affect any civil remedy of any parties.

## ART. 19.

## ART. 19.

Whosoever being a Clerk or servant, shall steal any thing belonging to, or in the possession, or under the power of his Master, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Stealing by Clerks or servants.

## SECTION II.

*Obtaining by false pretences.*

## ART. 1.

Whosoever with intent to defraud any other person of any thing which is the subject of theft, shall obtain such thing from any other person by any false pretence, by which the owner or other person authorized is induced to part with the entire property in such thing, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding two years.

Obtaining by false pretences.

## ART. 2.

A false pretence within the meaning of Article 1 of this Section, is a false representation of some state of things past or present.

Definition of "false pretence."

## ART. 3.

Any fraud or unlawful device or ill practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers, or adventures, or on betting on the sides or hands of those who do play, or in wagering on the event of any game, sport, pastime, or exercise, shall be deemed to be a false pretence within the meaning of Article 1 of this Section.

Cheating at games.

## ART. 4.

It shall not be available, by way of defence, to a person charged with the offence specified in Article 1 of this Section, that the property in question was so obtained, as to amount in Law to Larceny, provided that the offender shall not be afterwards prosecuted for Larceny upon the same facts.

False pretence amounting to Larceny.

## SECTION 3.

*Embezzlement.*

Whosoever being a Clerk or servant, or person employed for the purpose in the capacity of a Clerk or servant, shall embezzle any thing, being the property of his employer, received or taken into possession by him, by virtue of such employment, shall be deemed to have stolen the same from his Master or employer, and shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Embezzlement by Clerks or servants.

## SECTION 4.

*Receiving or otherwise unlawfully dealing with property stolen, embezzled, or wrongfully detained.*

Whosoever shall wilfully and unlawfully receive or have in his possession or keeping, any thing which shall have been stolen or obtained by any false pretence, or which shall have been embezzled, knowing the same to have been so stolen, detained or embezzled, shall, in case the stealing, obtaining or embezzling of such thing shall amount to Felony, be liable to be imprisoned for any term not exceeding seven years, and in all other cases shall be liable to be imprisoned for any term not exceeding two years.

Receiving goods stolen, &c.

CAP. X.

## CHAPTER X.

## FORGERY AND OFFENCES RELATING TO THE COIN.

## SUMMARY OF CONTENTS.

SECTION 1.—*Forgery.*

Article 1, Forgery; Art. 2, Definition of "Writing;" Art. 3, Definition of "Person" in Art. 1; Art. 4, Forging Muniment of Title and Testamentary Instrument.

SECTION 2.—*Offences relating the Coin.*

## SECTION 1.

*Forgery.*

## ART. 1.

Forgery.

Whosoever shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged, or alter any writing with intent to defraud any person whomsoever, shall be deemed to have committed the crime of Forgery, and shall be guilty of Felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years.

## ART. 2.

Definition of "writing."

The term "writing," as used in the last preceding Article, shall be deemed to apply, whether the words or figures of the forged instrument, or any of them, are expressed at length, or abridged, and whether they be so expressed by means of writing, printing or otherwise.

## ART. 3.

Definition of "person" in Article 1.

The term "person" in Article 1 of this Chapter, shall be deemed to include Her Majesty, any body corporate, company or society of persons not incorporated, or any person or number of persons whatsoever who may be intended to be defrauded, whether such body corporate, company, society, person, or number of persons, shall reside or carry on business in this Province or elsewhere, in any place or country, whether under the dominion of Her Majesty or not.

## ART. 4.

Forging muniments of titles and testamentary instruments.

Whosoever with intent to defraud any other person, shall forge any muniment of title, or testamentary instrument, shall be guilty of Felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding seven years.

## SECTION 2.

*Offences relating to the Coin.*

False making or uttering counterfeit Coin.

Whosoever shall be charged with and convicted of the false making or counterfeiting of any Coin, or of uttering any counterfeited Coin, knowing the same to be counterfeit, shall be guilty of a Misdemeanor, and shall be liable in any such case to be imprisoned for any term not exceeding two years.

CAP. XI.

## CHAPTER XI.

## MALICIOUS INJURIES TO PROPERTY.

## SUMMARY OF CONTENTS.

Article 1, Setting fire to Churches and other buildings; Art. 2, Setting fire to or casting away Ships to injure owners, &c.; Art. 3, Exhibiting false lights or signals; Art. 4, Destroying wrecks; Art. 5, Damaging Ships otherwise than by fire; Art. 6, Setting fire to Coal Mines; Art. 7, Setting fire to Agricultural produce; Art. 8, Attempting to blow up Buildings, &c.; Art. 9, Destroying Sea Banks, Dykes, Mill Dams, Bridges, &c.; Art. 10, Destroying ornamental Trees; Art. 11, Cutting Grain, and breaking down Fences,

Fences, &c. ; Art. 12, Destroying fixtures in public places ; Art. 13, Killing or attempting to kill any Cattle ; Art. 14, Cruelty to Cattle ; Art. 15, Setting fire to certain Crops ; Art. 16, Malicious injury to Works of Art, &c. ; Art. 17, Drowning Mines ; Art. 18, Provisoe ; Art. 19, Second conviction for Felony ; Art. 20, Principals in second degree, and accessories before and after the fact.

## ART. 1.

Whosoever shall maliciously set fire to any Church, Chapel, or Meeting House, for the exercise of any mode or form of Religious Worship whatever, or shall maliciously set fire to any house, stable, coach house, out house, warehouse, office, shop, mill, malt house, barn, or granary, or to any building or erection used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them respectively shall then be in the possession of the offender or in the possession of any other person, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years.

Setting fire to Churches and other buildings.

## ART. 2.

Whosoever shall maliciously set fire to, or in anywise destroy any ship or vessel, whether the same be completed, or in an unfinished state, or shall maliciously set fire to, cast away, or in anywise destroy any such ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board of the same, or any person that hath underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board of the same, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years.

Setting fire to or cutting away Ships to injure owners.

## ART. 3.

Whosoever shall exhibit any false light or signal, with intent to bring any ship or vessel into danger, or shall maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, shall be guilty of Felony, and shall suffer death.

Exhibiting false lights or signals.

## ART. 4.

Whosoever shall maliciously destroy any part of any ship or vessel which shall be in distress or wrecked, stranded or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Destroying wrecks.

## ART. 5.

Whosoever shall maliciously damage otherwise than by fire, any ship or vessel, whether completed or in an unfinished state, with intent to destroy the same, or to render the same useless, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Damaging Ships otherwise than by fire.

## ART. 6.

Whosoever shall maliciously set fire to any mine of coal, or cannel coal, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Setting fire to Coal Mines.

## ART. 7.

Whosoever shall maliciously set fire to any stack of grain, hay, straw, coals, charcoal, or pile of cordwood, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

Setting fire to Agricultural produce, &c.

## ART. 8.

Whosoever shall maliciously place or throw in, into, upon, against, or near any building or vessel, any gunpowder, or other explosive substance, with intent to

Attempting to blow up Buildings, &c.

destroy or damage any building or vessel, or any machinery, fixtures, or chattels personal, shall, whether or not any explosion takes place, and whether or not any damage is effected to any building, vessel, machinery, fixtures, or chattels personal, be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding three years.

## ART. 9.

Destroying sea banks, dykes, mill dams, bridges, &c.

Whosoever shall maliciously break down or cut down any sea bank or sea wall, or any dyke or aboideau, whereby any lands shall be overflowed or damaged, or shall be in danger of being so, or shall maliciously cut down, break down, or otherwise destroy any mill dam, or shall maliciously pull down, or in any wise destroy any public bridge, or do any injury with the intent, and so as thereby to render such bridge, or any part thereof, dangerous or impassable, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

## ART. 10.

Destroying ornamental trees.

Whosoever shall maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any tree, shrub or plant growing in any park, pleasure ground, garden, orchard, field, pasture, square, avenue, or street, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding one year, or fined in a sum not exceeding ten pounds.

## ART. 11.

Cutting grain, and robbing orchards and gardens.

Whosoever shall unlawfully cut and take away any corn or grain of any kind whatsoever growing, or shall rob any orchard, garden, or other plantation, of any fruit, vegetables, or other things therein growing, or wilfully break down, cut, or remove any part of any hedge, fence, or other enclosure, or shall remove from the premises, or injure any vehicle, sleigh, or article, belonging to any person and on his premises, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding six months, or fined in a sum not exceeding five pounds.

## ART. 12.

Destroying fixtures in public places.

Whosoever shall maliciously rip, cut, break, or otherwise destroy or damage any glass or wood work, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, fixed in any square, street, or other place, dedicated to public use or ornament, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for any term not exceeding one year, or fined in a sum not exceeding ten pounds.

## ART. 13.

Killing or attempting to kill, &c. cattle.

Whosoever shall maliciously kill any cattle, or cause any harm to any cattle, with intent to kill such cattle, or render the same useless to the owner, either permanently or for a time, shall be guilty of a Misdemeanor, and shall be liable to be fined not exceeding ten pounds, or imprisoned for a term not exceeding six months.

## ART. 14.

Cruelty to cattle.

Whosoever shall wantonly and cruelly beat, abuse, or ill-treat any cattle shall be guilty of a Misdemeanor, and when convicted thereof before any Court of Oyer and Terminer or Gaol Delivery or General Sessions of the Peace, shall be liable to be punished by fine and imprisonment.

## ART. 15.

Setting fire to certain crops.

Whosoever shall maliciously set fire to any crop of corn, grain or hay, whether standing or cut down, wheresoever the same may be growing, shall be guilty of a Misdemeanor,

Misdemeanor, and shall be liable to be imprisoned for any term not exceeding three years.

## ART. 16.

Whosoever shall maliciously destroy or damage any thing kept for the purposes of art, science, or literature, or as an object of curiosity in any museum, gallery, cabinet, library, or other repository, which museum, gallery, cabinet, library, or other repository is either at all times or from time to time open for the admission of the public, or of any considerable number of persons to view the same, either by permission of the proprietor thereof or by the payment of money before entering the same, shall be guilty of a Misdemeanor, and shall be liable to be imprisoned for a term not exceeding six months, or fined not exceeding one hundred pounds.

Malicious injury to Works of Art, &c.

## ART. 17.

Whosoever shall maliciously cause any water to be conveyed into any mine, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine, or to hinder or delay the working thereof, or shall with the like intent maliciously pull down, fill up or obstruct any air way, water way, drain, pit, level or shaft of or belonging to any mine, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding two years.

Drowning Mines.

## ART. 18.

The provision contained in the last preceding Article shall not extend to any damage committed under ground by any owner of an adjoining mine in working the same, or by any person duly employed in such working.

Proviso.

## ART. 19.

Whosoever shall be convicted of any Felony not punishable with death, committed after a previous conviction for Felony, shall on such subsequent conviction be imprisoned for any term not exceeding four years.

Second conviction for Felony.

## ART. 20.

In the case of any Felony punishable under and by virtue of this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death, or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any Felony punishable by this Act, (except only a receiver of stolen property,) shall be liable to be imprisoned for any term not exceeding two years.

Principals in second degree, and accessories before and after the fact.

## CHAPTER XII.

CAP. XII.

## DEFINITION OF TERMS, AND EXPLANATIONS.

## SUMMARY OF CONTENTS.

Article 1, Rule as to the definition of the following Terms; Art. 2, "Officer;" Art. 3, "Woman;" Art. 4, "Grievous bodily harm;" Art. 5, "Writing;" Art. 6, "Testamentary Instrument;" Art. 7, "Moveable thing;" Art. 8, "Valuable Security;" Art. 9, "Muniment of Title;" Arts. 10 and 11, "Cattle;" Art. 12, "Night time;" Art. 13, "Imprisoned" and "Imprisonment;" Art. 14, Rules of interpretation as to criminal possession; Art. 15, Other general rules of interpretation.

## ART. 1.

The terms following, wheresoever occurring throughout this Act, shall be understood as hereinafter defined, unless it be otherwise specially provided, or there be something in the subject or context repugnant thereto.

Rule as to the definition of the following terms.

## ART. 2.

## ART. 2.

"Officer."

The term "Officer" shall be deemed to signify any person invested with authority to execute and legally bound to execute any public duties.

## ART. 3.

"Woman."

The term "Woman" shall be deemed to signify any female human being, whatsoever may be her age.

## ART. 4.

"Grievous  
bodily harm."

The term "Grievous bodily harm" shall be deemed to signify any bodily harm from which danger to life may reasonably be apprehended, or whereby any limb, member, organ of sense, or mental faculty is permanently disabled, weakened or impaired; the mutilation of any part of the body, whereby permanent disfigurement is caused; the fracture or dislocation of any bone; or any bodily harm whereby the person to whom it is caused is during the space of twenty days, at the least, in bodily pain, diseased, or unable to follow his ordinary calling or pursuits.

## ART. 5.

"Writing."

The term "Writing" shall be deemed to include any material on which any words or figures, at length or abridged, are written, printed, or otherwise expressed, or any map or plan is described.

## ART. 6.

"Testamentary  
Instrument."

The term "Testamentary Instrument" shall be deemed to include any Will, codicil, or other testamentary writing or appointment, as well during the life of the Testator whose testamentary disposition it purports to be, as after his death, whether the same shall relate to real or personal estate, or to both.

## ART. 7.

"Moveable thing."

The term "Moveable thing" as used in defining Theft, and other offences concerning property, shall be deemed to include money, valuable securities, muniments of title, written instruments of justice, testamentary instruments, and all domestic animals; also the bodies, and all parts of the bodies of dead animals, and all other chattels personal.

## ART. 8.

"Valuable  
Security."

The term "Valuable security" shall be deemed to include any unsatisfied debenture and bond, bill, note, warrant, order, or other security for money, or for the payment of money of this or any other Country; any instrument for the delivery or transfer of any chattel personal; any tally, order or other security entitling or evidencing title to any share or interest in any public stock or fund of any State or Country; or in any fund of any body corporate, company, or society; or to any deposit in any Savings' Bank; and any other writing which secures or evidences title to or interest in any chattel personal; or any release, receipt, discharge, or other instrument evidencing payment of money, or the delivery of any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest, or deposit for the securing or payment of which, or delivery or transfer or sale of which, or for the entitling to or evidencing title to which such valuable security shall be applicable, or to that of such money or chattel personal, the payment or delivery of which shall be evidenced by such valuable security.

## ART. 9.



## ART. 9.

The term "Muniment of Title" shall be deemed to include any writing as before defined in Article 5 of this Chapter, which is or shall be evidence of the title, or of any part of the title to any real estate, or to any interest therein; and any memorial, or any entry of the acknowledgment of any memorial already or hereafter to be registered of any such writing, or of any judgment or recognizance of or concerning any real estate, or any interest therein, under the provisions of any Act of Assembly of this Province.

"Muniment of Title."

## ART. 10.

The term "Cattle" shall be deemed to include any horse, mule, ass, sheep, pig, or goat, whatsoever be the age or sex of the animal; and also every bull, cow, calf, or ox; the term "cow," shall be deemed to include a heifer.

"Cattle."

## ART. 11.

When the term "Cattle" is used, or any particular animal is mentioned by name, the term shall, unless it be otherwise provided, be deemed to signify living cattle, or cattle, or a living animal so named.

## ART. 12.

When the term "Night time" is used, that time shall be deemed to commence at nine of the clock in the evening of each day, and to conclude at six o'clock in the morning of the next succeeding day; and when the term "Day time" is used, that time shall be deemed to commence at six o'clock in the morning, and to conclude at nine o'clock in the evening of each day.

"Night time,"

"Day time,"

## ART. 13.

The terms "Imprisoned" and "Imprisonment," wheresoever they occur in this Act, shall be respectively deemed and taken to mean and include imprisonment with or without hard labour, either in the Provincial Penitentiary or in the Common Gaol of the County where the offender may be tried, in the discretion of the Court before whom the offender may be tried, unless it be otherwise specially provided, either in the Act or sentence, or there be something in the subject or context repugnant to such construction.

"Imprisoned" and "Imprisonment."

## ART. 14.

When the having any matter or thing in the custody or possession of any person is in any Article of this Act expressed to be an offence, if any person shall have any such matter or thing in his personal custody or possession, or shall knowingly or wilfully have any such matter or thing in any dwelling house or other building, lodging, apartment, field, or other place open or enclosed, whether belonging to, or occupied by himself or not, and whether such matter or thing shall be so had for his own use or benefit, or for that of another, any such person shall be deemed and taken to have such matter or thing in his custody or possession within the meaning of such Article, and where one, two or more persons, any one or more shall, with the knowledge and consent of the rest, having any such matter or thing in his or their custody or possession, shall be deemed and taken to be in the custody or possession of all such persons.

Rules of interpretation as to criminal possession.

## ART. 15.

Throughout this Act, in describing any offence, or the subject matter on or with respect to which it shall be committed, or the offender, or the parties affected or intended to be affected by the offence, wheresoever words are used importing the singular number, or the masculine gender only, yet they shall be understood to include several matters as well as one matter, and several persons

Other general rules of interpretation.

Number, Gender,

as

Inhabitants of  
Counties, &c.

as well as one person, and females as well as males, and the inhabitants of Counties, Parishes, Cities and other Districts, and Bodies Corporate as well as individuals; and wheresoever words are used importing the plural number, yet they shall be understood to apply to one matter as well as more than one, and to one person as well as more than one, as though the words had been used in the singular number, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

ART. 16.

Defined  
Terms.

All terms defined in any part of this Act shall, when they occur in any other part thereof, be understood in their defined sense, unless it be otherwise provided, or the Article or Articles for the purposes of which any such term or terms is or are defined, be particularly specified.

CAP. XXX.

An Act to consolidate and improve the Laws relative to the administration of Criminal Justice.

*Passed 27th March 1849.*

PROCEEDINGS BEFORE INDICTMENT.

For what offences  
a Justice of the  
Peace may grant  
a Warrant or Sum-  
mons to cause a  
person charged  
therewith to be  
brought before him.

I. **BE** it enacted by the Lieutenant Governor, Legislative Council and Assembly, That in all cases where a charge or complaint ( A ) shall be made before any one or more of Her Majesty's Justices of the Peace for any County in this Province, that any person has committed or is suspected to have committed any Treason, Felony, or indictable Misdemeanor, or other indictable offence whatsoever, within the limits of the jurisdiction of such Justice or Justices of the Peace, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere, out of the jurisdiction of such Justice or Justices, is residing or being, or is suspected to reside or be within the limits of the jurisdiction of such Justice or Justices, then and in every such case, if the person so charged or complained against shall not then be in custody, it shall be lawful for such Justice or Justices of the Peace to issue his or their Warrant, ( B ) to apprehend such person, and to cause him to be brought before such Justice or Justices, or any other Justice or Justices for the same County, to answer to such charge or complaint, and to be further dealt with according to law; provided always, that in all cases it shall be lawful for such Justice or Justices to whom such charge or complaint shall be preferred, if he or they shall so think fit, instead of issuing in the first instance his or their Warrant to apprehend the person so charged or complained against, to issue his or their Summons ( C ) directed to such person, requiring him to appear before the said Justice or Justices at a time and place to be therein mentioned, or before such other Justice or Justices for the same County as may then be there; and if, after being served with such Summons in manner hereinafter mentioned, he shall fail to appear at such time and place, in obedience to such Summons, then and in every such case the said Justice or Justices, or any other Justice or Justices of the Peace for the same County, may issue his or their Warrant ( D ) to apprehend such person so charged or complained against, and cause such person to be brought before him or them, or before some other Justice or Justices of the Peace for the same County, to answer to the said charge or complaint, and to be further dealt with according to law; provided nevertheless, that nothing herein contained shall prevent any Justice or Justices of the Peace from issuing the Warrant hereinbefore first mentioned at any time before or after the time mentioned in such Summons for the appearance of the said accused party.

In what cases the  
party may be sum-  
moned instead of  
issuing a Warrant  
in the first instance.

If the Summons be  
not obeyed, then a  
Warrant may be  
issued.