

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1864. Fredericton, NB: G. E. Fenety, Printer to the Queen's Most Excellent Majesty, 1864.

27 Victoria – Chapter 6

An Act relating to Larceny and other similar offences. Passed 11th April, 1864.

Section.	Section.
1. Bailee of any chattel when deemed guilty of larceny.	8. Public servants stealing articles belonging to or in possession of the Crown, entrusted to them as such; penalty.
2. When several counts may be inserted in same indictment.	9. Embezzlement by public servants; penalty.
3. Offences punishable as for larceny.	10. Embezzlement, how prosecuted.
4. Person indicted for robbery may be convicted of assault with intent to rob.	11. In actions for embezzlement, may be convicted for larceny, and vice versa.
5. Persons sending threatening letters, &c.; penalty.	12. Money, &c. procured under false pretenses; penalty.
6. Violent entry into any Church, &c.; penalty.	13. When constable, &c. may arrest without warrant.
7. Persons found with offensive weapons or burglar's tools under suspicious circumstances: penalty.	

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. Whoever being a bailee of any chattel, money, or valuable security, shall fraudulently take or convert the same to his own use, or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, shall be guilty of larceny, and may be convicted thereof upon an indictment for larceny; but this Section shall not extend to any offence punishable on summary conviction.
2. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing not exceeding three, which may have been committed by him against the same person within the space of six months from the first to the last of such acts, and to proceed therein for all or any of them.
3. Whosoever shall steal, or shall rip, cut, sever, or break, with intent to steal, any glass or wood work belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, or of both respectively, fixed in or to any other material, or of both respectively, fixed in or to any building whatsoever, or any thing made of metal fixed on any land, being private property, shall be guilty of larceny, and being convicted thereof, shall be liable to be punished as in the case of larceny.

4. If upon the trial of any person upon an indictment for robbery, it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not, by reason thereof, be entitled to be acquitted; but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

5. Whosoever shall send, deliver, or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing demanding of any person with menaces and without any reasonable or probable cause, any property, chattel, money, valuable security, or other valuable thing, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned in the Provincial Penitentiary for any term not exceeding two years, with hard labour: it shall be immaterial whether the menaces hereinbefore mentioned be of violence, injury or accusation, to be caused or made by the offender or by any other person.

6. Whosoever shall break and enter any Church, Chapel, Meeting House, or other place of Divine worship, and commit any felony therein, or being in any Church, Chapel, Meeting House, or other place of Divine worship, shall commit any felony therein, and break out of the same, shall be guilty of felony, and being convicted thereof, shall be imprisoned in the Provincial Penitentiary for any term not exceeding seven years, with hard labour.

7. Whosoever shall be found by night armed with any dangerous or offensive weapon or instrument whatsoever, with intent to break or enter into any dwelling house or other building whatsoever, and to commit any felony therein, or shall be found by night having in his possession without lawful excuse, (the proof of which excuse shall be on such person,) any pick lock key, crow jack, bit, or other instrument of house breaking, or shall be found by night in any dwelling house or other building whatsoever, having his face blackened, or otherwise disguised, with intent to commit any felony therein, shall be guilty of a misdemeanor, and being convicted thereof, shall be imprisoned in the Provincial Penitentiary for any term not exceeding two years, with hard labour.

8. Whosoever being employed in the public service of Her Majesty, or being a constable or other person employed in the Police of any Country, City or place whatsoever; shall steal any chattel, money or valuable security, belonging to or in the possession or power of Her Majesty, or intrusted to, or received, or taken into possession by him, by virtue of his employment, shall be guilty of felony and being convicted thereof, shall be imprisoned in the Provincial Penitentiary for any time not exceeding seven years, with hard labour.

9. Whosoever being employed in the public service of Her Majesty, or being a constable or other person employed in the Police of any County, City or place whatsoever, and intrusted by virtue of such employment with the receipt, custody or control of any chattel money or valuable security, shall embezzle any chattel, money, or valuable security, shall embezzle any chattel, money or valuable security which shall be intrusted to, or received or taken into possession by him by virtue

of his employment, or any part thereof, shall be deemed to have feloniously stolen the same from Her Majesty, and being convicted thereof, shall be imprisoned in the Provincial Penitentiary for any term not exceeding seven years, with hard labour; and every offender against this or the last preceding Section may be dealt with, indicted, tried, and punished either in the County or place in which he shall be apprehended or be in custody, or in which he shall have committed the offence; and in every case of larceny or embezzlement in this and the last preceding Section mentioned, it shall be lawful in the warrant of commitment by the Justice of the Peace before whom the offender shall be charged, and in the indictment to be preferred against such offender, to lay the property of any such chattel, money, or valuable security, in Her Majesty.

10. For preventing difficulties in the prosecution of offenders in any case of embezzlement, it shall be lawful to charge in the indictment, and proceed against the offender, for any number of district acts of embezzlement, not exceeding three, which may have been committed by him against Her Majesty, or against the same master or employer, within the space of six months from the first to the last of such acts.

11. If upon the trial of any person indicted for embezzlement it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict, that such person is not guilty of embezzlement, but is guilty of larceny, or of larceny as a clerk or servant, or as a person employed in the public service, or in the police, as the case may be; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny: and if upon the trial of any person indicted for larceny, it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof to be entitled to be acquitted, but the jury shall be at liberty to return as their verdict, that such person is not guilty of larceny, but is guilty of embezzlement; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement; and no person so tried for embezzlement or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

12. Whosoever shall by any false pretence, cause or procure any money to be paid, or any chattel or valuable security to be delivered to any other person for the use of benefit, or on account of the person making such false pretence, or of any other person, with intent to defraud, shall be guilty of a misdemeanor, and be imprisoned either in the Provincial Penitentiary with hard labour, or in the common gaol of the County where the offender may be tried, for any term not exceeding two years.

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