

lands, to and for the use of the county where the offence shall have been committed; or if on any of the located lands, one-half to be paid to the owner or possessor of said lands, and the other half to the use of the person or persons who shall sue for and recover the same.

Or on lands not their own.

2. If any person shall take or gather, and carry away from the vines, at any time after the first day of June, and before the fifth day of October, any cranberries, within this state, on any land not the property of such person or persons, or for which they pay no tax, such person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by fine, not exceeding ten dollars.

Supplement.

Approved March 27, 1871.

P. L. 1871, p. 65.

Penalty for unlawful taking.

3. SEC. 1. That if any person shall take or gather from the vines at any time, cranberries within this state on lands not their own property, or for which they pay no taxes, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding fifty dollars, or imprisonment at hard labor, not exceeding one year.

Removing vines unlawfully.

4. SEC. 2. That if any person shall dig, pull up, gather, destroy, or carry away, at any time, cranberry vines growing within this state, on any lands not their own property, or for which they pay no taxes, such person or persons, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding fifty dollars, or imprisonment at hard labor, not exceeding one year.

Crimes.

I—CRIMES WHICH INVOLVE INJURY TO PUBLIC SAFETY.

I. OFFENCES AGAINST THE COMMONWEALTH SIMPLY.

1. DIRECTLY—TREASON, SEDITION AND THE LIKE.

1. Treason.
2. Misprision of treason.
3. Petit treason punished as murder.
4. Maintaining foreign authority, etc.
5. Conspiracy to make war on other states or the Union.
6. Concealment of aforesaid crimes.

2. AGAINST PUBLIC JUSTICE AND THE ADMINISTRATION OF GOVERNMENT.

7. Obstructing execution of process.
8. Suffering escapes in capital cases.
9. Escapes in other cases. Disqualification.
10. Rescues in capital cases.
11. Rescues in other cases.
12. Breaking prison.
13. Aiding escapes.
14. Stealing or altering records, etc., if verdict, judgment, etc., be thereby reversed. If not thereby reversed.
15. Injuring public notices.
16. Embracery. Juror, when punishable, and how.
17. Perjury.
18. Perjury before commissioner taking testimony in suits in other states.
19. Uttering false oaths.
20. Compounding of crimes.
21. Concealing crimes, having knowledge of their commission.
22. Bribery of judge.
23. Extortion.
24. Bribery of members of legislature.
25. Bribery of voters.
26. Penalty for illegal voting.
27. Penalty for fraudulent voting.

28. Penalty for advising to vote illegally.
29. Penalty for offering to vote a second time.
30. Influencing voters.

II. AGAINST THE PUBLIC PEACE.

31. Challenge and duelling.
32. Sending threatening letters.
33. Prize fighting.
34. Carrying passengers to such exhibitions.
35. Being present at them.
36. Opposing the making proclamation dispersing unlawful assemblies, how punished.
37. Penalty for unlawfully continuing together an hour after proclamation made.

III. AGAINST PUBLIC MORALS AND THE INSTITUTION OF MARRIAGE.

38. Sodomy.
39. Incest.
40. Adultery.
41. Fornication.
42. Lewdness.
43. Polygamy. To whom act does not extend.
44. Indecent publications.
45. Penalty for selling, &c., obscene books, etc.
46. Penalty for sending by mail.
47. Magistrates authorized to issue warrant.
48. Judge to charge grand jury at each term of court of offences in violation of four preceding sections.
49. Act how construed in relation to physicians.
50. Gaming.
51. Lotteries.
52. Selling tickets.
53. Or policies insuring for or against the drawing of any ticket.
54. Gaming in neighborhood of colleges.
55. Racing for money prohibited.
56. Betting on races.
57. Holding stakes on riding races.
58. Contributing to races how punished.

- 59. Maintaining a race course.
- 60. Liquor selling without a license.
- 61. Or on Sunday.
- 62. Or in court house or jail.
- 63. Or on election day.
- 64. Witchcraft, etc., no prosecution for. Pretenders to, punishable.
- 65. Impostors in religion.
- 66. Blasphemy.

II—CRIMES WHICH INVOLVE PRIVATE INJURY.

IV. TO THE PERSONS OF INDIVIDUALS.

- 67. Murder.
- 68. Degrees of.
- 69. Punishment of. Rescue of body.
- 70. Manslaughter.
- 71. Killing person attempting to murder, etc.
- 72. Killing by misadventure or in defence.
- 73. Poisoning where death does not ensue.
- 74. Vending unwholesome provisions.
- 75. Penalty for procuring miscarriage of woman pregnant.
- 76. Mayhem.
- 77. Assault with intent to rob.
- 78. Assault with intent to murder, etc.
- 79. Kidnapping.
- 80. Rape, etc. Abuse of infant.
- 81. Abduction.
- 82. Seduction, etc. of infant.
- 83. Concealment of pregnancy and birth.

V. TO PROPERTY—1. BY DIRECT INJURY.

1. TO DWELLINGS AND OTHER BUILDINGS.

- 84. Arson.
 - 85. Burning buildings, etc.
 - 86. Setting fire to, etc.
 - 87. Burning buildings to defraud insurers, etc.
 - 88. Or with any fraudulent intent.
 - 89. Attempting to destroy buildings with gunpowder.
 - 90. Burning charcoal, &c., without a watchman.
 - 91. Obstructing firemen at fires, etc.
 - 92. Penalty for injury to fire alarm telegraph.
 - 93. Burglary.
 - 94. House breaking with intent.
 - 95. Entering building with intent, etc.
 - 96. Manufacturing or having burglar's tools.
2. MALICIOUS MISCHIEF.
- 97. Removing piles of any sea bank, etc., or obstructing navigation.
 - 98. Injury to a public bridge.
 - 99. Injuring bridges, dams, etc.
 - 100. Tenants of houses maliciously injuring them.
 - 101. Killing or maiming animals.
 - 102. Cruelty to animals.
 - 103. Unlawful cutting timber, etc.
 - 104. Receiver how punished.
 - 105. Not to apply to highways.
 - 106. Tenants in common not exempt from conviction.
 - 107. Appropriating driftwood.
 - 108. When offences against five preceding sections to be prosecuted.
 - 109. Penalty for mooring vessels to or damaging or destroying any buoy or beacon.
 - 110. Breaking down the dam of a fishery, or mill dam or poisoning fish.
 - 111. Obstructions on railways.
 - 112. Obstructing engines or carriages on railways.
 - 113. Injuring railroads.
 - 114. Unauthorized attempt to control railway trains.
 - 115. Injuries to telegraphs.
 - 116. Injuries to water and gas pipes.
 - 117. Conveying water into a mine, obstructing the shaft, etc.
 - 118. Damaging steam engines, wagon ways, etc. in mines.
 - 119. Destroying machinery.
 - 120. Destroying or damaging works of art in museums, etc.
 - 121. Injury or theft of flowers, shrubs, &c. in grave yards.

- 122. Robbing or desecrating graves.
- 123. Malicious destruction of deeds.
- 124. Destroying landmarks.
- 125. Destroying guide posts, etc.
- 126. Malicious damage to any goods.
- 127. Malicious injuries not heretofore provided for.

3. STEALING AND OTHER TAKINGS.

- 128. Larceny under twenty dollars.
- 129. Larceny over twenty dollars.
- 130. Stealing vegetables, etc.
- 131. Fixtures when severed from realty deemed personal property.
- 132. Stealing certain articles.
- 133. Persons guilty of more than one larceny.
- 134. Robbery.
- 135. Larceny from the person.
- 136. Stealing bills, bonds, etc.
- 137. Stealing deeds, etc.
- 138. Killing animals with intent to steal the carcass, etc.
- 139. Stealing or destruction of wills and codicils.
- 140. Stealing or dredging for oysters in oyster fisheries.
- 141. Animals, property and subject of larceny.
- 142. Stealing, &c. metal, glass, wood, &c. fixed to house or land.
- 143. Or receiving the same.
- 144. Stealing or cutting trees, plants, or fences.
- 145. Stealing or digging ore and clay.
- 146. Embezzlement of ore by employe.
- 147. Receiving stolen goods.

2. FRAUDS.

- 148. Embezzlement by public officer.
- 149. Embezzlement by collector of county, etc.
- 150. Penalty when city, township, ward or county officers unlawfully obtain or counsel the obtaining of money, etc.
- 151. Unlawful detention of public property.
- 152. Embezzlement or fraud by officers of banks.
- 153. Fraudulent disposition of property by trustees.
- 154. Directors, etc., of corporation, fraudulently appropriating property.
- 155. Or keeping fraudulent accounts.
- 156. Or wilfully destroying books, etc.
- 157. Or publishing fraudulent statements.
- 158. Three preceding sections not to enable persons to refuse to make discovery in civil proceedings.
- 159. No remedy at law or in equity affected thereby.
- 160. Embezzlement, etc. by apprentice or servant.
- 161. By other agents.
- 162. By lodger.
- 163. By carrier.
- 164. Person purchasing without consent of owner, etc.
- 165. Embezzlement by operatives.
- 166. Embezzlement of silk, etc. by employe.
- 167. Receiving same.
- 168. Punishment therefor.
- 169. Bailee fraudulently converting property, guilty of larceny.
- 170. Thimblerrigging, etc.
- 171. Obtaining goods under false pretences.
- 172. Inducing persons by fraud to execute deeds or other instruments.
- 173. Forgery.
- 174. Selling or receiving counterfeit papers.
- 175. Engraving plates for forging.
- 176. Possessing or receiving forged paper.
- 177. Having or filling up blank notes with intent to defraud.
- 178. Having plates for forging.
- 179. Punishment of forgery, etc.
- 180. Counterfeiting current coin or passing the same.
- 181. Counterfeiting foreign coin.
- 182. Having counterfeit coin with intent to export.
- 183. Penalty for printing or circulating any publication offering for sale counterfeit money.
- 184. Uttering bad bills.
- 185. Counterfeiting letters of credit.

186. Counterfeiting trade marks.
 187. Forging passenger tickets.
 188. Using fraudulent tickets.
 189. Issuing false stock.
 190. Fraudulent acts committed by personation of others.
- VI. CONSPIRACY TO COMMIT CRIMES, CRIMES AT COMMON LAW, AND GENERAL PROVISIONS AS TO PUNISHMENT.
191. Conspiracy.
 192. Offences indictable at common law, deemed misdemeanors.
 193. Attempts to commit offences.
194. Convict escaping.
 195. Convicted person to give bond to keep the peace.
 196. Conviction of second offence.
 197. Kidnapping.
 198. Penalty for public officer being concerned in any public contract.
 199. Persons committing assault on each other may be jointly indicted.
 200. Verdict in such case.
 201. Embezzlement.
 202. Penalty for transporting explosive materials.
 203. Transportation companies may require shippers to open suspected packages.

An act for the punishment of crimes.

Revision—Approved March 27, 1874.

I.—CRIMES WHICH INVOLVE INJURY TO PUBLIC SAFETY.

I. Offences against the commonwealth simply.

1. DIRECTLY—TREASON, SEDITION, AND THE LIKE.

1. That if any person or persons, owing allegiance to this state, shall levy war against it, or shall adhere to its enemies, or to the enemies of the United States by giving them aid or comfort within this state or elsewhere, or by giving them advice or intelligence by letters or writing of any kind, or by messages, words, signs, or tokens, or in any way whatsoever within this state or elsewhere, or by procuring for, or furnishing to them, money, or any kind of provisions, arms, or warlike stores within this state or elsewhere, or by bribery, or for reward, or promise thereof, or through favor, partiality or treachery, yielding or surrendering to them, any town or fortress, castles, garrisons, troops, militia, citizen or citizens of this state, or of the United States, or any ship, boat or vessel of this state, or of the United States, or by giving them aid and comfort in any other way, and shall be thereof convicted or attainted on confession in open court, or on the testimony of two witnesses, to the same overt act of the treason whereof he, she or they shall stand indicted, such person or persons shall be adjudged guilty of treason, and shall suffer death.^(a)

2. If any person or persons, having knowledge of the commission of any of the treasons aforesaid, shall conceal and not, as soon as may be, disclose and make known the same to the governor of this state, or to some one of the justices of the supreme court thereof, or to some one of the justices of the peace, in and for any of the counties of this state, such person or persons, on conviction, shall be adjudged guilty of misprision of treason, and shall suffer imprisonment at hard labor, for any term not exceeding seven years, or be fined not exceeding one thousand dollars, or both, at the discretion of the court before whom such offender or offenders shall be convicted.

3. In all cases wherein heretofore any person or persons would have been deemed or taken to have committed the crime of petit treason, such person or persons shall be deemed and taken to have committed the crime of murder only, and shall be indicted and prosecuted to final judgment, accordingly, and the same punishment, and no other, shall be inflicted as in case of murder.

4. If any person owing allegiance to this state, shall by speech, writing, open deed or act, advisedly and wittingly maintain and defend the authority or jurisdiction of any foreign power, potentate, republic, king, state, or nation whatsoever, in and over this state, or the people thereof, such person so offending shall, on conviction, be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, the fine not to exceed four hundred dollars, nor the imprisonment the term of one year.

R. S. 125, 257, 284,
403, 572, 589, 599.

P. L. 1848, p. 183.

" 1849, p. 61.

" 1852, p. 87.

" 1853, p. 326.

" 1854, p. 109.

" 1855, p. 322,

425, 654.

" 1857, p. 365.

" 1859, p. 367.

" 1860, p. 474.

" 1862, p. 13.

" 1863, p. 81.

" 95, 240, 489.

" 1864, p. 577.

" 738.

" 1866, p. 352,

705,

" 1867, p. 381.

" 492, 1013.

" 1868, p. 1160.

" 1869, p. 42.

" 1115, 1237.

" 1870, p. 38.

" 1871, p. 21,

38, 70.

" 1872, p. 45.

" 1873, p. 77.

" 167.

Treason.

R. S., 257, § 1.

Misprision of
treason.

Ib. § 2.

Petit treason
punished as
murder.

Ib. § 8.

Maintaining
foreign author-
ity, etc.

Ib. § 76.

^(a) The arrest and conviction of a father for treason in 1779, cannot affect a voluntary conveyance of lands made to his children in 1776, *Den, Cheus v. Sparks, Coze* 56. Nor

would a wife's dower be barred by such a conviction, *Cozens v. Long, Pen.* *765.

5. If any person or persons shall, within this state, get up or enter into any combination, organization or conspiracy, with the intent and purpose of making or attempting to make a hostile invasion of any other state or territory of the United States, or shall engage in plotting or contriving any such invasion; or shall knowingly furnish any money, arms, ammunition, or other means in aid of such object, or shall in any way knowingly and wilfully aid, abet or council any such combination, organization or conspiracy, or any such hostile invasion, such person or persons shall be deemed guilty of a high misdemeanor, and shall, on conviction, be punished by fine or imprisonment at hard labor, or both, the fine not to exceed one thousand dollars, and the imprisonment not to exceed the term of ten years. Conspiracy to make war on other states of the Union.
P. L. 1860, p. 474.
6. If any person or persons having knowledge of the commission of any of the misdemeanors aforesaid, shall conceal and not, as soon as may be, disclose the same to some one of the justices of the peace of the county where the said misdemeanor was committed, he or they shall be deemed guilty of a high misdemeanor, and shall, on conviction, be punished by fine not exceeding four hundred dollars, or by imprisonment at hard labor not exceeding one year, or both. Concealment of aforesaid crimes.
2. AGAINST PUBLIC JUSTICE AND THE ADMINISTRATION OF GOVERNMENT.
7. If any person or persons shall knowingly and wilfully obstruct, resist, or oppose any sheriff, coroner, constable, or other officer of this state, or other person or persons duly authorized, in serving or attempting to serve or execute any mesne process, writ, warrant, rule, or order of any of the courts of this state, or any other legal or judicial writ, warrant, or process whatsoever, or shall assault, beat or wound any sheriff, coroner, constable, or other officer or person duly authorized, in serving or executing any writ, rule, order, process, or warrant aforesaid, or for having served or executed the same, every person so knowingly and wilfully offending in the premises, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding eight hundred dollars, or by imprisonment at hard labor, not exceeding two years, or both. Obstructing execution of process.
R. S., 257, § 52.
8. If any sheriff, coroner, jailer, keeper of a jail, constable, or other officer or person whatsoever, having any offender guilty of treason, murder or other crime punishable with death in his custody for any such crime, shall voluntarily permit or suffer such offender to escape and go at large, then every such sheriff, coroner, jailer, keeper of a jail, constable or other officer, or person so offending shall be adjudged guilty of a high misdemeanor, and, on being thereof convicted, shall suffer death; *provided*, that nothing herein contained shall be construed to prevent any sheriff, coroner, jailer, keeper of a jail, constable or other officer or person so guilty of such voluntary escape as aforesaid, from being prosecuted or proceeded against for a misdemeanor at common law. Suffering escape in capital cases.
Ib. § 54.
Proviso.
9. All voluntary escapes in cases not punishable with death, and all negligent escapes, of whatever kind, in criminal matters, shall be deemed misdemeanors, and punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding three years, or both; *and further*, any sheriff, coroner, jailer, keeper of a jail, constable or other officer who shall be guilty of any voluntary escape in any criminal case whatever, shall forever be disqualified to hold any office of honor, trust or profit under this state. *(a)* Escapes in other cases.
Ib. § 55.
Disqualification.
10. All rescues of any person or persons guilty of treason, murder or other crime, punishable with death, shall be deemed high misdemeanors, and every person so offending shall on conviction suffer death; *provided*, that nothing herein contained shall be construed to prevent any such rescue as aforesaid, from being prosecuted and proceeded against for a misdemeanor at common law. Rescues in capital cases.
Ib. § 56.
Proviso.
11. All rescues in criminal cases not punishable with death, and in all civil cases, shall be deemed misdemeanors; and every such rescuer shall, Rescues in other cases.
Ib. § 57.

(a) An indictment for a negligent escape will lie only against those officers or persons upon whom the law imposes the obligation of safe custody, and not against a watchman temporarily employed, *State v. Errickson*, 3 Vr. 421.

- on conviction, be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding three years, or both.^(a)
- Breaking prison.**
Ib. § 58. 12. From henceforth no person who being imprisoned shall break prison shall have judgment of life or member for breaking prison only, except the cause for which such prisoner was taken and imprisoned did require such judgment, if he had been convicted thereupon; and if any person being imprisoned for a crime not punishable with death shall break prison and escape, or shall break prison, although no escape be actually made, he or she so offending shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding three years, or both.
- Aiding escapes.**
Ib. § 59. 13. If any person shall by any means whatsoever be aiding or assisting to any prisoner in jail, indicted for or convicted of any offence against this state or sentenced to imprisonment on such conviction, or lawfully committed or detained in such jail for any crime against this state expressed in the warrant of his or her commitment or detainer, to make or attempt to make his escape from any jail, although no escape be actually made, every person so offending as aforesaid, and being thereof convicted, shall be deemed to be guilty of a misdemeanor, and be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding two years, or both; and if any person shall convey or cause to be conveyed, into any jail or house of correction, any mask, visor, or other disguise, or any instrument or arms proper to facilitate the escape of such prisoners as aforesaid, and the same shall deliver or cause to be delivered to any such prisoner in any such jail or house of correction, or to any other person there for the use of any such prisoner, without the consent or privity of the keeper of such jail or house of correction, every such person, although no escape or attempt to escape be actually made, shall be deemed to have delivered such mask, visor, or other disguise, instrument, or arms, with intent to aid or assist such prisoner to escape, and being thereof convicted shall be deemed and judged to be guilty of a misdemeanor, and be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding two years, or both; *and further*, if any person shall aid or assist any prisoner to attempt to make his or her escape from the custody of any constable, officer or other person who shall have the lawful charge of such prisoner, in order to conduct or carry him or her to jail by virtue of a warrant of commitment for any crime against this state expressed in such warrant, or to the house of correction, by virtue of any order, sentence, or judgment of imprisonment, on conviction of any crime against this state, then every person so offending, on being thereof convicted, shall be deemed and adjudged to be guilty of misdemeanor, and be punished by fine, not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding two years, or both.
- Stealing or altering records, etc., if verdict, judgment, etc., be thereby reversed.**
Ib., § 47. 14. If any clerk, coroner, sheriff, justice or judge, or any other person, shall steal, embezzle, take away, alter, withdraw, falsify or avoid any record, or parcel of the same, writ, return, panel, process, minutes, documents, book or other proceedings of or belonging to any of the courts of this state, or of or belonging to the office of the secretary of state, or of the office of the clerk of the supreme court, or court of chancery, or of the court of common pleas, or general quarter sessions of the peace, of any city or county in this state, by means whereof any verdict, judgment, sentence or decree shall be reversed, annulled, made void, or lose its force and effect, then every such offender, his or her procurers, counsellors, aiders and abettors, shall be adjudged guilty of a high misdemeanor, and on being convicted thereof, shall be punished by fine not exceeding seven thousand dollars, or imprisonment at hard labor, not exceeding seven years, or both; and in case no verdict, judgment, sentence or decree shall be reversed, annulled, made void or lose its force and effect, by any such stealing, embezzling, taking away, altering, withdrawing, falsifying or avoiding of any of the records, proceedings, minutes, books, matters or things aforesaid, then every such offender, his or her procurers, counsel-
- If not thereby reversed.**

(a) An indictment for rescue must set out that an order for bail was made before the *capias* was issued, on which the party rescued was arrested, because our statute makes

the *capias* depend not on the affidavit, but the judge's order, *State v. Dunn*, 1 *Dutch*. 214.

lors, aiders and abettors, shall on conviction, be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding four years, or both; *provided always*, that this act shall not extend to any amendment or entry made or to be made by any rule, order, judgment or decree of any court.

Proviso.

15. If any person shall wilfully and maliciously take down, remove or injure any notice, advertisement or other placard, which shall have been legally and publicly set up by any officer or other person in accordance with the laws of this state, before the time to which said notices relate, he shall be deemed guilty of a misdemeanor, and on conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding six months.

Injuring public notices.

P. L. 1867, p. 42.

Amended.

16. Embracery, and all attempts to corrupt or influence a jury, or any of them, or any way to incline such jury, or any of them, to be more favorable to the one side than to the other, by promises, persuasions, entreaties, threats, letters, money, entertainments or other sinister means, and all indirect, unfair and fraudulent practices, arts and contrivances to obtain a verdict, and all attempts to instruct a jury or juror beforehand, at any place or time, or in any manner or way, except only in open court at the trial of the cause, by the strength of the evidence, the arguments of the parties or their counsel, or the opinion or charge of the court, shall be deemed misdemeanors, and be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, the fine in such case not to exceed three hundred dollars, nor the imprisonment the term of one year; *and further*, if any juror take money, goods, chattels, or other reward of the one party or the other, or be so as aforesaid embraced, then every such juror shall on conviction be punished by fine or imprisonment; or both, or by fine or imprisonment at hard labor, or both, the fine in such case not to exceed six hundred dollars, nor the imprisonment the term of two years, and also shall be forever disqualified to serve or act as a juror.

Embracery.

R. S., 257, § 29.

Juror when punishable and how.

17. If any person shall wilfully and corruptly commit perjury, or shall by any means procure or suborn any person to commit corrupt and wilful perjury, on his or her oath or affirmation, in any action, plea, suit, bill, answer complaint, indictment, controversy, matter or cause depending, or which may depend, in any of the courts of this state, or before any referees or arbitrators or in any deposition taken or to be taken pursuant to the laws of this state now existing or hereafter enacted, before any public officer legally authorized or to be authorized to take the same, every person so offending shall be deemed guilty of a high misdemeanor, and on being thereof convicted shall be punished by fine, not exceeding eight hundred dollars, or by imprisonment at hard labor, not exceeding seven years, or both, at the discretion of the court, and be thereafter rendered incapable of giving testimony in any of the courts of this state, until such time as the judgment so given against the said offender shall be reversed.(a)

Perjury.

Ib. § 23.

Amended.

18. If any person who shall be sworn or affirmed before a commissioner, authorized by any commission issued out of any court of competent jurisdiction of the United States, or of any state or territory of the United States, to take the testimony of any witness in any cause named in such commission, or if any person who shall be sworn or affirmed before a commissioner appointed by authority of any other state or territory of the United States, to take affidavits, or the acknowledgment and proof of deeds, or sealed instruments of writing in this state, to be used in the state or territory, by authority of which such commissioner was appointed, in a judicial proceeding, or to prove the execution of a deed, or the identity of a grantor in any deed, shall, in taking such oath or affirmation, wilfully swear or affirm falsely before such com-

Before commissioner taking testimony in suits in other states.

Ib. § 24.

(a) If the affidavit on which the perjury is assigned, conform substantially with the words of the act, it is sufficient, *State v. Dayton*, 3 Zab. 49. The allegations of the testimony must be positive and not in the alternative. *Dodge v. The State*, 4 Zab. 455; and the statement must have been material to the matter before the court, *State v. Bevard*, 1 Dutch. 384. It may be assigned on the answer of a defendant in chancery who charges certain facts, on which he places his defence, to exist, if they are material and not true, *Quack-*

embush v. Van Riper, Sax. 476. An indictment for perjury in an insolvent application need not set out how the common pleas obtain jurisdiction, *State v. Ludlow*, 2 South. *772. Perjury cannot be committed in an official oath, *State v. Dayton*, 3 Zab. 49. Where a suit is pending before one justice perjury cannot be assigned on an affidavit taken before another justice, *Hunt v. Langstroth*, 4 Hal. 224. See also, *Johnson v. The State*, 2 Dutch. 313; 5 Dutch 458.

- missioner, such person so wilfully swearing or affirming falsely, shall be deemed guilty of perjury, and on being convicted thereof, shall be punished as in the next preceding section is directed.
- Uttering false oaths. _____
P. L. 1871, p. 21, § 2.
19. If any person shall use or offer for use for any purpose whatever, any oath or deposition required or authorized to be taken in any suit or legal proceeding in this state, or for any lawful purpose whatever, whether the same shall be taken in or out of this state, knowing the same to be untrue, he shall be guilty of a high misdemeanor, and shall, upon conviction thereof, be liable to and suffer the same punishment and disabilities as if convicted of subornation of perjury.
- Compounding of crimes. _____
R. S., 257, § 60.
20. If any person take money, goods, chattels, lands or other reward, or promise thereof, to compound, or upon agreement to compound, any treason, misprision of treason, murder, manslaughter, sodomy, rape, arson, forgery, burglary, housebreaking, robbery, larceny, kidnapping, escape, rescue, breach of prison, embracery, bribery, perjury, or subornation of perjury, every person so offending shall be deemed to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding twelve months, or both.(a)
- Concealing crimes having knowledge of their commission. _____
Ib. § 73.
21. If any person or persons, having knowledge of the actual commission of murder, manslaughter, sodomy, rape, arson, burglary, robbery, or forgery, within the jurisdiction of this state, shall conceal, and not, as soon as may be, disclose and make known the same, to some one of the justices of the supreme court, or one of the justices of the peace in and for any of the counties of this state, such person or persons, on conviction thereof, shall be adjudged guilty of a misdemeanor, and shall be fined, not exceeding five hundred dollars, or suffer imprisonment at hard labor, not exceeding three years, or both.
- Bribery, of judge. _____
Ib. § 27.
22. If any person shall directly or indirectly give any sum or sums of money, or any goods, chattels, lands, or real estate, or any other bribe, present, or reward, or give or make any promise, contract, covenant, obligation, or security for the payment, delivery, alienation, or transfer of any money, goods, chattels, lands, or real estate, or other bribe, present, or reward, to obtain, procure, or influence the opinion, judgment, decree, or behavior of any judge or judges, justice or justices, of this state, in any action, plea, suit, complaint, indictment, controversy, matter, or cause depending, or which shall depend before him or them, such person so giving, promising, contracting, covenanting, or securing to be given, paid, delivered, aliened, or transferred any sum or sums of money, goods, chattels, lands, real estate, or other present, reward, or bribe as aforesaid, and the judge or judges, justice or justices, who shall in any wise receive or accept the same, shall be adjudged guilty of a high misdemeanor, and, on conviction thereof, be punished by fine or imprisonment, or both, or by fine, or imprisonment at hard labor, or both; (but such fine shall not exceed eight hundred dollars, and such imprisonment shall not exceed five years), and also, shall forever be disqualified to hold any office of honor, trust, or profit under this state.(b)
- Extortion. _____
Ib. § 28.
23. No judge, justice, sheriff, coroner, constable, jailer, or other officer of this state, ministerial or judicial, shall receive or take any fee or reward to execute and do his duty and office, but such as is or shall be allowed by the laws of this state; and if any doth, he shall restore to the party grieved double damages and costs; and further, that if any such judge, justice, sheriff, coroner, constable, jailer, or other officer as aforesaid, shall receive or take, by color of his office, any fee or reward whatsoever, not allowed by the laws of this state, for doing his office, and be thereof convicted, he shall be punished by fine or imprisonment, or both,

(a) A bond given to a person injured by assault and battery, to make satisfaction and prevent prosecution, is legal and valid, *Price v. Summers*, 2 South. *573. Promissory notes so given, are good, although they exceed the probable amount of the injury inflicted, unless a compromise of the public offence was included as part of the consideration, *Whitenoek v. Ten Eyck*, 2 Gr. Ch. 249. It is a question for the jury whether the abandonment of a prosecution for perjury was the consideration of a certain act, or the consequence, *Grover v. Bruere*, 4 Hal. 319. An agreement not to prosecute,

or in some way to favor and protect the criminal, is an essential ingredient in the offence of compounding a crime, *Brittin v. Chegary*, Spen. 625.

(b) Any attempt to influence an officer in his official conduct, whether in the executive, legislative or judicial department of the government by the offer of a reward or pecuniary compensation, is indictable, although it be in a matter not within the jurisdiction of such officer, *State v. Ellis*, 4 Vr. 102.

or by fine or imprisonment at hard labor, or both, the fine not to exceed four hundred dollars, nor the imprisonment the term of two years.^(a)

24. If any person shall, directly or indirectly, give, offer, or promise to give any sum of money or other valuable thing, or any promissory note, bill of exchange, check, or other evidence of debt, or any other bribe, present, or reward, or give or make, or offer to give or make, any promise, contract, covenant, obligation, or security for the payment, delivery, alienation, or transfer of any money or other valuable thing, or any other bribe, present, or reward, to obtain, procure, or influence the opinion, behavior, vote, or abstaining from voting, of any member of the senate or general assembly of this state upon any bill, resolution, or other proceeding depending before the legislature, or before the senate or general assembly of this state, or upon any election or appointment to office to be made by the senate or the general assembly of this state, or by the senate and general assembly in joint meeting, such person so giving, offering, or promising to give, or making or offering to make any such sum of money or other valuable thing, promissory note, bill of exchange, check, evidence of debt, promise, contract, covenant, obligation, security, bribe, present, or reward, and the member of the senate or general assembly, or other person who shall in anywise, directly or indirectly, receive or accept the same, shall be adjudged guilty of a high misdemeanor, and on conviction thereof shall be punished by fine or imprisonment at hard labor, or both; but such fine shall not exceed five thousand dollars, and such imprisonment shall not exceed five years, and shall also be forever disqualified to hold any office of honor, trust, or profit, under this state; *provided*, that if the person who shall make such gift, offer or promise as aforesaid, shall in any legal proceeding in which the evidence shall be relevant and material, give evidence concerning such gift, offer or promise, against any member of the senate or general assembly, or other person who shall in anywise, directly or indirectly, accept any such promise or reward as aforesaid, then every such person so testifying shall not be liable to indictment or conviction for having made any such gift, offer or promise; *provided further*, that if any member of the senate or general assembly, or other person who shall in anywise, directly or indirectly, receive or accept any such gift, promise, or reward as aforesaid, shall in any legal proceeding in which the evidence shall be relevant and material, give evidence concerning such gift, offer, or promise against any person who shall make any such gift, offer, or promise as aforesaid, then every such member of the senate or general assembly, or other person so testifying, shall not be liable to indictment or conviction for accepting or receiving said gift, promise, or reward as aforesaid.

Bribery of members of legislature.
P. L. 1855, p. 654.
P. L. 1869, p. 1287.

Proviso.

Proviso.

25. If any candidate for office, in any election, as hereinafter mentioned under the laws of this state, or any other person shall directly or indirectly offer, promise, procure, confer or give any money, property, thing in action, victuals, drink, preferment, or other consideration or valuable thing, by way of fee, reward, gift, or gratuity for giving or refusing to give any vote in any election of any public officer, state, county or municipal whatever, or of any member of the congress of the United States, or of electors for president and vice president of the United States, such person shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof be punished by fine or imprisonment, or both, at the discretion of the court, said fine not to exceed one thousand dollars, nor such imprisonment six months; *and further*, such person shall, on such conviction, and as part of the judgment of the court, be deprived of the right of suffrage, and such candidate for office be disqualified to hold any office to which he was elected at such election; *and further*, if any person shall directly or indirectly ask for, accept, receive, or take any such bribe, or the promise thereof, by giving or refusing to give his vote in any such election, he shall be deemed guilty of a misdemeanor, and punished with the like penalties as hereinbefore provided.

Bribery of voters.
R. S. 408, § 108.
P. L. 1866, p. 705.
" 1871, p. 70, § 1.
" 1872, p. 46.

Electors.

(a) An indictment against a constable for extortion must show what was due him and what he took beyond his lawful fees, *Halsey v. The State*, 1 South.*324. *State v. Maires*, 4 Vr. 142. The mere taking of an illegal fee does not con-

stitute the offence, the defendant may prove before the jury that such fee was taken by him by mistake, *Cutter ads. State*, 7 Vr. 125.

Penalty for
illegal voting.
R. S., 408, § 50.

26. If any person convicted of any crime which excludes him from the right of suffrage under the provisions of the constitution of the state, shall vote at any such election, unless he shall have been pardoned or restored by law to the right of suffrage, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding two hundred dollars, or imprisonment at hard labor not exceeding two years, or both.

Penalty for
fraudulent
voting.
Ib. § 50.

27. Any person who shall fraudulently vote, or offer to vote, at any election to be held under any present or future law of this state, who shall not be duly qualified to vote at the place where and time when his vote is given or offered, knowing that he is not duly qualified, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment not exceeding one year, or both, at the discretion of the court before which such conviction is had. (a)

Penalty for
advising to vote
illegally.
Ib. § 51.

28. Any person who shall procure, aid, assist, counsel, or advise another to give his vote, knowing that such other person is not duly qualified to vote at the place where and time when the vote is to be given, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment not exceeding one year, or both, at the discretion of the court before which such conviction shall be had. (b)

Penalty for
offering to vote
a second time.
Ib. § 110.

29. If any person, who shall have voted in any such election, shall offer himself a second time as a voter in such election, he shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be punished by fine or imprisonment at hard labor, or both, at the discretion of the court before which such conviction shall be had; *provided*, that in no case shall such fine exceed the sum of five hundred dollars, or such imprisonment the term of one year. (c)

Influencing
voters.
Ib. § 108, 109.

30. No person shall in any way, directly or indirectly, by menace or other corrupt means or device, directly or indirectly attempt to influence any person in giving, or refusing to give, his vote in any such election, or to deter or dissuade any person from giving his vote therein, or to disturb, hinder, persuade, threaten, or intimidate any person from giving his vote therein; nor shall any person, at any such election, knowingly and wilfully make any false assertion or propagate any false report concerning any person who shall be a candidate thereat, which shall have a tendency to prevent his election, or with a view thereto; nor shall any officer or other person summon, call out, or request any company or body of militia to appear, parade, or exercise on the day of any such election, except in case of invasion or insurrection; and if any person shall be guilty of any act forbidden or declared to be unlawful by this section, he shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be punished by fine or imprisonment, or both, at the discretion of the court before which such conviction shall be had; *provided*, that in no case shall such fine exceed the sum of two hundred and fifty dollars, or such imprisonment the term of six months.

Militia not to be
called out.

Proviso.

II. Against the public peace.

Challenge and
duelling.
R. S., 257, § 64.

31. If any person shall, by word, message, letter, or any other way, challenge another to fight a duel, with a rapier, or small-sword, back-sword, pistol or other dangerous weapon, or shall accept a challenge, although no duel be fought, or knowingly be the bearer of such challenge, or shall any way abet, prompt, encourage, persuade, seduce, or cause any person to fight a duel, or to challenge another to fight such duel, every person so offending shall be deemed guilty of a misdemeanor, and on conviction

(a) If the indictment charge, that the defendant did "wilfully and unlawfully give in his vote," it is sufficient. The indictment must specify *why* the defendant was disqualified. It is not necessary to charge in an indictment for illegal voting that the defendant *fraudulently* voted, but if it is for illegally *offering* to vote, it must be so charged. *State v. Moore*, 3 *Dutch*. 105.

[N. B.—The words of the old act are that, "any person who shall vote, or shall fraudulently offer to vote, etc.," R. S. 422, § 50; Nix. Dig. 265, § 50].

(b) The indictment must state the particular disability which disfranchises the voter. *State v. Tweed*, 3 *Dutch*. 111.

(c) In an action for a penalty for having voted twice, it was not averred that such election had been held for members of the council, general assembly, &c., and an averment that it was held on the day of the annual election, was not enough. *Anonymous*. Pen. *516. Where the indictment charged the illegal vote to have been given at an election held pursuant to the statute in such case made and provided for electors of president, &c., naming the offices voted for, *Held* sufficient, *State v. Moore*, 3 *Dutch*. 105.

shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding two years, or both; *and further*, if any person shall engage in, and fight a duel with another, with a rapier, or small-sword, back-sword, pistol or other dangerous weapon, although death does not thereby ensue, or shall be a second in any such duel, then and in such case, every person so offending shall be adjudged to be guilty of a high misdemeanor, and on conviction shall be punished by fine, not exceeding one thousand dollars, or imprisonment, at hard labor, not exceeding four years, or both; and shall not, after such conviction, hold any office of profit or trust under this state.^(a)

32. If any person shall knowingly send or deliver any letter or writing, with or without a name subscribed thereto, or sign, with a fictitious name, any letter or letters threatening to accuse any person of a crime of an indictable nature by the laws of this state, with intent to extort from him or her any moneys, wares, merchandise, goods, or chattels, or other valuable thing, or demanding money, goods or chattels, or other valuable thing, or threatening to maim, wound, kill or murder any person, or to burn his or her house, out-house, barn, or other building, or stack or stacks of corn, grain or hay, or to do any civil injury to any person, or to his property, though no money, goods or chattels, or other valuable things, be demanded by such letter or writing, then every person so offending shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine, not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding nine months, or both.

Sending threatening letters.
R. S., 257, § 65.

33. Every person who shall be engaged in any fight or combat, with fists, commonly denominated prize fighting, whether such fight or combat be for money or any other valuable thing, or merely to test the skill or bodily powers of the pugilists or combatants, and every person who shall be aiding, assisting, or abetting, in any such fight or combat, shall be deemed guilty of a high misdemeanor, and on conviction thereof, shall be punished by imprisonment at hard labor, not exceeding two years, or by fine, not exceeding one thousand dollars, or both.

Prize fighting.
Ib. § 88.

34. If any captain, commandant, or owner of any steamboat, or other vessel shall knowingly permit such boat or vessel to be used in, or for, the conveyance or transportation of persons into this state, for the purpose of being engaged in, or aiding, assisting, abetting or witnessing any such fight or combat as is mentioned in the preceding section of this act, he or she shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment at hard labor, not exceeding two years, or by fine, not exceeding five hundred dollars, or both.

Carrying passengers to such exhibitions.
Ib. § 89.

35. Every person, who shall be present at any such fight or combat, whether coming from a foreign state or not, for the purpose of witnessing the same, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment at hard labor, not exceeding one year, or by fine, not exceeding two hundred dollars, or both.

Being present at them.
Ib. § 90.
Amended.

36. If any person or persons do or shall, with force and arms, wilfully and knowingly oppose, obstruct, or in any manner wilfully and knowingly let, hinder, or hurt any person or persons that shall begin to proclaim or go to proclaim, according to the proclamation directed to be made by the act of this state entitled "An act to prevent routs, riots, and unlawful assemblies," whereby such proclamation shall not be made, that then every such opposing, obstructing, letting, hindering, or hurting such person or persons, so beginning or going to make such proclamation as aforesaid, shall be adjudged a misdemeanor, and be punished by fine or imprisonment, or both, or by fine or imprisonment at hard labor, or both, the fine not to exceed one hundred dollars, nor the imprisonment six months.

Opposing the making proclamation dispersing unlawful assemblies, how punished.
R. S., 597, § 3.

37. If any persons, for the space of one hour after proclamation made, or attempted to be made, as aforesaid, shall unlawfully, routously, riotously, and tumultuously continue together, to the number of twelve or more, if armed, or of thirty or more, if unarmed, as aforesaid, such persons, so offending, shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment at hard labor, or both, the fine not to exceed one thousand dollars nor the imprisonment three years.

Penalty for unlawfully continuing together an hour after proclamation made.
Ib. § 4.

(a) Requisites in an indictment for challenging, *State v. Gibbons*, 1 South. *40.

III. Against public morals and the institution of marriage.

- Sodomy.**
R. S., 257, § 9.
 38. Sodomy, or the infamous crime against nature committed with man or beast, shall be adjudged a high misdemeanor, and be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding twenty-one years or both.
- Incest.**
Ib. § 15.
Amended.
 39. All persons who shall intermarry within the degrees prohibited by law, or being related within such degrees, shall together commit fornication or adultery, shall be adjudged to be guilty of incest and a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor, not exceeding eighteen months, or both, at the discretion of the court before whom such conviction shall be had.
- Adultery.**
Ib. § 16.
 40. Every person who shall commit adultery, and be thereof convicted, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment, not exceeding the term of six months.^(a)
- Fornication.**
Ib. § 17.
Amended.
 41. Every person who shall commit fornication, and be thereof convicted, shall be punished by a fine of fourteen dollars, to be paid to the overseers of the poor of the township where the offence was committed, for the use of the poor of said township, or by imprisonment in the county jail at hard labor, not exceeding six months, or both, at the discretion of the court.^(b)
- Lewdness.**
Ib. § 18.
 42. Every person who shall be guilty of open lewdness, or any notorious act of public indecency, grossly scandalous, and tending to debauch the morals and manners of the people shall, on conviction, be liable to a fine not exceeding one hundred dollars, and to an imprisonment at hard labor, not exceeding twelve months, or either of them, at the discretion of the court.
- Polygamy.**
Ib. § 13.
 43. If any person being married, or who hereafter shall marry, shall marry any person, the former husband or wife being alive, then the person so offending shall be deemed guilty of a high misdemeanor, and on conviction thereof, shall be punished by fine not exceeding one thousand dollars, and imprisonment at hard labor, for any term not exceeding ten years, or either of them, at the discretion of the court before whom such conviction shall be had; but neither this act, nor anything therein contained, shall extend to any person whose husband or wife shall be continually remaining without the United States of America for the space of five years together, or whose husband or wife shall absent him or herself, the one from the other, for the space of five years together, in any parts within this state or the United States, the one of them not knowing the other to be living within that time; nor to any person who is, or shall be, at the time of such marriage, divorced by the sentence or decree of any authority or court having cognizance thereof; nor to any person where the former marriage hath been, or shall be, by the sentence or decree of any such authority or court, declared to be void and of no effect; nor to any person for or by reason of any former marriage had or made, or to be had or made, within the age of consent.
- To whom this act does not extend.**
 44. If any person without just cause shall utter or expose to the view of another, or have in his possession with intent so as to utter or expose to view any obscene or indecent book, pamphlet, picture, or other representation however made, or any instrument, medicine or other thing, designed or purporting to be designed for the prevention of conception, or the procuring of abortion, or shall in anywise advertise, or aid, or assist in advertising the same, or in any manner, whether by recommendation against its use or otherwise, give or cause to be given, or aid in giving any information how or where any of the same may be had or seen, such person shall, upon conviction thereof, be imprisoned in the county jail not more than one year, or be fined not more than one thousand dollars for each offence.
- Indecent publications.**
P. L. 1868, p. 1160.
" 1869, p. 1115.
Combined.

^(a) A married man is not guilty of adultery in having carnal connection with an unmarried woman, *State v. Lash*, 1 Harr. 380. The defendant was convicted of adultery and sentenced to imprisonment at hard labor for six months in the state prison. On *habeas corpus*, it was held that he could

not be imprisoned at hard labor for this offence, *State v. Gray*, 8 Vr. 368.

^(b) Under Allinson, p. 4, § 3, (A. D. 1704), fornication without issue born, was not indictable, *Smith v. Minor*, Cox 16.

45. If any person shall sell or offer to sell, or shall give away or offer to give away any, or have in his or her possession with intent to sell or give away, or use any obscene or indecent book, pamphlet, paper, drawing, lithograph, engraving, daguerreotype, photograph, stereoscope, picture, model, cast, instrument, or article of indecent or immoral use, or article of medicine for the prevention of conception or procuring of abortion, or medicine or nostrum of any kind whatsoever, known as periodical pills, drops, or mixtures of any name or nature, for the regulating of the menstrual function or female irregularities, or such as are claimed to act as an emmenagogue to relieve suppressed or interrupted menses, whether caused by pregnancy or not, or shall advertise the same for sale, or write or cause to be written, or publish or cause to be published, any circular, handbill, card, book, pamphlet, advertisement or notice of any kind, stating when, how, or of whom, or by what means any of the said indecent and obscene articles and things hereinbefore mentioned can be purchased or otherwise obtained, or shall print or publish, or cause to be printed or published, any advertisements intended or calculated to invite, aid, or conceal the commission of any act in violation of the laws of this state, or shall manufacture, draw and expose, or draw with intent to sell, or to have sold, or print, or publish any such articles, every such person shall, on conviction thereof, be imprisoned in the county jail not more than one year, or be fined not more than one thousand dollars for each offence, one-third of said fine to be paid to the informer upon whose evidence the person so offending shall be convicted, one-third to the school fund of the county in which such offence shall be committed, and the remaining third to the treasurer of the orphan asylum in the said county, if there be one, or in equal portions to all of said asylums, if there be more than one, to be applied to the use and purposes of said asylum or asylums, and if there be no asylum or asylums, to the overseer of the poor of the county or township, to be applied to the benefit of the poor of said county or township; to the benefit of the county, if the poor are cared for by the county as a county; to the benefit of the poor of the township wherein the case of conviction arises, if the poor of the township are cared for by the township as a township.

Penalty for selling, giving away, or offering to sell or give away any obscene book, engraving, &c., or article of indecent or immoral use.

P. L. 1873, p. 77.

46. If any person shall deposit, or cause to be deposited in any post office within this state, or place in charge of any express company, or person connected therewith, or any common carrier or other person, any of the obscene and indecent articles and things mentioned in the foregoing section of this act, or any circular, handbill, card, advertisement, book, pamphlet, or notice of any kind, or shall give oral information stating where, how or of whom, such indecent and obscene articles or things can be purchased or otherwise obtained in any manner, with the intent of having the same conveyed by mail or express, or in any other manner; or if any person shall knowingly or wilfully receive the same with intent to carry or convey, or shall carry or convey the same by express, or in any other manner (except in the United States mail); every person so offending shall, on conviction thereof, be subject for each offence to the same fines and penalties as are prescribed in the foregoing section of this act for the offences therein set forth; and said fine shall be divided and paid in the same manner as therein provided.

Penalty for sending by mail, express, &c.

Ib.

47. All magistrates are authorized, on complaint founded on information and belief, supported by oath or affirmation, to issue a warrant, directed to the sheriff of the county within which such complaint shall be made, or to any constable, marshal, or police officer within said county, directing him, them, or any of them, to search for, seize, and take possession of such obscene and indecent books, papers, articles and things; and said magistrates shall transmit, inclosed and under seal, specimens thereof to the district attorney of his county, and shall deposit within the county jail of his county, or such other secure place as to him shall seem meet, inclosed and under seal, the remainder thereof, and shall, upon the conviction of the person or persons offending under any of the foregoing provisions, forthwith destroy, or cause to be destroyed, the remainder thereof so seized as aforesaid, and shall cause to be entered upon the records of his court the fact of such destruction.

Magistrates authorized to issue warrant.

Ib.

- Judge to charge grand jury at each term of court of offences in violation of this act.
Ib.
- Act how construed in relation to physicians.
Ib.
- Gaming.
R. S., 572.
- Lotteries.
R. S. 589.
- Selling tickets.
P. L. 1852, p. 348.
- Or policies insuring for or against the drawing of any ticket, etc.
Ib.
- Gaming in the neighborhood of colleges.
P. L. 1853, p. 326,
" 1854, p. 109.
Combined.
48. It shall be the duty of the presiding judge of every court of sessions or oyer and terminer within this state, especially to charge the grand jury at each term of said court, to take notice of all offences committed in violation of any of the four foregoing sections of this act; and it shall be the duty of all overseers of the poor, and treasurers of charities and schools, to prosecute and recover the penalties in the second of said four foregoing sections mentioned.
49. Nothing in this act shall be so construed as to render it unlawful for a physician, authorized according to statute to practice medicine in this state, to keep on hand and to prescribe any medicine he may judge to be useful and proper.
50. All playing at cards, dice, or other game, with one or more die or dice, or with any other instrument, engine or device, in the nature of dice, having one or more figure or figures, number or numbers thereon, or at billiards, or A. B. C. or E. O. tables or other tables, or at tennis, bowls or shuffle-board, or at faro bank, or other bank of the like kind, under any denomination whatever; and all cock-fightings for money, goods, chattels, or other valuable thing, shall be and hereby are declared to be offences against this state, and the authors, parties, players, bettors, wagerers, contrivors, and abettors in and of the same, shall be prosecuted and proceeded against by indictment.
51. All lotteries for money, goods, wares, merchandise, chattels, lands, tenements, hereditaments, or other matters or things whatsoever, shall be, and hereby are adjudged to be common and public nuisances; and the supreme court, the courts of oyer and terminer and general jail delivery, and the courts of general quarter sessions of the peace, shall respectively have cognizance of such offences. (a)
52. If any person shall give, barter, sell, or otherwise dispose of, or offer to give, barter, sell, or otherwise dispose of, any ticket or tickets, or any share or interest in any ticket or tickets, in any lottery, whether erected, set up, opened, or made in this state or elsewhere, or the chance or chances of any such ticket or tickets, he shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by fine, not exceeding one hundred dollars, or imprisonment at hard labor, not exceeding one year, or both.
53. If any person or persons shall issue any policy of insurance, or insure or receive any consideration for insuring for or against the drawing of any ticket or tickets, number or numbers, or any share or interest in any ticket or tickets, in any lottery, or shall receive any money, goods, or thing in action, in consideration of any agreement to repay any sum or sums of money, or to deliver any goods or thing in action, if any ticket or tickets, or any share of any ticket or tickets, in any lottery, shall prove fortunate or unfortunate, or shall be drawn or not drawn on any particular day, or in any particular order, or shall promise or agree to pay any sum of money, or deliver any goods or thing in action, or to do or forbear to do anything for the benefit of any other person or persons, upon any event or contingency dependent on the drawing of any ticket or tickets, or any share of any ticket or tickets, or upon the drawing of any number or numbers in any lottery, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one hundred dollars, or imprisonment at hard labor, not exceeding one year, or both.
54. The opening or keeping of any room or place for playing at billiards, or A. B. C. or E. O. table or tables, or at tennis, bowls, or shuffle-board, or at faro bank, or other bank of like kind, under any denomination whatever, or for playing at nine-pins, or any other number of pins, or for cock-fighting, or for pistol shooting, either for money or without money, within three miles of the main building of the College of New Jersey, or of "Rutgers College," or of Drew Seminary or University, in New Jersey, shall be and hereby are declared to be offences against this state; and the owner, tenant, keeper, or attendant, of such room or place, shall be prose-

(a) A public exhibition during which, and as a part of the advertised proceedings, presents were distributed among such of the audience as held tickets which answered to the numbers called at will by the exhibitor, held to be a lottery, *State v. Shorts*, 3 Vr. 398. A conveyance of land lying in New Jersey, founded on a lottery consideration, is void by the lottery act of that state, although the lottery was contrived and drawn in Pennsylvania, *Den, Ridgway v. Under-*

wood, 4 Wash. C. C. 129. If a tract of land be divided into lots of unequal value, and these be sold to a number of purchasers at a uniform price, and are distributed among those purchasers by drawing or lot, and a deed given to each purchaser for the lot drawn by him, this transaction is a lottery, and the deed is void and conveys no title, *Den, Wooden v. Shotwell*, 3 Zab. 465; 4 Zab. 789. See BUILDING AND LOAN ASSOCIATIONS, ante, p. 93, § 15.

cutted and proceeded against by indictment, and upon conviction shall be fined in a sum not exceeding two hundred dollars, or by imprisonment for a period not exceeding six months, or both, at the discretion of the court.(1)

55. All racing, by running, pacing, or trotting of horses, mares, or geldings, for money or other valuable thing, or where twenty or more persons are assembled together, shall be and hereby are declared to be offences against the state, and the authors, parties, contrivers, and abettors thereof and all and every other person or persons concerned therein, either directly or indirectly, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or both, at the discretion of the court; *provided*, that this section shall not apply to fairs or exhibitions of any agricultural or other incorporated society.

Racing for money prohibited.

R. S., 575, § 1.

P. L. 1863, p. 489.

56. If any person shall bet or wager upon the running, pacing or trotting of any horses, mares or geldings, or shall be concerned in making up any purse for any such running, pacing, or trotting, such person shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or both, at the discretion of the court.

Betting on races.

Ib., § 2.

57. If any person shall be a stakeholder of any sum of money or other thing betted, staked, or wagered upon any such, running, pacing, or trotting, or shall cause to be printed or set up any paper or other thing notifying or advertising any such running, pacing, or trotting, or shall be the rider or driver of any horse, mare, or gelding in any race, of either running, pacing, or trotting, such person shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or both, at the discretion of the court.

Holding stakes or riding races.

Ib., § 3.

58. If any person shall contribute or collect, or shall ask any other person to contribute or collect, any money, goods, or chattels, to make up a purse, plate, or other thing to be run, paced, or trotted for by any horse, mare, or gelding at any place in this state, such person shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or both, at the discretion of the court.

Contributing to races how punished.

Ib., § 4.

59. If any person or persons shall let or rent his, her or their land for the purpose of a racecourse for the running, pacing, or trotting any horses, mares or geldings, or shall knowingly suffer any such running, pacing, or trotting upon lands belonging to him, her or them, or of which he, she, or they may be in possession, such person or persons shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, at the discretion of the court.

Maintaining a racecourse.

Ib., § 5.

60. It shall not be lawful for any person or persons, without license for that purpose first had and obtained, to sell, or cause or knowingly permit to be sold, directly or indirectly, any wine, rum, gin, brandy, whiskey, cider-spirits or other ardent spirits, or any composition of which any of the said liquors shall form the chief ingredient, except such as shall be compounded and intended to be used as medicine, by less measure than one quart, or any mixed liquors by less measure than five gallons; and any person so offending, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in any sum not exceeding twenty dollars, together with the costs of the prosecution; *provided*, that the prosecution shall be commenced within six months after the offence shall have been committed; *and provided also*, that nothing in this act shall be construed or taken to prohibit any person or persons from selling metheglin, currant wine or other wine or cider, made by him, her or them.(2)(a)

Liquor selling without license.

R. S., 577, § 37.

(a) An indictment for selling liquor by small measure, which only alleges that the defendant did not obtain a license according to the act concerning inns and taverns, is insufficient and will be quashed, *State v. Webster*, 5 Hal. 293. An indictment charging the defendant with selling "ardent spirits," will be sufficient, *State v. Fox*, 1 Harr. 152. If the indictment be for selling "mixed liquors," it must show that the mixture is composed of some intoxicating liquors, *Townley ads. The State*, 3 Harr. 312; (said to have been overruled in *State v. Wyman*, see Gifford's Stat. Con. 181, note).

(1) See P. L. 1869, p. 1016.

(2) See P. L. 1874, p. 93, (Supplement to act concerning inns and taverns).

Or on Sunday.

P. L. 1848, p. 183.
" 1849, p. 61.

61. The licenses granted under the authority of this state to keep inns and taverns, shall not be construed to authorize the sale of any vinous, spirituous, fermented or other intoxicating liquors upon the Sabbath, commonly called Sunday; and all persons offending herein shall be subject to all the penalties and liabilities of the persons selling liquor without license, as specified in the statute of this state entitled "An act concerning inns and taverns," and shall likewise be subject to the forfeiture of the license, at the discretion of the court before whom conviction is had; and further, if any person shall offer or expose for sale on the said day, any spirituous, vinous, fermented or other intoxicating liquors, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine, not exceeding twenty dollars, together with the costs of the prosecution.^(a)

Or in court-house or jail.

R. S., 577, § 40.

62. It shall not be lawful for any sheriff, under-sheriff, jailer or other person whatever, to sell, or knowingly permit to be sold, in any of the court houses or jails of this state, any wine, gin, whiskey, cider-spirits, brandy or ardent spirits, or any composition of which any of said liquors shall form the chief ingredient; and in case any sheriff shall so offend, he shall be deemed guilty of a high misdemeanor, and on conviction thereof, shall be fined in the sum of one hundred dollars, together with costs of prosecution; and if any under-sheriff, jailer or other person shall so offend, he shall be deemed guilty of a misdemeanor, and on conviction thereof be fined in the sum of one hundred dollars, together with costs of prosecution.

Or on election day.

P. L. 1867, p. 1013.

63. If any person shall sell, or offer to sell, or expose for sale within the limits of any city, precinct, town, township or other municipality within this state, any spirituous, vinous or malt liquors, ale, beer, or cider on any day upon which any election, either general, special or municipal, shall be held in said city, precinct, town, township, or other municipality, between sunrise in the morning and sunset in the evening, he shall be deemed guilty of a misdemeanor, and shall on conviction thereof be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days, or both.

Witchcraft, etc., no prosecution for.

R. S., 257, § 19.

64. No prosecution, suit or proceeding shall be commenced or carried on in any court of this state against any person for conjuration, witchcraft, sorcery or enchantment, or for charging another with any such offence; and for the effectual prevention and punishment of any pretences to such arts or powers as are before mentioned, whereby ignorant persons are frequently deluded or defrauded, if any person shall pretend to exercise or use any kind of conjuration, witchcraft, sorcery, or enchantment, or pretend, from his or her skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels, supposed to have been stolen or lost, may be found, every person so offending, being thereof convicted, shall for every such offence, be punished by fine not exceeding fifty dollars, or imprisonment not exceeding three months, or both.

Pretenders to, punishable.

Ib., § 20.

65. All impostors in religion, such as personate our Saviour Jesus Christ, or suffer their followers to worship or pay them divine honors, or terrify, delude or abuse the people by false denunciation of judgments, shall on conviction, be punished for every such offence by a fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or both.

Impostors in religion.

Ib., § 21.

Blasphemy, Ib., § 22.

66. If any person shall wilfully blaspheme the holy name of God, by denying, cursing or contumeliously reproaching His being or providence, or by cursing or contumeliously reproaching Jesus Christ or the Holy Ghost, or the christian religion or the holy word of God (that is, the canonical scriptures contained in the books of the Old and New Testament), or by profane scoffing at or exposing them or any of them to contempt and ridicule, then every person so offending shall, on conviction thereof, be punished by a fine, not exceeding two hundred dollars, or imprisonment at hard labor not exceeding twelve months, or both.

^(a) The sale of liquor on the Sabbath day renders such a house disorderly, *State v. Williams*, 1 Vr. 103. The ordinances of Jersey City provide that no person licensed, &c., shall expose intoxicating liquors for sale on Sunday. Having liquor in its usual place in the bar without offering to sell it, is not a violation of the ordinance, *Houtsch v. Jersey City*, 5 Dutch. 316. *Grimes v. Jersey City*, 5 Dutch. 320.

II.—CRIMES WHICH INVOLVE PRIVATE INJURY.

IV. To the persons of individuals.

67. If any person or persons in committing or attempting to commit sodomy, rape, arson, robbery, or burglary, or any unlawful act against the peace of this state of which the probable consequence may be bloodshed, shall kill another, or if the death of any one shall ensue from the committing or attempting to commit any such crime or act as aforesaid, or if any person or persons shall kill any judge, justice of the peace, sheriff, coroner, constable, or other commonly known officer of justice, either civil or criminal, of this state, or the marshal or other commonly known officer of justice, either civil or criminal, of the United States, in the execution of his office or duty, or shall kill any of his assistants, whether specially called to his aid or not, endeavoring to keep and preserve the peace or apprehend a criminal, knowing the authority of such assistant, or shall kill a private person endeavoring to suppress an affray, or to apprehend a criminal, knowing the intention with which such private person interposes, then such person or persons so killing as aforesaid, on conviction shall be adjudged to be guilty of murder.

Murder.
R. S., 257, § 3.

68. All murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of wilful, deliberate, and premeditated killing, or which shall be committed in perpetrating, or attempting to perpetrate, any arson, rape, sodomy, robbery, or burglary, shall be deemed murder of the first degree; (a) and all other kinds of murder shall be deemed murder of the second degree; and the jury before whom any person indicted for murder, shall be tried, shall, if they find such person guilty thereof, designate, by their verdict, whether it be murder of the first or second degree; but if such person shall be convicted on confession in open court, the court shall proceed, by examination of witnesses, to determine the degree of the crime, and give sentence accordingly. (b)

Degrees of
murder.
Ib. § 4.

69. Every person convicted of murder of the first degree, his or her aiders, abettors, counsellors and procurers, shall suffer death; and every person convicted of murder of the second degree, shall suffer imprisonment at hard labor for any term, not less than five nor more than twenty years; and in all cases in which judgment of death shall be given under this section, the court may at their discretion, add to the judgment, that the body of such offender shall be delivered to a surgeon for dissection; and the sheriff who is to cause such sentence to be executed, shall accordingly deliver the body of such offender, after execution done, to such surgeon as the court shall direct, for the purpose aforesaid; provided, that such surgeon, or some person by him appointed for the purpose, shall attend to, receive and take away the dead body, at the time of the execution of such offender; and if any person or persons, after such execution had, shall rescue or attempt to rescue the body of such offender, out of the custody of the sheriff or his officers, or the surgeon or his agents, during the conveyance of such body to any place for dissection, as aforesaid, or shall rescue or attempt to rescue such body from the house of any surgeon where the same shall have been deposited in pursuance of this act, every person so offending, shall be liable to a fine, not exceeding one hundred dollars, and imprisonment at hard labor, not exceeding twelve months, or either of them, at the discretion of the court.

Punishment of.
Ib. § 5.

Rescue of body.

70. If any person or persons commit the crime of manslaughter, and be thereof convicted, such person or persons shall be liable to a fine, not exceeding one thousand dollars, and imprisonment at hard labor, not exceeding ten years, or either of them, at the discretion of the court.

Manslaughter.
Ib. § 7.

(a) If a person while committing or attempting to commit arson, undesignedly burn up another person in the dwelling, such killing is murder. *State v. Cooper*, 1 Gr. 361. To constitute murder in the first degree there must be an intention to take life. No particular time need intervene between the formation of the purpose and its execution, *Donnelly v. The State*, 2 Dutch. 465, 602.

(b) On the trial of an indictment for manslaughter, (occa-

sioned by an omission of duty on the part of a switch-tender on a railroad, whereby death ensued), it is a question for the jury whether the defendant was or was not guilty of negligence so criminal or culpable as to constitute manslaughter. *State v. O'Brien*, 3 Vr. 169. The law presumes all homicide to be committed with malice aforethought, *State v. Zellers*, 2 Hal. 220.

Killing person attempting to murder, etc.
Ib. § 74.

71. If any person shall attempt to commit murder, sodomy, rape, robbery, arson, or burglary, and in such attempt shall be slain, the slayer shall be deemed faultless, be liable to no forfeiture, and be totally acquitted and discharged.(a)

Killing by misadventure or in defence.
Ib. § 75.

72. If any person kill another by misadventure, or in his or her own defence, or in the defence of his or her husband, wife, parent, child, brother, sister, master, mistress, or servant, then the person so killing shall be deemed guiltless, be liable to no forfeiture, and be totally acquitted and discharged.(b)

Poisoning where death does not ensue.
Ib. § 42.

73. All willful poisoning of any person or persons, that shall hereafter be done, perpetrated or committed, or attempted to be done, perpetrated or committed, with intent to kill, although death shall not ensue therefrom, shall be adjudged a high misdemeanor, and the offender or offenders therein, on being thereof convicted, shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding fifteen years, or both, at the discretion of the court before whom such conviction shall be had.

Vending unwholesome provisions.
Ib. § 77.

74. If a butcher or other person shall sell, offer, or expose to sale the flesh of any animal dying otherwise than by slaughter, or slaughtered while diseased, or any contagious or unwholesome flesh; or, if a baker, brewer, distiller, or other person shall sell unwholesome bread, drink, or liquor, he or she shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding fifty dollars, or by imprisonment in the county jail, not exceeding four months.

Penalty for maliciously or without lawful justification causing or procuring the miscarriage of any woman pregnant with child.

75. If any person maliciously, or without lawful justification, with intent to cause and procure the miscarriage of a woman then pregnant with child, shall administer to her, prescribe for her, or advise or direct her to take or swallow any poison, drug, medicine, or noxious thing, and if any person or persons maliciously, and without lawful justification, shall use any instrument or means whatever with the like intent, he shall, on conviction thereof, be adjudged guilty of a high misdemeanor; and if the woman or child die in consequence thereof, shall be punished by fine not exceeding one thousand dollars, and imprisonment at hard labor for a term not less than ten years; and in case the woman or child do not die in consequence thereof, such offender, on conviction thereof, shall be adjudged guilty of a misdemeanor, and be punished by fine not exceeding five hundred dollars, and imprisonment at hard labor for a term not less than two years.(c)

P. L. 1872, p. 45.

Mayhem.

R. S., 257, § 63.

76. If any person, from premeditated design, evinced by lying in wait for the purpose, or in any other manner, or with intent to kill, maim or disfigure, shall cut out and disable the tongue, put out an eye, cut off or slit a lip, cut off, slit or destroy the nose or ear, or cut off or disable any limb or member of another, willfully and on purpose, every person so offending shall, on conviction, be deemed guilty of a misdemeanor, and be punished by imprisonment at hard labor not exceeding seven years, or by fine not exceeding one thousand dollars, or both.(d)

Assault with intent to rob, etc.
Ib. § 39.

77. If any person shall unlawfully and maliciously assault another with any offensive weapon or instrument, or by menaces, or in and by other forcible and violent manner and means demand of another any money or personal goods and chattels, with intent to rob him or her, then, and in each and every case, the person so offending, and his or her counsellors, aiders and abettors, shall be deemed guilty of a high misdemeanor, and on being thereof convicted, shall be punished by fine not exceeding one thou-

(a) No man has a right to defend his property (other than his dwelling house) against a mere trespasser, by making use of a deadly weapon, *State v. Zellers*, 2 Hal. 220. See *State v. Lewis*, cited *arg.* 1 Hal. 49.

(b) In order to excuse a homicide on the ground of self-defence, it must clearly appear that it was a necessary act. In order to avoid destruction or some severe calamity, *State v. Wells*, *Coze* 424.

(c) To cause or procure abortion before the child is quick, is not a criminal offence at common law, *State v. Cooper*, 2 Zab. 52. It is not necessary to aver in the indictment that the poison, &c., advised to be taken was actually taken or swallowed, neither is it necessary to prove it on the trial, *State v. Murphy*, 3 Dutch. 112. The indictment must charge that the defendant did the acts in the statute specified, with

intent to cause and procure the miscarriage. Both words must be used conjunctively, in order to charge the intent which the statute makes criminal, *State v. Drake*, 1 Vr. 422. Where the language of a statute is in the disjunctive, viz: "burn or cause to be burned," and the indictment charges the offence in the conjunctive, viz: that the defendant "burned and caused to be burned," the allegation is sufficient, *State v. Price*, 6 Hal. 203. See *Stone v. State*, *Spen*. 404.

(d) If the nose is bitten off, it is a cutting off within the meaning of the statute, *State v. Mairs*, *Coze* 453. S. C. *Coze* 335. False representations by third persons, of threats, not sworn to by the plaintiff, could not justify the defendant in putting out the plaintiff's eyes, in an affray, when it was not required for his own safety, *Custner v. Sliker*, 4 Vr. 507.

sand dollars, or imprisonment at hard labor for any term not exceeding ten years, or both.

78. Every person who shall be convicted of an assault with an intent to commit any murder, manslaughter, burglary, robbery, sodomy, or rape, or of an atrocious assault and battery, by maiming or wounding another, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment at hard labor not exceeding ten years, or by a fine not exceeding one thousand dollars, or both.

Assault with intent to murder, etc.
Ib. § 40.

79. If any person shall kidnap or steal or forcibly take away any man, woman or child, bond or free, and send or carry, or with intent to send or carry, such man, woman or child from this state into another state or country, or shall spirit, persuade or entice any child within the age of fourteen years to leave his or her father, mother or guardian, or other person or persons intrusted with the care of such child, and the same child shall secrete and conceal, then the person so offending in any of the premises, and his or her procurers, shall be adjudged to be guilty of a high misdemeanor, and on conviction shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding five years, or both. (See *Sec. 197*)

Kidnapping.
Ib. § 62.

80. Any person who shall have carnal knowledge of a woman, forcibly and against her will, or who shall aid, abet, counsel, hire, cause or procure any person or persons to commit the said offence, or who, being of the age of fourteen years, shall unlawfully and carnally know and abuse a woman child, under the age of ten years, with or without her consent, shall, on conviction, be adjudged guilty of a high misdemeanor, and be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, for any term not exceeding fifteen years, or both. (a)

Rape, etc.
Ib. § 10.

Abuse of infant.

81. If any person shall unlawfully take any maid, widow, or wife, contrary to her will, and shall marry her himself, or cause or procure her to be married to another, either with or without her consent, or shall defile, or cause her to be defiled, such person so offending, his aiders, abettors, counsellors and procurers, and such as wittingly receive such woman, so taken against her will, and knowing the same, shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding twelve years, or both; and every such marriage shall be void; and also the person to whom such woman shall be so married shall not receive, take, hold, possess, or enjoy any part of her estate, real or personal, by any gift, grant, bequest, or devise of, from or under her; but every such gift, grant, bequest or devise so made to him, or for his use, shall be void and of no effect.

Abduction.
Ib. § 11.

Marriage void.

82. If any person shall unlawfully convey or take away any woman child, unmarried, whether legitimate or illegitimate, being within the age of fifteen years, out of or from the possession, custody or governance, and against the will of the father, mother, or guardian of such woman child, though with her own consent, with an intent to seduce, deflower or contract matrimony with her, such offender shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding four hundred dollars, and imprisonment at hard labor for any term not exceeding two years, or either of them; and if he deflower such woman child, or, without the consent of her father, mother or guardian, contract matrimony with her, then, and in such case, he shall be deemed guilty of a high misdemeanor, and on conviction, shall be punished by fine, not exceeding one thousand dollars, and imprisonment at hard labor, for any term not exceeding five years, or either of them; and further, every such marriage shall be void.

Seduction, etc., of infant.
Ib. § 12.

83. *Whereas*, many lewd and dissolute women, being pregnant with bastard children, but regardless of natural affection, or to avoid shame or escape punishment, conceal their pregnancy and the birth of such children, whereby many of them perish for want of the usual and necessary aid and assistance, and also conceal the death of such children, so that it cannot

Concealment of pregnancy and birth.
Ib. § 14.

(a) A general verdict of guilty on an indictment containing two counts, one for rape and one for assault with intent, &c., there being but one offence, and a general judgment thereon, is good. *Cook v. The State*, 4 Zab. 843. See *State v. Ross*, 2 Dutch. 224. *Johnson v. The State*, 2 Dutch. 313. On an indictment for rape the defendant may be convicted of an

assault and found not guilty of the rape, *State v. Johnson*, 1 Vr. 185. See *State v. Cooper*, 1 Gr. 362. *Francisco v. The State*, 4 Zab. 30. A complaint made by the woman soon after the assault, is admissible in evidence on the trial, *State v. Ivins*, 7 Vr. 233.

be known whether they were murdered or not—*therefore*, if any woman shall conceal her pregnancy, and shall willingly and of purpose be delivered in secret by herself, of any issue of her body, male or female, which shall by law be a bastard, every such woman so offending, shall be adjudged to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment at hard labor not exceeding four months, or both; *and*, if any woman shall endeavor privately, by drowning or secret burying, or in any other way, either by herself or the procurement of others, to conceal the death of any such issue of her body, which, if it were born alive, would by law be a bastard, so that it may not come to light whether it were born alive or not, or whether it were murdered or not, then in every such case, the woman so offending, her aiders, abettors, counsellors and procurers, shall be adjudged to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding two hundred dollars, or by imprisonment at hard labor, not exceeding one year, or both, at the discretion of the court before whom such conviction shall be had.

V. To property—1. By direct injury.

1. TO DWELLINGS AND OTHER BUILDINGS.

84. If any person wilfully and maliciously shall burn, or cause to be burned, or aid, counsel, procure, or consent to the burning of the dwelling-house of another, or any kitchen, shop, barn, stable or other out-house that is a parcel thereof, or belonging or adjoining thereto, or any other building, by means whereof a dwelling-house shall be burnt, then, and in every such case, the person so offending shall be adjudged guilty of arson, and be proceeded against for a high misdemeanor, and, on conviction, shall be punished by fine, not exceeding two thousand dollars, and imprisonment at hard labor, for any term not exceeding fifteen years, or either of them.^(a)

85. If any person wilfully and maliciously shall burn, or cause to be burned, or aid, counsel, procure, or consent to the burning of any barn, stable, or other building of another, not a parcel of a dwelling-house, or any shop, store-house, ware-house, malt-house, mill, or other building of another, or any ship, boat, or other vessel of another, lying within the body of any county of this state, or any church, meeting-house, court-house, work-house, jail or other public building, then, and in every such case, the person so offending shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine, not exceeding one thousand dollars, and imprisonment at hard labor, for any term not exceeding ten years, or either of them.

86. If any person shall wilfully and maliciously set fire to, or aid, procure, or consent to the setting fire to any church, meeting-house, court-house, work-house, jail, or other public building, or any dwelling-house, kitchen, shop, store-house, ware-house, malt-house, mill, barn, stable, or other house or building of another, or any ship, boat, or other vessel of another, lying within the body of any county in this state, with intent to burn the same, then, and in every such case, the person so offending shall be adjudged guilty of a misdemeanor, and, on being thereof convicted, shall be punished by fine not exceeding five hundred dollars, and imprisonment at hard labor, for any term not exceeding five years, or either of them.

87. If any person shall wilfully and maliciously set fire to or burn, or aid, counsel, procure, or consent to the setting fire to or burning of any building, ship, or vessel, or any goods, wares, merchandise, or other chattels, which shall at the time be insured by any person or corporation against loss or damage by fire, with intent to prejudice any person or corporation that has underwritten or shall underwrite any policy of insurance thereon, whether the same be the property of such person, or any other, such person so offending shall be adjudged guilty of a misde-

^(a) An indictment for arson, charging the defendant with burning the property of another, is not sustained if it appears by the evidence that the defendant was in possession of the property under a contract to purchase, *State v.*

Fish, 3 *Dutch*. 323. What allegations in the indictment as to the locality of the building burned, are sufficient, *State v. Price*, 6 *Hal*. 203, cited *supra*. § 75 (a).

Arson.
R. S. 257, § 30.

Burning
buildings, etc.
Ib. § 31.

Setting fire to,
etc.
Ib. § 32.

Burning build-
ings to defraud
insurers, etc.
P. L. 1859, p. 367,
§ 1.

meanor, and on conviction shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor for a term not exceeding ten years, or either of them.

88. If any person shall wilfully and maliciously set fire to or burn, or aid, counsel, procure, or consent to the setting fire to or burning of any dwelling house, shop, barn, stable, ware-house, or other building of another, in his or her possession, with intent to defraud any person whatever, such occupant shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one thousand dollars, and imprisonment at hard labor for any term not exceeding five years, or either of them.

Or with any fraudulent intent.
Ib. § 2.

89. Whosoever shall unlawfully and maliciously place or throw in, into, upon, under, against, or near any building, fire, matches, or any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods or chattels, shall, whether or not any fire or explosion take place, and whether or not any damage be caused, be guilty of misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to imprisonment.

Attempting to destroy buildings with gunpowder.

90. Any person who, in the counties of Ocean, Atlantic, Camden or Burlington, shall burn any pit of charcoal, or set fire to or burn any brush or other material, whereby any property may be endangered, unless they shall keep and maintain a careful and competent watchman in charge of said pit, bed, or other material, while burning, shall be guilty of misdemeanor, and punishable by fine of one hundred dollars, or imprisonment six months, or both.

Burning charcoal, &c., without a watchman.

P. L. 1864, p. 577.

91. If any person or persons shall, during an alarm of fire, wilfully hinder, prevent or deter by any device whatsoever, any fireman or other person from rendering lawful assistance in abating or quelling such alarm of fire, if false; or from going to or returning from the place where any building or other property is on fire, or from which an alarm proceeds; or from aiding and assisting in extinguishing the burning of any building or other property on fire; or shall wilfully obstruct or hinder the passage of any fire engine, hook and ladder truck, or hose-cart, in going to or from the place from which an alarm of fire proceeds, or where any building or other property may be burning; or shall at any time wilfully cut, deface, or injure any fire engine, hook and ladder truck, hose-cart, hose, or any other apparatus or implement used for extinguishing fires, every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine, not exceeding one thousand dollars, or by imprisonment at hard labor, not exceeding two years, or both.

Obstructing firemen at fires, etc.

R. S., 257, § 91.

92. If any person or persons shall wilfully or maliciously destroy or injure any of the wires, posts, machines, bells, boxes, locks, or other apparatus of any fire alarm telegraph of this state, or shall maliciously or wilfully interfere with the same, or any part thereof, with intent to create a false alarm, or shall in any way wilfully or maliciously obstruct or attempt to obstruct the efficient operation of the same or any part thereof, or hinder or impede any of the operations lawfully intended to be accomplished thereby, he, she or they so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding one year, or both, at the discretion of the court, and shall also be liable for the damages occasioned thereby.

Penalty for injury to fire alarm telegraph or apparatus.

P. L. 1871, p. 33.
Amended.

93. If any person shall, by night, wilfully and maliciously break and enter any church, meeting house, dwelling house, shop, warehouse, mill, barn, stable, out-house or building whatsoever, with intent to kill, rob, steal, commit a rape, mayhem, or battery, every such offender, his and their procurers, counsellors, aiders, and abettors, shall be deemed guilty of a high misdemeanor, and on being thereof convicted in due course of law, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding ten years, or both.(a)

Burglary.

R. S., 257, § 33.

(a) If a man lifts up the latch of an outward door, or, if the outward door being open, he enters and unlatches or unlocks a chamber door, it is such a breakin; as is necessary to constitute burglary. If all the doors are open and a

House breaking
with intent.
Ib. § 39.

94. If any person shall, by day, wilfully and maliciously break and enter any dwelling house, shop, warehouse, storehouse, mill, barn, stable, out-house, or other building whatever, with intent to kill, rob, steal, or commit a rape, mayhem, or battery, then, and in every such case, the person so offending, and his or her counsellors, procurers, aiders, and abettors, shall be deemed guilty of a high misdemeanor, and on being thereof convicted, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor for any term not exceeding ten years, or both.

Entering build-
ing with intent
to kill, etc.
Ib. § 41.

95. If any person shall wilfully and maliciously enter either by day or night, without breaking the same, any church, meeting house, or place of worship, or any dwelling house, shop, warehouse, storehouse, mill, barn, stable, out-house, or other building whatsoever, with intent to kill, rob, steal, or commit a rape, mayhem, or battery, then, and in every such case, the person so offending, and his or her counsellors, procurers, aiders, and abettors, shall be deemed guilty of a high misdemeanor, and on being thereof convicted, shall be punished by fine not exceeding three hundred dollars, or by imprisonment at hard labor for any term not exceeding five years, or both.

Manufacturing
or having
burglar's tools.
P. L. 1870, p. 38.

96. Any person who shall manufacture, or knowingly have in his possession any engine, machine, tool, or implement, adapted or designed for cutting through, forcing or breaking open any building, room, vault, safe, or other depository, in order to steal therefrom any money or other property, knowing the same to be adapted or designed for the purpose aforesaid, with intent to use or employ, or allow the same to be used or employed for the purpose aforesaid, shall, on conviction, be punished by imprisonment at hard labor, for any term not exceeding fifteen years, or fined any sum not exceeding four thousand dollars, or both.

2. MALICIOUS MISCHIEF.

Removing piles
of any sea bank,
etc., or obstruct-
ing navigation of
a river or canal.

97. Whosoever shall unlawfully and maliciously cut off, draw up, or remove any piles, or other materials fixed in the ground, and used for securing any sea bank or sea wall, or the bank, dam, or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbor, dock, quay, wharf, jetty or lock, or shall unlawfully and maliciously open or draw up any floodgate, or sluice, or do any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing or maintaining the navigation thereof, shall be guilty of a misdemeanor, and on being convicted thereof, shall be liable to imprisonment at hard labor, not over one year, or fine not over two hundred dollars, or both.

Injury to a pub-
lic bridge.

98. Whosoever shall unlawfully and maliciously pull or throw down, or in anywise destroy any bridge, (whether over any stream of water or otherwise), or any viaduct, or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway or canal shall pass, or do any injury with intent and so as thereby to render such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable, shall be guilty of a misdemeanor, and shall be liable to imprisonment at hard labor not over one year, or fine not over two hundred dollars, or both.

Injuring bridges,
dams, etc.
R. S., 257, § 70.

99. If any person shall wilfully, unlawfully, and maliciously cut down, break down, level, demolish or otherwise destroy or damage any bridge, or sea or river bank, or any meadow bank, or mill dam, or any canal or raceway used for navigation or manufacturing purposes, or any gate, bank, lock, or plane necessary or appertaining thereto, or any towing path, tunnel, or other work on or belonging to any navigable river, or other water or canal, or any public reservoir of water, or shall break or destroy the windows or doors of any dwelling house, or other house or building, or set fire to, or burn, carry off or destroy, or procure or cause to be burned or destroyed, or carried off, any barrack, cock, crib, rick or stack of hay, corn, wheat, rye, barley, oats, or grain of any kind, or any fences, rails, enclosures,

thief enters, although he should afterwards break open a chest, it is not such a breaking, *State v. Wilson, Coxe* 439. It is not necessary to allege in the indictment that the crime was committed at any particular hour of the night, the general allegation "by night" being sufficient, *State v. Robinson, 6 Vr. 71*. See also *State v. Cooper, 1 Gr. 362*.

piles of wood, boards or other lumber, or any trees, herbage, growing grass, hay or other vegetables, or shall wilfully, unlawfully and maliciously kill or destroy any horse, mare or gelding, or any bull, ox, steer, bullock, cow, heifer, or calf, or any sheep, goat or lamb, with intent to injure any person; every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding two hundred dollars, or imprisonment at hard labor not exceeding one year, or both.

100. Whosoever being possessed of any dwelling house or other building, or part of any dwelling house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, shall unlawfully and maliciously pull down or demolish, or begin to pull down or demolish the same or any part thereof, or shall unlawfully and maliciously pull down or sever from the freehold any fixture being fixed in or to such dwelling house or building, or part of such dwelling house or building, shall be guilty of a misdemeanor, and liable to imprisonment at hard labor not exceeding one year, or fine not exceeding two hundred dollars, or both.

Tenants of houses etc., maliciously injuring them.

101. Whosoever shall unlawfully and maliciously kill, maim, or wound any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall, on conviction thereof, be punished by imprisonment, not exceeding six months, or fine, not exceeding one hundred dollars. (a)

Killing or maiming of animals.

102. Every person who shall cruelly beat or torture any horse, mule, ox, or other animal, whether belonging to himself or to another, shall be guilty of misdemeanor, and on conviction thereof, shall be punished by fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding one year.

Cruelty to animals.

P. L. 1867, p. 492.

103. If any person or persons whatsoever shall, at any time hereafter, unlawfully cut, fell, work up, carry away, box, bore, bark, or destroy any tree, sapling, log or pole, standing or lying on any land in this state, to which such person or persons hath not or have not any legal right and title, without leave first had and obtained of the owner or owners of the said land for that purpose, every person so offending, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by fine, not exceeding one hundred dollars, or imprisonment at hard labor, not exceeding one year, or both, at the discretion of the court before whom such offender or offenders shall be convicted; *provided*, that this act shall not subject to conviction and punishment any person or persons who have been subjected to a prosecution for a penalty, as provided for the same offence, and shall be discharged therefrom by due course of law, or who shall cut, fell, work up, carry away, box, bore, bark, or destroy any tree, sapling, log or pole, standing or lying on any land in his or her actual possession, nor any person or persons who shall cut, fell, work up, carry away, box, bore, bark, or destroy any tree, sapling, log or pole, lying and being on land not his, her or their own, by reason of not knowing the exact boundaries of lands in his, her or their possession, nor any person who shall do the same by mistake or accident, without any intention to injure or defraud the owner thereof.

Unlawful cutting of timber, etc.

R. S. 599, § 2.

Proviso.

104. If any person or persons shall saw up any log, or receive, or buy any tree, sapling, log, pole, wood or timber, so unlawfully taken and carried away, knowing the same to have been so unlawfully taken and carried away, he, she or they so offending, shall be deemed guilty of a misdemeanor, and, on conviction, be punished by fine not exceeding one hundred dollars, or imprisonment at hard labor, not exceeding six months, or both, at the discretion of the court before whom such offender or offenders shall be convicted.

Receiver, how punished.

Ib. § 3.

105. Nothing in this act shall be deemed or taken to extend to prohibit the cutting, felling, or carrying away, of any wood or timber within the bounds or limits of the highways within this state, for the making and repairing of bridges and highways.

Not to apply to highways.

Ib. § 4.

(a) Maiming or wounding an animal, without killing it, is not indictable at common law, *State v. Beckman*, 3 Dutch. 124

Tenants not exempt from conviction.

Ib. § 5.

Appropriating drift wood, etc.

P. L. 1855, p. 322.

" 1857, p. 365.

When offences against five preceding sections to be prosecuted.

Penalty for mooring vessels to or damaging or destroying any buoy or beacon.

Cost of repairing buoy or beacon to be a lien upon the vessel damaging the same.

Breaking down the dam of a fishery, etc. or mill-dam, or poisoning fish.

106. No person or persons shall be exempt or protected from conviction and punishment for any offence or offences committed against the prohibitions in this act, by reason of being possessed of or entitled to a share or shares of propriety, under the pretence of being a tenant or tenants in common of the unlocated lands in this state, belonging to the general proprietors; *provided nevertheless*, that it shall and may be lawful for any duly authorized agent or agents of the general proprietors, to take, seize, and carry away all such wood or timber, as he or they may find cut or felled on any of the said unlocated lands, and to dispose of the same for the use of the said general proprietors.

107. Any person or persons who shall take up and secure any drift lumber or boards, rails, posts and other valuable lumber, boats, scows, skiffs, barges or other craft, which may be found adrift or lodged on the land of any person in any of the rivers running through or bordering on this state, and shall carry away the same to a greater distance than twenty yards from the margin of the river in which the same may be found, or who shall secrete the same in any place whatever, or who shall fail or neglect to advertise the same, if over the value of five dollars, in manner specified in the act entitled "An act to secure to the owners lumber found adrift in the river Delaware," or who shall appropriate the same, or any part thereof, to his own use without having first complied in all respects with the requirements of the timber act, or who shall aid in, assist or procure the same to be done, shall be held and deemed guilty of a misdemeanor, and, on conviction thereof, shall be liable to a fine, not to exceed two hundred dollars, or imprisonment at hard labor, not to exceed two years, or both, at the discretion of the court.

108. All offences against the sections one hundred and three, one hundred and four, one hundred and five, one hundred and six, and one hundred and seven of this act, shall be prosecuted within eighteen months from the time they were committed, and not afterwards.

109. Any person or persons who shall moor any vessel or vessels of any kind or name whatsoever, or any raft or part of a raft to any buoy or beacon placed in the waters of New Jersey by the authority of the United States Light House Board, or shall in any manner hang on with any vessel or raft, or part of a raft, to any such buoy or beacon, or shall wilfully remove, damage or destroy any such buoy or beacon, or shall cut down, remove, damage or destroy any beacon or beacons erected on land in this state by the authority of the said United States Light House Board, shall for every such offence be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be punished by a fine not to exceed two hundred dollars, or by imprisonment not to exceed three months; one-third of the fine in each case shall be paid to the informer, and two thirds thereof to the Light House Board, to be used in the repairing of the said buoys and beacons, and the cost of repairing or replacing any such buoy or beacon which may have been misplaced, damaged or destroyed by any vessel or raft whatsoever having been made fast to any such buoy or beacon, shall, when the same shall be legally ascertained, be a lien upon such vessel or raft, and may be recovered against said vessel or raft, and the owner or owners thereof, in an action of debt in any court of competent jurisdiction in this state.

110. Whosoever shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam, floodgate or sluice of any fish pond, or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully or maliciously put any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish that may then be or that may thereafter be put therein, or shall unlawfully and maliciously cut through, break down or otherwise destroy the dam or floodgate of any mill pond, reservoir or pool, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be punished by imprisonment for six months at hard labor, or to a fine not exceeding two hundred dollars, or both.

111. Whosoever shall unlawfully and maliciously put, place, cast, or throw upon or across any railway, any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove or displace, any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move or divert any switch, or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent in any of the cases aforesaid, to obstruct, upset, overthrow, injure or destroy, any engine, tender, carriage, car or truck, upon or using such railway, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable at the discretion of the court, to imprisonment at hard labor not exceeding ten years, or to a fine not exceeding one thousand dollars, or both.

Obstructions on railways.

112. Whosoever by any unlawful act, or by any wilful omission or neglect, shall obstruct or cause to be obstructed, any engine or carriage using any railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years at hard labor, or to a fine not exceeding two hundred dollars.

Obstructing engines or carriages on railways.

113. If any person or persons shall wilfully and maliciously injure, hinder or obstruct, impair or destroy any railroad within this state, or any of the necessary works, carriages or machines used on said railroad, such person or persons so offending, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by imprisonment at hard labor not exceeding three years, or by fine not exceeding five hundred dollars, or both.

Injuring railroads, etc.

R. S. 257, § 71.

114. *Whereas*, great danger is liable to be incurred by the acts of unauthorized persons in attempting to control the running and management of railways cars, to the manifest peril of life and property; *therefore*, if any person or persons unauthorized or unemployed by the individuals or corporations managing or owning any railway cars in this state, shall maliciously or wantonly, for the purpose of hindering or delaying such car or cars, let down or apply the brakes of any car, or shall pull the bell-rope, or convey to the engineer, conductor, or others employed in the management of such cars, any such signal as is or may be used for regulating the running and management of such cars, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment not exceeding one year, or by a fine not exceeding one hundred dollars, or both, at the discretion of the court.

Unauthorized attempt to control railway trains, etc.

P. L. 1863, p. 81, § 1.

115. Whosoever shall unlawfully and maliciously cut, break, throw down, destroy, injure, or remove any battery, machinery, wire, cable, post, or other matter or thing whatsoever, being part of or being used or employed, in or about any electric or magnetic telegraph, or in the working thereof, or shall unlawfully and maliciously prevent or obstruct in any manner whatsoever, the sending, conveyance, or delivery of any communication by such telegraph, shall be guilty of a misdemeanor, and, on being convicted thereof, shall be liable, at the discretion of the court, to be imprisoned at hard labor, for any term not exceeding two years, or fined, not exceeding two hundred dollars, or both.

Injuries to telegraphs.

116. If any person shall wilfully, unlawfully and maliciously cut down, break down, level, demolish, or otherwise destroy or damage any conduit, aqueduct, or artificial watercourse, for the purpose of leading water to any dwelling house, barn, spring-house, or other out-building, or to the lands of any person, or the pipes or other machinery for making or conveying gas belonging to any incorporated gas light company, every person so offending shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine not exceeding one hundred dollars, or imprisonment at hard labor, not exceeding one year, or both.

Injuries to water and gas pipes.

117. Whosoever shall unlawfully and maliciously cause any water to be conveyed or run into any mine, clay pit, or marl pit, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine, clay pit, or marl pit, or to hinder or delay the working thereof, or shall with the like intent unlawfully and maliciously

Conveying water into a mine, obstructing the shaft, etc.

pull down, fill up, or obstruct, or damage with intent to destroy, obstruct, or render useless, any airway, waterway, drain, pit, level, or shaft of or belonging to any mine, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labor, and with or without solitary confinement; *provided*, that this provision shall not extend to any damage committed under ground, by any owner of any adjoining mine, or pit, in working the same, or by any person duly employed in such working.

Damaging steam engines, wagonways, etc. for working mines.

118. Whosoever shall unlawfully and maliciously pull down or destroy, or damage with intent to destroy or render useless, any steam engine or other engine for sinking, draining, ventilating, or working, or for in anywise assisting in sinking, draining, ventilating, or working any mine, marl pit, or clay pit, or any appliance or apparatus in connection with any such steam or other engine, or any building, or erection used in conducting the business of any such mine or pit, or any bridge, wagonway, or trunk, for conveying from any mine, clay pit, or marl pit, whether such engine, building, erection, bridge, wagonway, or trunk, be completed or in an unfinished state, or shall unlawfully and maliciously stop, obstruct, or hinder the working of any such steam or other engine, or of any such appliance or apparatus as aforesaid, with intent thereby to destroy or damage any such mine or pit, or to hinder, obstruct, or delay the working thereof, or shall unlawfully and maliciously wholly or partially cut through, sever, break or unfasten, or damage with intent to destroy or render useless, any rope, chain or tackle, of whatsoever material the same shall be made, used in any mine, marl pit, or clay pit, or in or upon any inclined plane, railway or other way, or other work whatsoever, in anywise belonging or appertaining to, or connected with, or employed in any such mine or pit, or the working or business thereof, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to imprisonment at hard labor for two years, or to a fine of two hundred dollars, or both.

Machinery.

P. L. 1866, p. 352.

119. If any person or persons shall hereafter wilfully and maliciously destroy, break, injure or obstruct any machinery or gearing, or any part thereof owned or used by any other person or persons, or by any incorporated company for manufacturing purposes, such person or persons so offending shall be deemed guilty of a high misdemeanor, and on conviction shall be punished by fine not exceeding one hundred and fifty dollars, or imprisonment at hard labor not exceeding two years, or both.

Destroying or damaging works of art in museums, etc., or in churches, etc., or in public places.

120. Whoever shall unlawfully and maliciously destroy or damage any book, manuscript, picture, print, statue, bust, or vase, or any other article or thing kept for the purpose 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 the permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, statue, monument or other memorial of the dead, painted glass, or other ornament or work of art, in any church, chapel, meeting house, or other place of divine worship, or in any building belonging to any county, city, borough, or to any university, or college, or hall of any university, or in any street, square, churchyard, burial ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing or fence surrounding such statue or monument, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding six months, or fined two hundred dollars; *provided*, that nothing herein contained shall be deemed to affect the right of any person to recover, by action at law, damages for the injury so committed.

Injury or theft of flowers, &c. in grave yards.

P. L. 1867, p. 992.

121. If any person shall steal, or break with intent to steal, any flower, shrub, or tree, planted and growing and being in any graveyard or cemetery in this state; or shall wilfully and maliciously cut, break or destroy any flower, shrub or tree planted and growing, and being in any graveyard or cemetery in this state, he or she so offending shall be deemed guilty of

a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding six months, or both.

122. If any person shall remove the body or bodies, or remains, of any deceased person from his grave or graves, or tomb, or other place of sepulture, for the purpose of dissection or of any surgical or anatomical experiments, or for the purpose of selling the same, or from mere wantonness, or shall open the grave, tomb or other place of sepulture of any deceased person, or the grave, tomb or other place of sepulture where the body or remains of any deceased person have been deposited, for the purpose of removing therefrom such body or remains of any deceased person, for either of the purposes aforesaid, or from mere wantonness, without the consent of the surviving husband or wife, or, if there be no surviving husband or wife, of the next of kindred of such deceased person, or by order of a coroner or other person having legal authority in the premises, or shall in any way aid, assist or procure the same to be done, every person so offending shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding two thousand dollars, or imprisonment at hard labor not more than five years, or both, at the discretion of the court.

Robbing or desecrating graves.

R. S. 257, § 87.

123. If any person shall wilfully, unlawfully and maliciously tear, cut, burn or in any way whatever destroy any letters patent, charter, deed, indented or poll, lease, indenture of apprenticeship, writing sealed, will, testament, bond, annuity, bill, writing obligatory, release, bank bill or note, check, draft, bill of exchange, promissory note for the payment of money, endorsement or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill or other security for the payment of money, or any warrant, order or request for the payment of money, or the delivery of goods or chattels of any kind, or any certificate or other public security of the United States or of this state, or of any of the United States, for the payment of money, or acknowledging the receipt of money or goods, or any acquittance or receipt, either for money or goods, or any acquittance, release or discharge of any debt, account, action, suit, demand, or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels, or other property whatsoever, (a) or any letter of attorney, or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, sell, dispose of, alien, or convey any goods or chattels, lands or tenements, or other estate, real or personal, or any day-book, journal, ledger, or book of accounts, or any agreement or contract in writing, whether sealed or not, respecting any estate, real or personal, or any valuable security, or any document of title to lands, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, he shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding eight hundred dollars, or imprisonment at hard labor, not exceeding ten years, or both.

Malicious destruction of deeds, etc.

Ib. § 69.

124. Any person who shall wilfully or maliciously remove any monument of stone, wood or other durable material, erected for the purpose of designating the corner, or any other point, in the boundary of any lot or tract of land, road or street; or shall wilfully and maliciously deface or alter the marks upon any tree, post or other monument, made for the purpose of designating any point, course or line in the boundary of any lot or tract of land, road or street; or shall wilfully and maliciously cut down or remove any tree upon which any such marks shall be made for such purpose, with the intent to destroy such marks, shall, in every such case, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by a fine not exceeding two hundred and fifty dollars, or imprisonment at hard labor, not exceeding two years, or both. (b)

Destroying landmarks.

P. L. 1863, p. 95.

(a) An instrument in writing, not under seal, whereby "M acknowledges to have received of S four bushels of rye, for which he is to return to the said S four and a half bushels, the said rye to be sowed on shares between said S and M; said M not to convey or sell to any person without this restriction, that S is to have his pay out of said M's part." is not an assurance for the unlawful or malicious tearing of which an indictment lies, *State v. Farrand*, 3 Hal. 383.

(b) An indictment will not lie at common law for taking

up and removing a corner stone in the boundary line between A and B with intent to injure and endanger the said B, *State v. Burroughs*, 2 Hal. 426. In an indictment under this section, the words "corner of a tract of land" are not equivalent to "point in the boundary of a tract of land;" nor is it sufficient to charge that it is "a corner of a tract of land of J. E. M., and other lands." It must appear that it is a point in the boundary of separate and distinct tracts of land, *State v. Malloy*, 5 Tr. 410.

- Guideposts, etc.
Ib. 125. Every person who shall wilfully or maliciously break, destroy or remove any milestone, mileboard, guideboard or guidepost, or cautionary board, made of wood, stone or metal, erected upon any street, public road, turnpike, plankroad or railroad in this state, or shall wilfully or maliciously deface or alter any inscription upon such stone, board or post, shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county jail, not exceeding three months, or by a fine not exceeding fifty dollars, or both.
- Malicious damage to any goods, etc. 126. If any person shall unlawfully or maliciously cut, break, burn, destroy or damage, with intent to destroy or render useless any goods or chattels, or any written chose in action, or any hay, grain, or other cultivated vegetable produce, whether standing or cut down, or any tree, sapling, plant, flower, shrubs or underwood, wheresoever growing, the property of any other person, he shall be deemed guilty of a misdemeanor, and shall on conviction be punished by a fine not exceeding two hundred dollars, or imprisonment not exceeding two years, or both.
- Persons committing malicious injuries not before provided for. 127. Whosoever shall unlawfully and maliciously commit any damage, injury, or spoil, to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, the damage, injury, or spoil being to an amount exceeding ten dollars, shall be guilty of a misdemeanor, and, on being convicted thereof, shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, or fined not exceeding one hundred dollars.

3. STEALING AND OTHER TAKINGS.

- Larceny under twenty dollars.
R. S. 257, § 34. 128. If any person shall steal of the money or personal goods and chattels of another, under the price or value of twenty dollars, he or she so offending shall be deemed guilty of a misdemeanor, and, on conviction of any such offence, shall be punished in the county where the conviction may be had, by fine or imprisonment, or imprisonment at hard labor in the county jail, the fine not to exceed one hundred dollars, nor the term of imprisonment three months; and no person hereafter convicted of larceny under the value of twenty dollars, shall be sent to the state prison for such offence. (See Sec. 133).
- Larceny over twenty dollars.
Ib. § 36. 129. If any person shall steal of the money or personal goods and chattels of another, of or above the price or value of twenty dollars, every person so offending shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding ten years, or both.^(a)
- Stealing vegetables, etc.
Ib. § 67. 130. If any person shall dig, pull up, pick, or gather, with intent to steal any turnips, potatoes, cabbage, parsnips, carrots, peas, beans, muskmelons, watermelons, apples, peaches, plums, cherries, or other roots, vegetables, or fruit of any kind, standing or growing, of another, under the value of twenty dollars, every person so offending shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by fine, not exceeding forty dollars, or imprisonment in the county jail, not exceeding three months, or both.
- Fixtures when severed from realty deemed personal property. 131. If any person shall sever from land anything fixed therein, or attached thereto, with intent to steal the thing so severed, or shall steal the same, the said thing so severed may be deemed personal property for the purpose of constituting a crime under this act. (See Sec. 121).
- Stealing certain articles.
R. S. 257, § 66. 132. If any person shall steal, or shall rip, cut or break, with intent to steal, any lead or iron bar, iron rail, iron gate, or iron palisade, or any lock fixed to any dwelling house, out house, stable, or any other building, or shall pull, cut, gather or take away, with intent to steal, any flax, grass, or indian corn, wheat, rye, barley, oats, or grain of any kind, standing and growing, of another, then every person offending in any of the premises shall be deemed guilty of a misdemeanor, and, on conviction, shall be

^(a) If one takes the goods of another out of the place where they are put, although he is detected before they are actually carried away, the larceny is complete. *State v. Wilson, Case 439*. It must appear that the goods were taken with the intention of permanently depriving the owner of his property. If there exist an intention to return it to the owner, it is not larceny, and whether such intent existed

is a question of fact for the jury. *State v. South, 4 Dutch, 28*. *State v. Davis 9 Vr.* Where the title of the goods stolen is in the wife and they are used in the household, it may be laid in her or her husband, he having a qualified possession. *Petre ads. The State, 6 Vr. 64*. Possession in this state of property stolen in another state, does not constitute larceny, *State v. LeBlanch, 2 Vr. 82*.

punished by fine not exceeding fifty dollars, or imprisonment at hard labor not exceeding nine months, or both. (a) (See *Sec. 142*).

133. Every person who shall be convicted before any court of record having criminal jurisdiction, at the same term, on two or more indictments, of having stolen the personal goods and chattels of the same person or persons at different times, or of different persons, of or above the price or value of twenty dollars in the whole, or who, having been once convicted of having stolen the personal goods and chattels of another, under the price or value of twenty dollars, shall be again convicted of the like offence, shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding seven years, or both.

Persons guilty of more than one larceny. *Ib.* § 37.

134. If any person shall forcibly take from the person of another, money or personal goods and chattels, to any value whatever, by violence, or putting him or her in fear, every person so offending, and his or her aiders, procurers and abettors, shall be adjudged guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding fifteen years, or both.

Robbery. *Ib.* § 38.

135. If any person shall unlawfully and maliciously take or steal any money, goods or chattels, from the person of any other, whether privily or without his or her knowledge or not, but without such force or putting in fear as is sufficient to constitute robbery, or who shall attempt so to do, or who shall be present, aiding or abetting therein, such person or persons so offending shall be adjudged guilty of a misdemeanor; and, on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor for a term not exceeding five years, or both, at the discretion of the court.

Larceny from the person.

P. L. 1859, p. 367, § 3.

136. If any person shall steal or take by robbery any bank bill or note, bill of exchange, order, warrant, draft, check, bond, bill or promissory note for payment of money, or any certificate or other public security of the United States or of this state, or of any of the United States, for payment of money, or acknowledging the receipt of money or goods, being the property of any other person or persons, or of any corporation, notwithstanding the said particulars, or any of them, are or may be termed in law choses in action, it shall be deemed and construed a misdemeanor of the same nature, in the same degree, and in the same manner, as it would have been if the offender had stolen or taken by robbery any other goods of like value, with the money due on such bank bill or note, bill of exchange, order, warrant, draft, check, bond, bill or promissory note, or certificate or other public security, or secured thereby and remaining unsatisfied; and such offender shall suffer such punishment, as he or she should or ought to have done, if he or she had stolen or taken by robbery, other goods of the like value, with the money due on such bank bill or note, bill of exchange, order, warrant, draft, check, bond, bill, or promissory note, or certificate or other public security, respectively, or secured thereby, and remaining unsatisfied.

Stealing bills, bonds, etc.

R. S. 257, § 45.

137. If any person shall steal or take, by robbery, any letters patent, charter, testament, will, or deed, whether indented or poll, covenant, assurance, lease, indenture of apprenticeship, articles of agreement, contract, letter of attorney, or other power, or any instrument of writing respecting any property, real or personal, or any release, acquittance, voucher, (b) receipt book, waste book, day book, journal, ledger, or other book of accounts of or belonging to another, every such offender shall be deemed guilty of a misdemeanor, and, on being convicted thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding ten years, or both.

Stealing deeds, etc.

Ib. § 46.

138. Whosoever shall wilfully kill any animal, with intent to steal the carcass, skin, or any part of the animal so killed shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to the same punishment as if he had been convicted of feloniously stealing the same.

Killing animals with intent to steal the carcass, etc.

(a) An indictment for stealing lead water-pipe, fixed to a paper mill, is good under this section. *State v. Stone*, 1 *Vr.* 299.

(b) An allegation in the indictment that the instrument stolen is a voucher, is sufficient to show its validity. An express averment that it is subsisting or remains unsatisfied, is not required. *State v. Hickman*, 3 *Hol.* 299.

Stealing or destruction, &c., of wills or codicils.

Other remedies not to be affected.

Stealing or dredging for oysters in oyster fisheries.

Proviso as to fish.

Animals, property and subject of larceny.

Stealing, &c. metal, glass, wood, etc. fixed to house or land.

P. L. 1863, p. 71. Amended.

Or receiving same. Ib.

139. Whosoever shall, either during the life of the testator or after his death, steal or for any fraudulent purpose destroy, cancel, obliterate or conceal the whole or any part of any will, codicil or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding five years at hard labor; and it shall not in any indictment for such offence be necessary to allege that such will, codicil or other instrument is the property of any person; *provided*, that nothing in this section nor any proceeding, conviction or judgment to be had or taken thereupon, shall prevent, lessen or impeach any remedy at law or in equity which any party aggrieved by such offence might or would have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of any offence by any evidence whatever, in respect of any act done by him, if he shall at any time, previously to his being charged with such offence, have first disclosed such act, on oath, in consequence of any compulsory process of any court of law or equity in any action, suit or proceeding which shall have been *bona fide* instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency.

140. Whosoever shall steal any oysters or oyster brood from any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be punished as in the case of larceny; (a) and whosoever shall unlawfully and wilfully use any dredge or any net, instrument or engine whatsoever within the limits of any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, for the purpose of taking oysters or oyster brood, although none shall be actually taken, or shall unlawfully and wilfully, with any net, instrument or engine, drag upon the ground or soil of any such fishery, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding three months; *provided*, that nothing in this section contained shall prevent any person from catching or fishing for any swimming fish, within the limits of any oyster fishery, with any net, instrument or engine adapted for taking such fish only.

141. Dogs, fish in any waters which shall belong to any person, birds or beasts not the subject of larceny at common law, but which are tamed or kept in confinement by any person claiming property therein, are hereby declared to be property, and the subject of larceny, and any person stealing any such property shall be guilty of larceny, and punished accordingly.

142. Whosoever shall steal, or shall rip, cut, sever or break with intent to steal, any glass or woodwork 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 building whatsoever, or anything made of metal fixed in any land being private property, or for a fence to any dwelling house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be punished as in the case of larceny; and in the case of any such thing fixed in any such square, street or place as aforesaid, it shall not be necessary to allege the same to be the property of any person.

143. If any person shall receive or buy any such article or thing so stolen as aforesaid, knowing the same to have been stolen, the person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine not exceeding two hundred dollars, or imprisonment at hard labor, not exceeding three years, or both, at the discretion of the court.

(a) Oysters planted by the owner are private property, and an indictment will lie for stealing them, *State v. Taylor*, 3 *Dutch*. 117. See *Shepherd v. Leverson*, *Pen.* *391. *Arnold v. Mundy*, 1 *Hak.* 1.

144. Whosoever shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal the whole or any part of any tree, sapling or shrub, or any underwood or any plant, root, fruit or vegetable production, wheresoever the same may be respectively growing, or shall steal, or shall cut, break or throw down with intent to steal, any live or dead fence, or any wooden post, pale, wire or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, he shall be guilty of a misdemeanor, and on being convicted thereof, shall be liable to be punished as in case of larceny.

Stealing or cutting trees, plants or fences, etc.

145. Whosoever shall steal, or sever with intent to steal, the ore of any metal, coal, marl,^(a) fire clay, porcelain clay, feldspar, kaolin or other merchantable earth useful for manufacture, from any mine, bed, pit or vein thereof respectively, shall be guilty of a misdemeanor, and punishable as in case of larceny.

Stealing or digging ore, clay, etc.

146. Whosoever being employed in or about any mine, bed, pit, or vein aforesaid, shall take, remove or conceal any of the product thereof, or shall embezzle the same, with intent to defraud the owner thereof, shall be guilty of a misdemeanor, and punishable as in case of larceny.

Embezzlement of ore, etc. by employe.

147. If any person or persons shall receive or buy any goods or chattels or chose in action, or valuable thing whatsoever that shall be stolen from any other person, or taken by robbery from him, knowing the same to have been stolen or taken by robbery, or shall receive, harbor or conceal any thief or thieves, robber or robbers, knowing him, her or them to be so, he, she or they so offending shall be deemed guilty of a high misdemeanor, and on conviction, be punished by fine not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding three years, or both.^(b)

Receiving stolen goods, etc.

R. S. 257, § 72.

P. L. 1852, p. 87. Combined.

2. Frauds.

148. If any person holding an office of trust and profit under the authority of this state, or any public or private corporation existing by the laws thereof, shall embezzle any of the money, property or securities committed to his keeping, with intent to defraud the state, or any county thereof, any city, borough, township, body corporate or person, or shall fraudulently dispose of the same, he shall be deemed guilty of a high misdemeanor, and upon conviction thereof, shall be liable to a fine not exceeding five thousand dollars, or imprisonment at hard labor, not exceeding five years, or both.

Embezzlement by public officer.

R. S. 257, § 50. Amended.

149. If any county, township, city or ward collector, constable having taxes to collect, or any receiver of taxes or collector of arrearages of taxes, shall embezzle, unlawfully loan or retain in his hands any money received or collected by him for the state, or any county, city, borough, township, ward or school, or road district, he shall be deemed guilty of a misdemeanor, and liable to be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding five years, or both.

Embezzlement by collector of county, etc.

P. L. 1866, p. 1078.

150. If any officer of any city, township, ward or county of this state, shall hereafter obtain, or counsel, aid, assist, or procure in obtaining for any other person or persons, corporation or corporations, any sum or sums of money, notes, bonds, scrip, securities, or other valuable thing, from any such city, township, ward or county, or from this state, not lawfully and justly due to said officer, or to such other person or persons, corporation or corporations, at the time of obtaining the same, he shall be deemed to be guilty of a high misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding five thousand dollars, or imprisonment in the state prison not exceeding five years, or both.

Penalty when city, township, ward or county officer unlawfully obtains or counsels the obtaining of money, etc.

P. L. 1872, p. 34.

151. If any officer or agent of this state, or of any public corporation existing by the laws thereof, into whose hands or possession any money, books, papers, evidences of debt or other instruments of writing, or other property, of whatever nature, real or personal, belonging to the state, or the said public corporation, may have come, or shall hereafter come, by virtue of his office or agency, shall refuse or neglect, on demand, to deliver

Unlawful detention of public property.

R. S. 257, § 51. Amended.

^(a) Marl in its natural state is a part of the freehold, for stealing which no indictment would lie at common law, *Ogden v. Riley*, 2 Gr, 187, per *Hornblower*, C. J.

^(b) See *State v. Calvin*, 2 Zab. 207. Two justices cannot try such receiver, *State v. Britton*, Pen. *960.

the same to his successor in office, or other person or persons authorized by law to receive or have charge of the same, he shall be deemed guilty of a high misdemeanor, and upon conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding two years, or both.

Embezzlement
or fraud by offi-
cers of banks.

R. S. 125, § 1, 2.

152. If any director of any incorporated bank in this state, or any cashier, book-keeper, or other officer or agent of any such bank, shall knowingly overdraw his account with the bank of which he shall be director, cashier, book-keeper, officer or agent, for his own private use and benefit, or shall purloin, embezzle or convert to his own use any money, bank bill or note, the property of the said corporation, with intent to defraud the said corporation, or wrongfully to make use of the same, (a) in every such case the person so offending shall be adjudged guilty of a high misdemeanor, and on being thereof convicted, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding five years, or both; and if any cashier, book-keeper or other officer employed in any such bank as aforesaid, shall make or cause to be made any false entry in any book of account of the said bank, or in any way falsely keep the accounts of the said bank, with intent to cheat or defraud the said corporation or any person dealing therewith, the person so offending shall be adjudged guilty of a high misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding three years, or both.

Fraudulent dis-
position of prop-
erty by trustees.

153. Whosoever being a trustee of any property for the use or benefit, either wholly or partially, for any public or charitable purpose, shall with intent to defraud, convert or appropriate the same or any part thereof, to or for his own use or benefit, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise dispose of or destroy such property or any part thereof, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to punishment by fine not exceeding four hundred dollars, or imprisonment at hard labor not exceeding three years, or both; *provided*, that where any civil proceeding shall have been taken against any person to whom the provision of this section may apply, no person who shall have taken such civil proceeding, shall commence any prosecution under this section, without the sanction of the court or judge before whom such civil proceeding shall have been had, or be pending.

Directors, etc., of
any body corpor-
ate, or public
company, fraud-
ulently appropri-
ating property.

154. Whosoever being a director, member, or public officer of any body corporate or public company, shall fraudulently take or apply for his own use or benefit, or for any use or purpose other than the use or purpose of such body corporate or public company, any of the property of such body corporate or public company, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to imprisonment at hard labor for three years, or to fine not exceeding five hundred dollars.

Or keeping
fraudulent
accounts.

155. Whosoever being a director, public officer, or manager of any body corporate, or public company, shall as such receive or possess himself of any of the property of such body corporate or public company, otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make, or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or public company, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to imprisonment at hard labor not to exceed three years, or to fine not exceeding five hundred dollars, or both.

Or wilfully
destroying
books, etc.

156. Whosoever, being a director, manager, public officer, or member of any body corporate, or public company, shall, with intent to defraud, destroy, alter, mutilate or falsify any book, paper, writing or valuable security belonging to the said body corporate or public company, or make or concur in the making of any false entry, or omit or concur in omitting any material particular, in any book of accounts or other document belonging thereto, shall be guilty of a misdemeanor, and being convicted

(a) The cashier of a bank may be indicted for knowingly overdrawn his account without alleging or proving any intention to defraud the bank, *State v. Stinson*, 4 Zab. 9, 478.

thereof, shall be liable, at the discretion of the court, to punishment by imprisonment at hard labor, not to exceed three years, or fine not exceeding five hundred dollars, or both.

157. Whosoever being a director, manager, or public officer of any body corporate or public company, shall make, circulate or publish, or concur in making, circulating or publishing, any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor of any such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to imprisonment at hard labor, not to exceed two years, or fine not exceeding four hundred dollars, or both.

Or publishing fraudulent statements.

158. Nothing in any of the last three preceding sections of this act contained shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court, or upon the hearing of any matters in insolvency; and no person shall be liable to be convicted of any of the misdemeanors in any of the said sections mentioned by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being charged with such offence have first disclosed such act on oath, in consequence of any compulsory process of any court of law or equity in any action, suit or proceeding which shall have been *bona fide* instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in insolvency.

No person to be exempt from answering questions in any court, but no person making a disclosure in any compulsory proceeding to be liable to prosecution.

159. Nothing in any of the sections of this act contained in the last preceding sections mentioned, nor any proceeding, conviction, or judgment to be had or taken thereon against any person under any of the said sections, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any offence against any of the said sections, might have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

No remedy at law or in equity shall be affected.

Convictions shall not be received in evidence in civil suits.

160. If any apprentice or servant, whether bound or hired, to whom any money, bank bill or note, or goods or chattels, shall be, by his or her master or mistress, delivered, to be safely kept, shall withdraw himself or herself from his or her said master or mistress, and go away with the said money, bank bill or note, goods or chattels, or any part thereof, with intent to steal the same, and defraud his or her said master or mistress thereof, contrary to the trust and confidence in him or her reposed by his or her master or mistress, or, being in the service of his or her said master or mistress, shall embezzle the said money, bank bill or note, goods or chattels, or any part thereof, or otherwise convert the same to his or her own use, with like purpose to steal the same, then, and in every such case, the person so offending shall be adjudged guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine not exceeding one hundred dollars, or by imprisonment at hard labor for any term not exceeding two years, or both; *provided*, that this clause or section shall not extend to any apprentice or servant, guilty of any of the premises therein mentioned, within the age of fourteen years.

Embezzlement, etc. by apprentice or servant.

R. S. 257, § 43.

161. If any servant, employe or agent of any individual or incorporated company shall take or receive any money, bank bill or note, of or above the price or value of twenty dollars, belonging to his master, employer, or to the said incorporated company, with intent to defraud such master, employer or incorporated company thereof, and shall wilfully retain and appropriate to his own use the said money, bank bill or note, knowing the same to belong to his master, employer, or to the said incorporated company, every person so offending shall be deemed guilty of a misdemeanor,

Proviso.

By other agents.

P. L., 1863, p. 240, § 1.

By lodger.

R. S. 257, § 44.

and, on conviction, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor, not exceeding three years, or both.

162. If any lodger or tenant shall take away, with intent to steal, embezzle or purloin, any bedding, furniture, goods or chattels, which by contract or agreement, he or she is to use, or shall be let to him or her to use, in or with his or her lodging or demised property, then, and in such case, every person so offending shall be deemed guilty of a misdemeanor, and, on being thereof convicted, shall be punished by fine, not exceeding two hundred dollars, or imprisonment at hard labor, not exceeding two years, or both.

Embezzlement
by carrier.

P. L. 1848, p. 184,
§ 1.

163. If any person engaged in transporting coal, iron, lumber, or other articles of merchandise, or any property whatsoever, on any highway, river, railroad or canal, within this state, shall sell, dispose of, or pledge the same, or any part thereof, without the consent of the owner thereof, such person shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or shall suffer imprisonment at hard labor for a term not exceeding one year, or both.

Person purchas-
ing without con-
sent of owner,
how sued.

Ib. § 2.

Amended.

164. If any person shall purchase without the consent of the owners of said property, any coal, iron, or other articles of merchandise, or any property whatever, consigned to any person in this state, or any other state, knowing the same to be so consigned, from any captain of a canal boat, or any other person engaged in transporting the said property, he, she or they so purchasing shall be guilty of a misdemeanor, and shall suffer imprisonment at hard labor not to exceed two years, and a fine not to exceed two hundred dollars, and also shall be liable to pay such owners double the value of the property so purchased, to be recovered with costs of suit, by action of trover or trespass on the case; and the said action may be brought in the name of the consignor or consignee.

Embezzlement
by operatives.

P. L. 1852, p. 87.

165. If any person, into whose hands or possession any goods or materials may have been placed, or may hereafter be placed, for the purpose of being manufactured, repaired, made up, or having any labor bestowed thereon for the benefit of the owner, shall, without consent of the owner, unlawfully sell and dispose of the same, or shall, with intent to defraud the owner, on payment or tender of all just claims and liens for work or labor done upon such goods or materials, unlawfully refuse or neglect to deliver the same to the owner, or to his order on demand, then every such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding three hundred dollars, or imprisonment at hard labor not exceeding three years, or both.

Embezzlement
of silk, etc. by
employe.

P. L. 1867, p. 381.

166. If any person or persons who shall be hired or employed to prepare or work up any silk or other manufacture, shall purloin, embezzle, secrete, sell, or otherwise unlawfully dispose of any of the materials [with] which he, she, or they shall be respectively entrusted, whether the same or any part thereof be or not first manufactured in merchantable wares, or be finished or unfinished, he, she, or they shall be deemed guilty of a misdemeanor.

Receiving same.
Ib.

167. If any person or persons shall buy, receive, or take by way of gift, sale, exchange, or in any other manner, of or from any person or persons hired or employed to manufacture, prepare or work up silk, or any fabric of which silk is a component part, any silk, or any of the materials of which said fabric is to be composed, whether the said silk or materials shall be in a finished or in an unfinished state, knowing the person or persons of whom he, she, or they so buy, receive, accept, or take the said silk or materials to be so hired or employed as aforesaid, not having first obtained the consent of the person or persons so hiring or employing him, her or them, who shall offer to sell, pawn, pledge, exchange, or otherwise dispose of the said materials, and if any person shall buy, receive, accept or take, in any manner whatever, of or from any other person or persons whatever, any of the said silk or other materials, whether finished or unfinished, knowing the same to be purloined or embezzled, then and in every such case the person or persons so buying, receiving, accepting or taking any such silk or other materials shall be deemed guilty of a misdemeanor.

168. Any person or persons convicted of any misdemeanor in the last two sections of this act mentioned, shall be punished by fine not exceeding one thousand dollars, or imprisonment in the penitentiary not exceeding two years, or both, at the discretion of the court.

Punishment therefor. Ib.

169. Whosoever, being a consignee, or bailee of any chattel, money, or valuable security, or factor or agent entrusted therewith, 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 and punished upon an indictment for larceny; but this section shall not extend to any offence punishable on summary conviction. (See *Sec. 201*).

Bailee fraudulently converting property, guilty of larceny.

170. Any person who shall knowingly or designedly, by means of balls, cups, paper safe, or any mechanical contrivance, invention or device, obtain from any person, any money or other valuable thing, with intent thereby to cheat and defraud such person, shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by imprisonment at hard labor, not less than one, nor more than five years, and by fine not exceeding one thousand dollars, in the discretion of the court in which such offence shall be tried.

Thimblerrigging, etc.

P. L. 1855. p. 425, § 1.

171. All persons who knowingly and designedly, by color of any false token, counterfeit letter or writing, or false pretence or pretences, shall obtain from any person, money, wares, merchandise, goods or chattels, or other valuable thing, with intent to cheat or defraud any person, body politic or corporate, of the same, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor, not exceeding three years, or both. (a)

Obtaining goods by false pretences.

R. S. 257, § 62.

172. Whosoever, with intent to defraud or injure any other person, shall, by any false pretence, fraudulently cause or induce any other person to execute, make, accept, endorse or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm, or copartnership, or the seal of any body corporate, company or society, upon any paper or parchment, in order that the same may be afterwards made or converted into, or used, or dealt with as valuable security, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to imprisonment at hard labor not to exceed two years, or to fine not to exceed two hundred dollars, or both.

Inducing persons by fraud to execute deeds and other instruments.

173. If any person shall falsely make, alter, forge or counterfeit, or cause, counsel, hire, command or procure to be falsely made, altered, forged or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any record or other authentic matter of a public nature, charter, letters patent, deed, lease, writing sealed, will, testament, annuity, bond, bill, writing obligatory, bank bill or note, United States treasury note, check, draft, bill of exchange, promissory note for the payment of money, endorsement, or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of a bill of exchange, or the number or principal sum of any accountable receipt for any note, bill or other security for the payment of money, or any warrant, order or request for the payment of money or delivery of goods or chattels of any kind, or any acquittance or receipt, either for money or goods, or any acquittance, release or discharge of any debt, account, action, suit, demand or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels or other property whatsoever, or any letter of attorney or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, sell, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate,

Forgery.

R. S. 257, § 48.

(a) The indictment need not charge that any false token or counterfeit letter or writing was used; a verbal pretence, sufficient to impose upon the person to whom it was made, with an intent to cheat and defraud, and which induced him to part with his property or to give credit, is an offence within the statute, *State v. Vanderbilt*, 3 *Dutch*. 328. *State v. Tomlin*, 5 *Dutch*. 13. But a mere general allegation that the matter stated was a pretence, and that the plaintiff was falsely and fraudulently deceived by it, is not sufficient either in a civil or criminal case, to fasten upon such mat-

ter the character of a false pretence, *Byard v. Holmes*, 5 *Vr.* 296. Nor is it any defence that the defendant is able to restore such property, and ultimately intended to do so, *State v. Thatcher*, 6 *Vr.* 445. Upon the requisition of the governor of another state for the surrender of a fugitive from justice indicted in such state for obtaining money under false pretences, the sufficiency of the allegations in such indictment to sustain the offence charged, under the laws of such state, cannot be inquired into, *Matter of Voorhees*, 3 *Vr.* 150.

- Or uttering or publishing forged matter as true. real or personal, with intent to prejudice, injure, damage, or defraud any person or persons, body politic or corporate, or shall utter or publish, or cause, counsel, hire, command or procure to be uttered or published as true, any of the above false, altered, forged or counterfeited matters as above specified and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, then every such offender shall be deemed guilty of a high misdemeanor, and, on being thereof convicted, shall be punished by fine not exceeding three thousand dollars, or imprisonment at hard labor for any term not exceeding ten years, or both. (a)
- Selling or receiving counterfeit paper. 174. If any person shall sell or exchange, or offer for sale or exchange, or willingly receive, any forged or counterfeit promissory note, with intention to have the same uttered or passed, to defraud any person or body politic or corporate, then every such person being thereof convicted, by due course of law, shall be deemed guilty of a high misdemeanor. Ib. § 78.
- Engraving plates for forging. 175. If any person shall make or engrave, cause or procure to be made or engraved, any plate for forging or counterfeiting any promissory note for the payment of money in the name of any person or body politic or corporate, then every such person, being thereof convicted by due course of law, shall be deemed guilty of a high misdemeanor. Ib. § 79.
- Possessing or receiving forged paper. 176. If any person shall have in his or her possession, or receive from any other person, any forged or counterfeited promissory note for the payment of money, with intent to utter or pass the same, or to permit, or cause, or procure the same to be uttered or passed, with intention to defraud any person or body politic or corporate whatsoever, knowing the same to be forged or counterfeited, then every such person being thereof convicted by due course of law, shall be deemed guilty of a high misdemeanor. Ib. § 80.
- Having or filling up blank notes, with intent to defraud. 177. If any person shall have or keep in his or her possession any blank or unfinished note, made in the form and similitude of any promissory note for the payment of money, made to be issued by any incorporated bank of this state, or any of the United States, with intention to fill up and complete such blank or unfinished note, or to permit, cause, or procure the same to be filled up and completed, in order to utter or pass the same, or permit, cause or procure the same to be uttered or passed, to defraud any person or body politic or corporate whatsoever, the person in whose custody or possession such blank or unfinished note shall be found, being thereof convicted by due course of law shall be deemed guilty of a high misdemeanor. Ib. § 81.
- Having plates for forging, etc. 178. If any person shall have or keep in his or her custody or possession any plate for forging or counterfeiting any promissory note for the payment of money, in form or similitude of any promissory note issued by any of the banks aforesaid, with intent to forge or counterfeit, or to assist in forging or counterfeiting, or to permit, cause or procure to be counterfeited, any promissory note issued by any of the aforesaid banks, the person in whose possession or custody such plate shall be found, being thereof convicted by due course of law, shall be deemed guilty of a high misdemeanor. Ib. § 82.
- Punishment. 179. Any person convicted of any of the offences mentioned and described in either of the five next preceding sections of this act, shall be punished by fine or imprisonment at hard labor, or both; *provided*, that such imprisonment shall not exceed the term of ten years, nor such fine the sum of two thousand dollars. Ib. § 83.
- Proviso.

(a) It is a forgery and indictable to alter the name of the locality of a bank, or to paste the name of one place over another, *State v. Robinson*, 1 *Harr.* 507. So to utter or publish a forged or counterfeit bank note of another state, for two dollars, although the passing of any bank note under five dollars is prohibited by statute, *State v. Van Hart*, 2 *Harr.* 327. The indictment must set out the tenor of the instrument forged, *State v. Gustin*, 2 *South.* *744. *Stone v. The State*, *Spen.* 401, 404. See *State v. Robinson*, 1 *Harr.* 507; or the omission to do so be excused by proper averment, *State v. Potts*, 4 *Hal.* 26; and the instrument shown must corre-

pond, *State v. Farrand*, 3 *Hal.* 333. *United States v. Hinman*, *Bald. C. C.* 292. It is sufficient to allege the intent to be to defraud A, without showing how, or what A's interest is in the subject, *West v. State*, 2 *Zab.* 213. The *scienter* must be alleged and proved, *State v. Van Houten*, *Pen.* *672. *State v. Robinson*, 1 *Harr.* 507. *State v. Peran*, 4 *Dutch.* 519. *United States v. Hinman*, *Bald. C. C.* 292. It is not necessary to prove that the person upon whom the attempt was made was actually defrauded, *State v. Jones*, 4 *Hal.* 372. *State v. Weller*, *Spen.* 522. See *State v. Norton*, 3 *Zab.* 33. See CRIMINAL PROCEDURE § 47.

180. If any person shall counterfeit, or cause or procure to be counterfeited, any of the species of gold or silver coins now current, or which hereafter shall be current in this state, or shall pass or give in payment, or offer to pass or give in payment the same, knowing the same to be counterfeit, such person so offending shall be deemed guilty of a high misdemeanor, and being thereof convicted by due course of law, shall be punished by fine, or imprisonment at hard labor, or both; *provided*, the imprisonment at hard labor shall not exceed the term of ten years, nor the fine the sum of two thousand dollars.

Counterfeiting
current coin, or
passing the same.
Ib. § 84.

Proviso.

181. If any person shall, within this state, counterfeit any gold, silver, copper, or other metallic coin, of any foreign government or country, although the same be not current in this state, every such person so offending shall be guilty of a high misdemeanor, and on conviction thereof by due course of law, shall be punished by fine, or imprisonment at hard labor, or both; *provided*, the imprisonment at hard labor shall not exceed the term of ten years, nor the fine the sum of two thousand dollars.

Counterfeiting
foreign coin.
Ib. § 85.

Proviso.

182. If any person shall have or keep in his or her possession or custody, any such counterfeit gold, silver, copper or other metallic coin, with the intent of exporting the same to injure or defraud any foreign government, or the subjects thereof, every such person so offending shall be deemed guilty of a high misdemeanor, and on conviction thereof by due course of law, shall be punished by fine, or imprisonment at hard labor, or both; *provided*, the imprisonment at hard labor shall not exceed the term of five years, nor the fine the sum of one thousand dollars.

Having counter-
feit coin, with
intent to export.
Ib. § 86.

183. Any person who shall print for distribution or circulation, or cause to be printed for distribution or circulation any circular, letter, card, pamphlet, handbill or other publication, offering or purporting to offer for sale, exchange, or as a gift, any counterfeit paper money or coin, or national or other bank notes; or any person who shall distribute with intent to commit any fraud, any such circular, letter, card, pamphlet, handbill or other publication, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the county jail not less than six months, and not more than one year, or shall be fined not less than five hundred dollars, and not more than one thousand dollars, or both, in the discretion of the court.

Penalty for print-
ing or circulating
any publication
offering for sale,
etc., counterfeit
paper money or
coin.

P. L. 1873, p. 167.

184. If any person, with intent to defraud any person or body corporate, shall utter and publish as of value, any bank bill or note, issued by any bankrupt, broken or insolvent bank, knowing the same to be of no value, he shall be guilty of a misdemeanor, and shall be punished, on conviction, by a fine not more than three hundred dollars, or imprisonment at hard labor not more than three years, or both.

Uttering bad
bills.

P. L. 1862, p. 113.

185. If any person shall forge, alter or counterfeit, or cause, counsel or procure to be forged, altered or counterfeited, with intent to defraud any person, any order or request in writing for the giving of credit to any person in such order or request in writing named or referred to; and if any person shall utter and publish as true, with such fraudulent intent as aforesaid, any such forged, altered or counterfeited order or request in writing, knowing the same to be forged, altered or counterfeited, he shall be guilty of a high misdemeanor, and on being thereof convicted, shall be punished by fine not exceeding three thousand dollars, or imprisonment at hard labor not exceeding ten years, or both.

Counterfeiting
letters of credit.
Ib.

186. Every person who shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited, upon any goods, wares, or merchandise, the private stamps or labels of any mechanic or manufacturer, with intent to defraud the purchasers or manufacturers of any goods, wares, or merchandise whatsoever, or who shall vend any goods, wares, or merchandise, having thereon any forged or counterfeited stamps or labels, purporting to be the stamps or labels of any mechanic or manufacturer, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser, shall, upon conviction, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding one hundred dollars.

Counterfeiting
trade marks, and
selling without
notice.

R. S. 284, § 1, 2.

Forging passen-
ger tickets.

P. L. 1864, p. 738.

187. If any person shall falsely make, forge, counterfeit or alter, or cause to be falsely made, forged, counterfeited or altered, any railroad ticket, ferry ticket, or steamboat ticket, or any ticket or token given or issued upon payment of fare, or without payment, as evidence of the right of any person to pass over any railroad, ferry, steamboat, or other road or public conveyance, or shall utter, publish or use, or cause or counsel to be uttered, published or used as true, any such ticket or token, knowing the same to be false, forged, counterfeited or altered, with intent to defraud any person or corporation, then every such offender shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding two years, or both.

Using fraudulent
tickets.

1b.

188. Any person who shall knowingly and designedly cause or procure himself or any other person to pass or be carried without payment over any railroad, ferry, steamboat or other road or public conveyance, by color of any false, altered or counterfeited ticket or token, or by exhibiting on such passage or at the entrance to or exit from such railroad, ferry, steamboat or other road or conveyance, as a ticket, token or order for such passage, any ticket, token or order, which to his knowledge, does not then entitle him so to be carried or passed, with intent to deceive and defraud any person or corporation, every person so offending, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding one year, or both.

Issuing false
stock.

P. L. 1855, p. 654.

189. Every president, vice president, director, cashier, treasurer, secretary or other officer, and every agent of any bank, insurance company, railroad company, manufacturing company, or of any other corporation, who shall wilfully and designedly sign, with intent to issue, transfer, sell or pledge, or cause to be issued, transferred, sold or pledged, any false, fraudulent or simulated certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such corporation, or who shall wilfully and designedly sign, with intent to issue, transfer, sell or pledge, or to cause to be issued, transferred, sold or pledged, any certificate or other evidence of the ownership or transfer of any share or shares in such corporation, or any instrument purporting to be a certificate or other evidence of such ownership or transfer, the signing, issuing, transferring, selling or pledging of which, by such president, vice president, director, cashier, treasurer, secretary or other officer or agent, shall not be authorized by the charter and by-laws of such corporation, or by some amendment thereof, and every such president, vice president, director, cashier, treasurer, secretary or other officer or agent who shall wilfully, designedly and fraudulently issue, transfer, sell or pledge any such certificate or other evidence, or any such instrument as aforesaid, with intent to prejudice, injure, damage or defraud any person, body politic or corporate, shall be deemed guilty of a high misdemeanor, and on conviction thereof, shall be punished by fine not exceeding three thousand dollars, or imprisonment at hard labor for any term not exceeding ten years, or both.

Fraudulent acts
committed by
personation of
others.

R. S. 257, § 49.

190. If any person shall acknowledge, or procure to be acknowledged, any fine, common recovery, deed, recognizance, bail or judgment, in the name of any other person not privy or consenting to the same; and if any person shall, before any person authorized to take bail, represent or personate any other person, whereby the person so represented or personated may be liable to the payment of any sum of money for debt or damages, to be recovered in the same suit or action wherein such person is represented or personated, as if he had really acknowledged and entered into the same bail, every such person so offending shall be adjudged guilty of a high misdemeanor, and on being thereof convicted, shall be punished by fine not exceeding seven thousand dollars, or imprisonment at hard labor, or both; *provided*, such imprisonment shall not exceed the term of seven years; *and provided also*, that this act shall not extend to the acknowledgment of any judgment, by any attorney, duly admitted, for any person against whom any such judgment shall be had or given.

Proviso.

VI. Conspiracy to commit crimes, crimes at common law, and general provisions as to punishment.

191. If two or more persons shall combine, unite, confederate, conspire or bind themselves by oath, covenant, agreement, or other alliance, to commit any offence, or falsely and maliciously to indict another for any offence, or to procure another to be charged or arrested for any such offence, or falsely to move and maintain any suit, or to cheat and defraud any person of any property by any means which are in themselves criminal, or to cheat and defraud any person of any property by any means which, if executed, would amount to a cheat, or to obtaining money by false pretences, or to commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or the due administration of the laws, they shall, on conviction, be deemed guilty of a conspiracy, and shall be punished by imprisonment at hard labor not exceeding two years, or by a fine not exceeding five hundred dollars, or both; but no agreement to commit any offence other than murder, manslaughter, sodomy, rape, arson, burglary or robbery, shall be deemed a conspiracy, unless some act in execution of such agreement be done to effect the object thereof by one or more of the parties to such agreement.^(a)
192. Assaults, batteries,^(b) false imprisonment, affrays, riots, routs, unlawful assemblies, nuisances,^(c) cheats, deceits, and all other offences of an indictable nature at common law,^(d) and not provided for by this or some other act of the legislature, shall be deemed misdemeanors, and the offender, on conviction, shall be punished by imprisonment at hard labor or otherwise, not exceeding two years, or by a fine not exceeding five hundred dollars, or both.
193. If any person shall attempt to commit any of the offences mentioned in this act, or any offence of an indictable nature at common law he shall, though such offence was not actually committed, be guilty of a misdemeanor, and on conviction be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding ten years, at the discretion of the court; *provided*, that in no case of breach of this section of this act, shall the punishment ever be greater than is provided in case of the actual commission of the crime attempted.
194. If any offender sentenced to imprisonment, whether with or without hard labor, shall escape, he or she shall, on conviction thereof, suffer such additional confinement, with or without hard labor, as the court shall direct.

Conspiracy.
Ib. § 61.

What agreement not a conspiracy.

Offences indictable at common law deemed misdemeanors.
Ib. § 92.

Attempts to commit offences.

Convict escaping.
R. S. 257, § 93.

(a) A conspiracy to commit a crime of an indictable nature, constitutes the offence, although no overt act be done. *State v. Rickey*, 4 Hal. 293. As a conspiracy to destroy or erase an endorsement on a promissory note, *State v. Norton*, 3 Zab. 33; or, to falsely charge a person with having committed an offence and to procure his arrest, *Johnson v. The State*, 2 Dutch. 313; 5 Dutch. 453. So, for several employes to combine and notify their employer that unless he discharges certain enumerated persons, they will, in a body, quit his employment, *State v. Donaldson*, 3 Vr. 151. A general charge in an indictment of a conspiracy to cheat, is sufficient without setting forth the means used, or if an overt act be alleged it is not necessary to set forth all the means used in the execution of the plot, *State v. Young*, 8 Vr. 184. Where a combination to perpetrate a particular fraud is proved, evidence of a conversation with the parties, although all might not have been present during the whole of the conversation, is good against all. *Patton v. Freeman*, Case 113. So, if an individual connect himself with a conspiracy, it is no defence to say that the whole plot was concocted before he became an associate. By joining them and aiding in the execution of their plan, he adopts their prior acts and declarations. *Den, Stewart v. Johnson*, 3 Harr. 90, per *Dayton, J.*

(b) It is not an assault to cause an abortion on a woman not yet quick with child. *State v. Cooper*, 2 Zab. 52. An indictment setting forth a felonious assault and battery in New York and that the party came into and died from its effects in New Jersey, charges no crime against this state. *State v. Carter*, 3 Dutch. 499. An indictment for an assault and battery will not be quashed because it does not conclude "contrary to the form of the statutes, &c." although there are two statutes, *State v. Berry*, 4 Hal. 374. See *Townley ads. State*, 3 Harr. 312. *State v. Morris Canal Co.*, 2 Zab. 537. On an indictment for an assault and battery, if the evidence shows that a battery was committed, and the jury render a verdict of guilty of an assault only, the court

may set such verdict aside, *State v. Ross*, 2 Dutch. 224. See cases cited, *ante*, § 80, note (a).

(c) The common law courts have an undisputed jurisdiction over public nuisances by indictment, and a court of equity ought not ordinarily to interfere, *Attorney General v. New Jersey R. R. Co.*, 2 Gr. Ch. 136. An indictment for a nuisance will lie against a turnpike company for not repairing their road, *State v. New Jersey Turnpike Co.*, 1 Harr. 222. Whether a turnpike gate within the limits of dense city population is a nuisance, see *State v. Passaic Turnpike Co.*, 3 Dutch. 217. A railroad company is indictable for a nuisance in erecting a building and leaving their cars in a public highway, *State v. Morris and Essex Co.*, 3 Zab. 360; and whether such obstruction is a nuisance, is a question for the jury, *State v. Morris and Essex Co.*, 1 Dutch. 437. So, obstructing the Hudson river by placing vessels and wrecks on the shore between the high and low water lines, *State v. Babcock*, 1 Vr. 29. Any resort of thieves, &c. is an indictable nuisance, *State v. Williams*, 1 Vr. 102. When the landlord of such a place is liable, *Ibid.* For what nuisances tenant is liable, *Durant v. Palmer*, 5 Dutch. 544. A ten-pin alley kept for public use in a village, although connected with a lager beer saloon, is not a nuisance, *State v. Hall*, 3 Vr. 158. Oysters planted in navigable waters are not a nuisance, unless they interfere with the public rights of fishing and navigation, *State v. Taylor*, 3 Dutch. 117. An indictment for a common nuisance will not lie, unless the facts charged be of such a nature as to justify that conclusion legally as well as a matter of fact, *Morris and Essex Co. v. The State*, 7 Vr. 553.

(d) Indictments at common law are good where the duty of repairing a bridge rests on a corporation, *State v. Morris Canal Co.*, 2 Zab. 537. An indictment for forcible entry and detainer at common law, is not taken away by the statute, *Cruiser v. The State*, 3 Harr. 206. Nor, an indictment for conspiracy, *State v. Norton*, 3 Zab. 33.

Convicted person to give bond to keep the peace.
Ib. § 95.

195. If any person be convicted of any offence against this state not punishable with death, it shall be lawful for the court before whom such conviction shall be had, to order besides the punishment prescribed by law, that such offender shall find surety to keep the peace, or be of good behavior, or both, in such sum, for such time, and in such number and sufficiency as they shall judge proper.

Conviction of second offence.
Ib. § 94.

196. If any offender who shall have been sentenced to imprisonment in the state prison under the laws of this state, shall be convicted of a second offence of the like nature, such offender shall be sentenced to imprisonment in the state prison for any period not exceeding double the time for which said offender might have been sentenced on the first offence.

P. L. 1875, p. 51.
Kidnapping.

Supplement.

Approved April 1, 1875.

197. SEC. 1. That if any person shall kidnap or steal or forcibly take away any man, woman or child, bond or free, and send or carry or with intent to send or carry such man, woman or child from this state into another state or country, or shall spirit, persuade or entice any child within the age of fourteen years to leave his or her father, mother or guardian, or other person or persons intrusted with the care of such child, and the said child shall secrete and conceal, then the person so offending in any of the premises, and his or her procurers shall be adjudged to be guilty of a high misdemeanor, and on conviction shall be punished by a fine not exceeding five thousand dollars, or imprisonment at hard labor, not exceeding twenty years, or both.

P. L. 1875, p. 87.

Supplement.

Approved April 9, 1875.

Penalty for public officer being concerned in any public contract.

198. SEC. 1. That if any member of any board of chosen freeholders, or of any township committee, or of any board of aldermen or common councilmen, or any board of commissioners of any county, township, city, town or borough in this state, shall be directly or indirectly concerned in any agreement or contract for the construction of any bridge or building of any kind whatsoever, or any improvement whatever to be constructed or made for the public use or at the public expense, or shall be a party to any contract or agreement, either as principal or surety, between the county, township, city, town or borough, as the case may be, and any other party; or shall be directly or indirectly interested in furnishing any goods, chattels, supplies, or property of any kind whatsoever, to or for the county, township, city, town or borough, as the case may be, shall be deemed guilty of a misdemeanor, and on being thereof convicted, shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor, for any term not exceeding three years, or both, at the discretion of the court.

P. L. 1875, p. 104.

Supplement.

Approved April 9, 1875.

Persons who commit or attempt to commit assaults and batteries upon each other, may be jointly indicted.

199. SEC. 1. That if any two or more persons shall fight together, or shall commit or attempt to commit assaults and batteries upon each other, or shall be present aiding, assisting or abetting the same either in a public or a private place in this state, they shall be guilty of a misdemeanor, and may be jointly indicted, and be punishable in the same manner and to the same extent as persons are now punishable by law upon a conviction for assault and battery.

Verdict of jury.

200. SEC. 2. That upon the trial of any indictment for the offence or offences described above, the jury may render a verdict of guilty or not guilty against any one or more persons charged in the said indictment.

P. L. 1874, p. 39.

A further supplement to an act entitled "An act for the punishment of crimes."

Approved March 17, 1874.

Embezzlement.

201. SEC. 1. That if any consignee, factor, bailee, agent or servant, entrusted with the care or sale of any personal property, shall fraudulently take and convert the same, or the proceeds of the sale of the same, or any part thereof, to his own use or to the use of any other person or persons whatsoever, except the rightful owner thereof, he shall be deemed

guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding two years, or both, at the discretion of the court before whom such conviction shall be had. (See *Sec. 169*).

An act relating to the transportation of explosive and dangerous material.

Approved March 17, 1874. P. L. 1874, p. 40.

202. SEC. 1. That if any person shall deliver, or cause to be delivered, to any canal, railroad, steamboat, or other transportation company, or to any persons, firm, or corporation engaged in the business of transportation, any nitro glycerine, duralin, dynamite, gunpowder, mining or blasting powder, gun-cotton, phosphorous, friction matches, or other explosive or dangerous material of any nature whatsoever, under any false or deceptive invoice or description, or without previously informing such person, firm or corporation, in writing, of the true nature of such article, and without having the box, keg, barrel, can or package containing the same plainly marked with the name of the explosive or dangerous material therein contained, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to imprisonment for thirty days, and to pay a fine of one hundred dollars, and shall be responsible for all damages to persons or property directly or indirectly resulting from the explosion of any such article.

Penalty for transporting explosive material.

203. SEC. 2. That it shall and may be lawful for any officer or agent of any person, firm, or corporation, engaged in the business of transportation to require any package tendered for transportation, believed to contain explosive material, to be opened by the person delivering the same, and to refuse to receive any such package unless such requirements be complied with; and if such package be opened and found to contain such explosive or dangerous material, the said package and its contents shall be forthwith removed to any lawful place for the storing of gun-powder, and after conviction of the offender, or after three months from such removal, the said package, with its contents, shall be sold at public sale, after the expiration of ten days from notice of the time and place of such sale, published in one newspaper in the county where such seizure shall have been made; and the proceeds of such sale, after deducting therefrom the expenses of removal, storage, advertisement, and sale, shall be paid into the treasury of the said county; *provided, however*, that nothing in this act contained shall be construed to require common carriers to transport any such explosive or dangerous articles against their consent, nor to transport them otherwise than at such times, and under such regulations for safety to persons and property, as they may from time to time prescribe in relation thereto.

Transportation companies may require shippers to open suspected packages.

An act making it a criminal offence to manufacture or sell, or import already manufactured for sale, any adulterated or spurious liquors in the state of New Jersey.

Approved April 6, 1871. P. L. 1871, p. 105.

204. SEC. 1. That if any person or persons shall manufacture or import already manufactured, or barter or sell, or keep in his possession for barter or sale any rum, brandy, wine or spirits of any kind, or any other liquid of which distilled spirits shall form a component part, to be used as a beverage, that shall be adulterated or manufactured with spurious or poisonous ingredients of any description, the person or persons so offending shall be adjudged guilty of a misdemeanor, and on conviction shall be punished by fine, not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding two years, or both, at the discretion of the court.

Penalty for manufacturing, importing and vending adulterated liquors.

205. SEC. 2. That if any person or persons shall adulterate, mix, compound, or poison any malt liquors, with intent to barter or sell the same, or to mix, compound, or poison any malt, or vinous or spirituous liquors, the one with the other, or in any way whatever, or give, barter or sell the same with intent to make greater profit, or with intent to produce intoxication or stupefaction, every person or persons so offending shall be adjudged guilty of a misdemeanor, and on conviction shall be punished by fine not

Penalty for making or vending adulterated malt liquors.

exceeding five hundred dollars, or imprisonment at hard labor for any term not exceeding one year, or both, at the discretion of the court.

An act to regulate the manufacture in this state of nitro-glycerine and its compounds.

P. L. 1874, p. 59.

Approved March 21, 1874.

Nitro-glycerine not to be manufactured or stored within a quarter of a mile of a city, town, etc.

206. SEC. 1. That no person or persons or company shall be permitted within this state to erect, have or maintain, or cause to be erected, had or maintained, any establishment, building or manufactory, which shall be actually employed in manufacturing or storing nitro-glycerine, or any powder or material of which nitro-glycerine is an essential ingredient or forms a component part, within the distance of a quarter of a mile from any town, city, village or house of public worship; or within the distance of a quarter of a mile from any inhabited house, without the consent in writing of the occupant or occupants of such inhabited house as aforesaid; and every person or company offending against the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to a fine not exceeding two thousand dollars.

Penalty.

An act to prevent the defacement of natural scenery.

Approved March 26, 1874.

P. L. 1874, p. 99.

Advertising signs not to be painted or printed on the Palisades.

207. SEC. 1. That any person who shall paint or print upon, or in any manner place upon or affix to any of the steep rocks called the Palisades, on the Hudson river, in this state, any word, letter, character or device, stating, referring to or advertising, or intending to state, refer to or advertise the sale or manufacture of any property or article, profession, business, exhibition, amusement, or place of amusement, or other thing; and any person who shall directly or indirectly cause any such act to be done, or shall aid therein, shall be deemed guilty of a misdemeanor, and upon conviction, shall for each and every such offence, be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment at the discretion of the court in which such offence shall be tried.

Penalty.

Nor on private property without consent of owner.

208. SEC. 2. That without the previous consent of the owner, all persons are hereafter prohibited from advertising their wares or occupations by printing notices of the same on fences or other private property, or upon cliffs or rocks or other natural objects.

Penalty.

209. SEC. 3. That all persons violating the provisions of the second section of this act shall be punished by a fine of ten dollars for each offence to be recovered before a justice of the peace, the action to be brought in debt in the corporate name of the township, borough or city wherein such offence shall be committed; one-half of which said fine shall be for the use of the informer or prosecutor of such action; the other half to the overseer of the poor of the township, borough or city in which such offence shall have been committed.

How to be sued for and disposed of.

Criminal Procedure.

I. COMPLAINT, ARREST AND BAIL.

1. Justices to be conservators of the peace; duties and powers.
2. Examination of offenders; recognizances of witnesses.
3. Penalty on justice for neglect.
4. Apprehension of non-resident offenders.
5. Justice endorsing warrant protected.
6. Justice may appoint citizen to act as constable.
7. After commitment another justice may not bail.
8. If recognizor discharged for want of prosecution, not to pay costs.
9. Writs and process may be sent into any county.
10. Sheriff may take defendant's recognizance.
11. And recognizance of witnesses.
12. Bail may be taken, except in what cases.
13. Power of quarter sessions to let to bail.
14. Duties and liabilities of justices as to bailing.
15. Witnesses to be examined and bound to appear.
16. Offender may be bailed for examination.
17. In case of default, justice shall certify recognizance to court.
18. Recognizance to be returned, and proceedings.
19. Reward to be offered for offenders.
20. Or the abettors of such.
21. And so. though offender be unknown.