

Crimes.

I.—CRIMES WHICH INVOLVE INJURY TO PUBLIC SAFETY.

I. OFFENSES 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, &c.
 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, &c., if verdict, judgment, &c., 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. Repealed.
 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 dueling.
32. Sending threatening letters.
33. Prizefighting.
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. Amended by section 213.
40. Adultery.
41. Fornication.
42. Lewdness.
43. Polygamy. To whom act does not extend.
44. Indecent publications.
45. Penalty for selling, &c., obscene books, &c.
46. Penalty for sending by mail.
47. Magistrates authorized to issue warrant.
48. Judge to charge grand jury at each term of court of offenses 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. Amended by section 222.
57. Amended by section 223.
58. Amended by section 224.
59. Amended by section 225.
60. Liquor-selling without a license.
61. Or on Sunday.
62. Or in court-house or jail.
63. Or on election day.
64. Witchcraft, &c., 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. Amended by section 271.
69. Punishment of. Rescue of body.
70. Manslaughter.
71. Killing person attempting to murder, &c.
72. Killing by misadventure or in defense.
73. Poisoning where death does not ensue.
74. Vending unwholesome provisions.
75. Amended by section 231.
76. Mayhem.
77. Assault with intent to rob.
78. Assault with intent to murder, &c.
79. Kidnaping.
80. Amended by section 250.
81. Abduction.
82. Seduction, &c., 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, &c.
86. Setting fire to, &c.
87. Burning buildings to defraud insurers, &c.
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, &c.
92. Penalty for injury to fire alarm telegraph.
93. Burglary.
94. House-breaking with intent.
95. Entering building with intent, &c.
96. Manufacturing or having burglars' tools.

2. MALICIOUS MISCHIEF.

97. Removing piles of any sea bank, &c., or obstructing navigation.
98. Injury to a public bridge.
99. Injuring bridges, dams, &c.
100. Tenants of houses maliciously injuring them.
101. Killing or maiming animals.
102. Cruelty to animals.
103. Unlawful cutting timber, &c.
104. Receiver, how punished.
105. Not to apply to highways.
106. Tenants in common not exempt from conviction.
107. Appropriating driftwood.
108. When offenses 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, &c.
- 118. Damaging steam engines, wagon-ways, &c., in mines.
- 119. Destroying machinery.
- 120. Destroying or damaging works of art in museums, &c.
- 121. Injury or theft of flowers, shrubs, &c., in graveyards.
- 122. Robbing or desecrating graves.
- 123. Malicious destruction of deeds.
- 124. Destroying landmarks.
- 125. Destroying guide-posts, &c.
- 126. Malicious damage to any goods.
- 127. Amended by section 229.

3. STEALING AND OTHER TAKINGS.

- 128. Amended by section 210.
- 129. Larceny over \$20.
- 130. Stealing vegetables, &c.
- 131. Fixtures when severed from really 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, &c.
- 137. Stealing deeds, &c.
- 138. Killing animals with intent to steal the carcass, &c.
- 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, &c.
- 150. Penalty when city, township, ward or county officers unlawfully obtain or counsel the obtaining of money, &c.
- 151. Unlawful detention of public property.
- 152. Embezzlement or fraud by officers of banks.
- 153. Fraudulent disposition of property by trustees.
- 154. Directors, &c., of corporation, fraudulently appropriating property.
- 155. Or keeping fraudulent accounts.
- 156. Or willfully destroying books, &c.
- 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, &c., by apprentice or servant.
- 161. By other agents.
- 162. By lodger.
- 163. By carrier.
- 164. Person purchasing without consent of owner, &c.
- 165. Embezzlement by operatives.
- 166. Embezzlement of silk, &c., by employe.
- 167. Receiving same.
- 168. Punishment therefor.
- 169. Ballee fraudulently converting property, guilty of larceny.
- 170. Thimblerrigging, &c.
- 171. Obtaining goods under false pretenses.
- 172. Inducing persons by fraud to execute deeds or other instruments.
- 173. Amended by section 235.
- 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, &c.
- 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. Amended by sections 209 and 236.
- 192. Offenses indictable at common law deemed misdemeanors.
- 193. Attempts to commit offenses.
- 194. Convict escaping.
- 195. Convicted person to give bond to keep the peace.
- 196. Conviction of second offense.

III.—SUPPLEMENTS.

- 197. Kidnaping.
- 198. Amended by sections 207 and 257.
- 199. Persons committing assault on each other may be jointly indicted.
- 200. Verdict in such case.
- 201. Disbursing money in excess of appropriation.
- 202. Evading payment of taxes.
- 203. Penalty if married man have sexual intercourse with single female of good repute, &c.
- 204. Single man having sexual intercourse with single female, &c.
- 205. Penalty for endangering property by burning brush, &c.
- 206. Penalty if any person in charge of institution supported in part by the state shall furnish goods, &c.
- 207. Amended by section 257.
- 208. Stealing railroad tickets.
- 209. Amended by section 236.
- 210. Larceny under \$20.
- 211. Furniture or implements for the playing of unlawful games to be seized and destroyed.
- 212. Removal of goods and chattels covered by mortgage.
- 213. Intermarrying within prohibited degrees.
- 214. Incestuous conduct between parent and child.
- 215. Filling in lands on tide or river-waters with unhealthy matter.
- 216. Penalty.
- 217. Boards of education may in certain cases exceed appropriations.
- 218. Penalty for soliciting or receiving money for votes.
- 219. Giving bribe, &c., for giving out the printing of blanks, &c.
- 220. Fraudulent conversion of trust property.
- 221. Penalty for injury to mortgaged premises.
- 222. Making up purse for running, pacing or trotting horses.
- 223. Penalty against stakeholder, rider and driver in such cases.
- 224. Contributing or soliciting contributions in such cases.
- 225. Penalty for renting lands for horse races.
- 226. Penalty for making up purse, except when authorized by a fair, &c.
- 227. Repealer.
- 228. Person escaping from prison, on recapture, to serve for what term.
- 229. Penalty for injuring public or private property.
- 230. Repealer.
- 231. Causing or procuring miscarriage of woman pregnant.
- 232. Amended by section 261.
- 233. Disposal of body after death penalty has been inflicted.
- 234. Penalty for violation of two preceding sections.
- 235. Altering, forging or uttering records, drafts, notes, &c.
- 236. Conspiracy.
- 237. Transacting fire insurance business without authority.
- 238. Former penalties against such business not abolished.
- 239. Breaking and entering railway cars, &c.
- 240. Entering railway car, &c., with intent to rob, &c.
- 241. Defacing and laying wires on public bridges.
- 242. Cemetery associations not to refuse burial because of color of deceased person.
- 243. Where indictment for libel against newspaper publishers may be found.
- 244. Sentence for malicious mischief.

245. Deposit of mud, &c., in Delaware river below head of navigation.
246. Arrest without warrant.
247. Penalty if officer refuse to arrest.
248. Purchasing, selling, &c., goods and chattels containing words "not to be sold."
249. Repealer.
250. Rape, &c. Abuse of infant.
251. Cutting or mutilating book, &c., belonging to a library.
252. Burning dwelling-house, &c., under lease.
253. Selling, &c., obscene papers, books, &c.
254. Printing or circulating publication offering for sale, &c., counterfeit coin, paper money, &c.
255. Using fictitious name or address in executing scheme to defraud by means of papers, letters, &c.
256. Writings or papers proof of the fraudulent character of scheme.
257. Public officer being concerned in any public contract.
258. Willfully abusing horse, &c., property of livery keepers.
259. Fraudulent hiring of property of livery stable keeper.
260. Repealer.
261. Unlawful to expose to public view bodies of murderers, &c.
262. Pledging, pawning, &c., property borrowed, hired, leased, &c.
263. Pledging, pawning, &c., of property borrowed must be done with intent to cheat and defraud.
264. Repealer.
265. Special deputy sheriffs, special constables, marshals, policemen and other peace officers to be citizens of this state.
266. Amended by section 269.
267. Stealing of domestic fowl.
268. Repealer.
269. Exercising functions of officers without authority.
270. Repealer.
271. Murder. Degrees of.
272. Fraudulent conversion of the proceeds of the sale of personal property a misdemeanor.
273. When not lawful to indict persons for keeping a disorderly house, &c.
274. When unlawful to permit racing, &c., of horses, &c.
275. Violation of, a misdemeanor.
276. When state police ordered by governor to act.
277. Duty of chief of police.
278. When and by whom state militia called.
279. Repealer.
280. Buying or selling pools or book-making a misdemeanor.
281. Keeping a resort for such purposes a misdemeanor.
282. Corporation convicted of shall forfeit charter.
283. Repealer.
284. Persons, companies and corporations forbidden to transmit communications relative to lotteries.
285. Messenger, clerk or other employe liable.
286. Liability of owners or agents of buildings used for lottery or lottery policy business.
287. Liability of persons having in possession lottery or policy paper, slip, &c.
288. Liability of persons directly or indirectly advertising same.
289. Money, &c., obtained with fraudulent intent, upon promise to procure employment, &c., a misdemeanor.
290. Weight of wood and baled hay prescribed.
291. Gross weight to be marked on bale.
292. Fraud in bailing prohibited.
293. Penalty.
294. Chattel mortgagee of household goods shall notify mortgagee previous to foreclosing; stating re-account in detail.
295. Employes of lottery deemed guilty of misdemeanor.
296. Fraudulent conversion of the proceeds of the sale of personal property a misdemeanor.
297. Manufacturing, importing and vending adulterated liquors.
298. Making or vending adulterated malt liquors.
299. Penalty for transporting explosive material.
300. Transportation companies may require shippers to open suspected packages.
301. Nitro-glycerine not to be manufactured or stored within a quarter of a mile of a city, town, &c.
302. Manufacturing and storing nitro-naphthaline, &c.
303. Advertising signs not to be painted or printed on the Palisades.
304. Nor on private property without consent of owner.
305. Penalty. How sued for.
306. Unlawfully taking certain animals, although only temporarily.
307. Amended by sections 308 and 311.
308. Amended by section 311.
309. Owners or occupants of land to bury offensive matter.
310. Repealer.
311. Punishment for polluting waters.
312. Repealer.
313. Restrictions in regard to sale of inflammable fluids.
314. Penalty.
315. Deposit of mud, &c., in the Hudson river.
316. Penalty.
317. Where prosecuted.
318. Deposit of mud, &c., in Delaware river below Bordertown.
319. Penalty.
320. Where prosecuted.
321. Sending indecent communications.
322. Polluting waters from which ice is harvested.
323. Amended by section 324.
324. Jumping on and off railroad cars.
325. Permitting gaming, &c., by minors in places where liquors are sold.
326. Sale of impure or adulterated lard.
327. Manufacture of impure or adulterated lard.
328. Sale of swine, or the fat of swine, that have died a natural death.
329. What constitutes adulteration of lard.
330. Prosecutions, how conducted.
331. Selling firearms to minors.
332. Amended by section 334.
333. Penalty.
334. Purchase of firearms by minors, &c.
335. Penalty.
336. Poisons sold at wholesale or retail to be labeled.
337. Penalty for violating above section.
338. Burial of poultry and animals dying of contagious disease.
339. Number of persons allowed on certain sailing vessels.
340. Penalty for violating above section.
341. Hiring minors for mendicant and immoral purposes.
342. Court may commit minor to reform school.
343. Unlawfully wearing badge of grand army of the republic.
344. Misrepresentations by venders of fruit trees, &c.
345. Letting out minors for mendicant or wandering business.
346. Giant powder, &c., not to be transported on passenger trains.
347. Penalty.
348. Where gunpowder, &c., shall not be manufactured or stored.
349. Unlawful to transport dynamite, &c., on ponds and lakes.
350. False registration, &c., of animals, &c.
351. Penalty for giving a false pedigree.
352. Where prosecution may be had.
353. Unlicensed boarding-house keeper selling liquor, beer, &c., without a license.
354. Detention of homing pigeons.
355. Unlawfully wearing insignia or rosette of the loyal legion.
356. Weight of wood in baled hay prescribed.
357. Gross weight to be marked.
358. Penalty.
359. Unlawful to deposit refuse from chemical factories near human habitation.
360. Penalty for refusing or neglecting to remove such refuse upon notice.
361. Repealer.
362. Messages to promote or to enable persons to carry on unlawful business prohibited.
363. Penalty.
364. Repealer.
365. Bids or proposals for public works or supplies to be received at time advertised, unsealed and publicly announced.
366. Penalty.
367. Repealer.
368. Certain attorneys forbidden to practice before certain judges.
369. Penalty.
370. Repealer.

IV.—MISCELLANEOUS ACTS.

I.—CRIMES WHICH INVOLVE INJURY TO PUBLIC SAFETY.

I. Offenses against the commonwealth simply.

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

An act for the punishment of crimes. (a)

Revision—Approved March 27, 1874.

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. (b)

2. That 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. That 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. That 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.

5. That 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 willfully aid, abet or counsel any such combination, organization or

R. S. 125, 257, 294,
408, 572, 589, 599.

P. L. 1848, p. 183.
" 1849, p. 61.
" 1852, p. 87.

" 1853, p. 348.
" 1854, p. 326.
" 1855, p. 100.
" 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. 88.
" 1871, p. 21,
38, 70.
" 1872, p. 45.
" 1873, p. 77,
167.

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Treason.
R. S. 257, § 1.

Misprision of
treason.
Ib., § 2.

Petit treason
punished as
murder.
Ib., § 3.

Maintaining for-
eign authority, &c.
Ib., § 7b.

Conspiracy to
make war on
other states of
the Union.
P. L. 1860, p. 474.

(a) The criminal code of this state wholly ignores the distinction between felonies and misdemeanors. Statutory offenses, if designated at all, are called either misdemeanors or high misdemeanors. *Jackson v. State*, 20 Fr. 255.
(b) The arrest and conviction of a father for treason in 1778,

cannot affect a voluntary conveyance of lands made to his children in 1776. *Den, Cheus v. Sparks, Coxe* 56. Nor would a wife's dower be barred by such a conviction. *Cozens v. Long, Pen.* *765.

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.

Concealment of
aforesaid crimes.

6. That 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 and make known 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.

2. AGAINST PUBLIC JUSTICE AND THE ADMINISTRATION OF GOVERNMENT.

Obstructing exe-
cution of process.
R. S. 257, § 52.

7. That if any person or persons shall knowingly and willfully 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 willfully 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.

Suffering escape
in capital cases.
Ib., § 54.

8. That 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.

Proviso.

Escapes in other
cases.
Ib., § 55.

9. That 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)

Disqualification.

Rescues in
capital cases.
Ib., § 56.

10. That 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.

Proviso.

Rescues in other
cases.
Ib., § 57.

11. That all rescues in criminal cases not punishable with death, and in all civil cases, shall be deemed misdemeanors; and every such rescuer shall, on conviction, be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding three years, or both. (b)

(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. Erickson*, 3 Pr. 421. To constitute the crime of voluntary escape, the act must be done, not through mistake or ignorance, but *malò animo*. *Meehan v. State*, 11 Pr. 355.

(b) 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.

12. That 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. (a)

Breaking prison.
Ib., § 58.

13. That if any person shall by any means whatsoever be aiding or assisting to any prisoner in jail, indicted for or convicted of any offense 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.

Aiding escapes.
Ib., § 59.

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, counselors, 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

Stealing or altering records, &c., if verdict, judgment, &c., be thereby reversed.
Ib., § 47.

If not thereby reversed.

(a) A person convicted for an escape, or attempt to escape, from prison may be punished therefor by imprisonment in a jail or prison other than that from which he escaped or attempted to escape. *State v. Strauss*, 21 W. 345. Prison breach by a prisoner committed for a crime not punishable with death, is a misdemeanor, and neither of the terms "feloniously" or

"unlawfully" is necessary in its definition. *Randall v. State*, 24 W. 488. Charging a prisoner with breaking out of prison is the same as charging him with breaking prison. *Ib.* If a prisoner, being in the corridor of a jail, unlocks a door between the corridor and one of the cells and thus escapes, he commits prison breach. *Ib.*

avoiding of any of the records, proceedings, minutes, books, matters or things aforesaid, then every such offender, his or her procurers, counselors, 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.

Injuring public notices.
P. L. 1867, p. 42.

Amended.

Embracery.
R. S. 257, § 29.

15. That if any person shall willfully 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. (a)

16. That 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.

Juror, when punishable and how.

Perjury.
Ib., § 23.

Amended.

17. That if any person shall willfully and corruptly commit perjury, or shall by any means procure or suborn any person to commit corrupt and willful 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. (b)

Before commissioner taking testimony in suits in other states.
Ib., § 24.

18. That 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

1052-17
37V-615

(a) An indictment for willfully and maliciously tearing down a sheriff's advertisement—*held*, that the defendant had the right to show that he tore down such paper without any evil design. *Fotwell v. State*, 20 Vr. 31.

(b) 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. Beard*, 1 Dutch. 384. It may be assigned on the answer of a defendant in chancery who charges certain facts, on which he places his defense, to exist, if they are material and not true. *Quackenbush v. Van Ripen*, 8cc. 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. 453. The indictment must show that the testimony charged as false was material to the issue. This may appear by an obvious relation of testimony to the issue, or its materiality may be directly averred in the pleading. *State v. Voorhis*, 23 Vr. 351. Where the false testimony is the statement of a general and not a particular fact, it should be stated in what particular the evidence is false. A general negation of the truth of such fact is insufficient, unless the issue is upon such general fact. *Ib.* Under an indictment which assigns perjury with legal sufficiency, the court may, as justice seems to require it, order a further bill of particulars to be furnished by the state to the defendant and limit the evidence to such particulars. *Ib.*

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, willfully swear or affirm falsely before such commissioner, such person so willfully 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.

19. That 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.

Uttering false oaths.
P. L. 1871, p. 21, § 2.

20. That if any person take money, goods, chattels, lands or other reward, or promise thereof, to compound, or upon agreement to compound, any treason, misprison of treason, murder, manslaughter, sodomy, rape, arson, forgery, burglary, housebreaking, robbery, larceny, kidnaping, 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)

Compounding of crimes.
R. S. 257, § 60.

21. That 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. (b)

Concealing crimes having knowledge of their commission.
Ib., § 73.

22. That 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 persons 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. (c)

Bribery, of judge.
Ib., § 27.

23. That no judge, justice, sheriff, coroner, constable, jailer, or other officer of this state, ministerial or judicial, shall receive or take any fee or

Extortion.
Ib., § 28.

(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. *578. Promissory notes so given are good, although they exceed the probable amount of the injury inflicted, unless a compromise of the public offense was included as part of the consideration. *Whitenock 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. *Crover v. Zruene*, 4 Hal. 519. An agreement not to prosecute, or in some way to favor and protect the criminal, is an essential ingredient in the offense of compounding a crime. *Brittin v. Chegary*, 8 Pen. 625.

(b) The county sessions is competent to try the offense of a concealment of a murder. *State v. Ham*, 11 Vr. 229. Such concealment does not make a man an accessory at common law. *Ib.*

(c) 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.

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, 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)

Bribery of members of legislature.
P. L. 1855, p. 654.
" 1869, p. 1237.

24. That 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.

Proviso.

Proviso.

25. [Repealed by section 7 of act entitled "An act to prevent and punish bribery at primaries," &c., approved May 23d, 1883. P. L. 1883, p. 171. See title ELECTIONS, *post.*]

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

26. That 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

(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 constitute the offense. The defendant may prove before the jury that such fee was taken by him by mistake. *Cutter ads. State*, 7 Vr. 125. It is extortion for a justice of the peace to demand or ask for his fees from the prosecutor for the issuing of his warrant on a criminal complaint, the said justice knowing that such demand was

illegal. *Lane v. State*, 18 Vr. 362. It is not extortion for a justice of the peace to ask or demand from the complainant in a criminal case, at the time the complaint is made, the statutory fees for his services. *Lane v. State*, 20 Vr. 673. He cannot lawfully refuse to perform his duties as a conservator of the peace unless his fees be first paid. *Id.* The incumbent of an office which an unconstitutional statute purported to create, cannot be guilty of extortion, as he is neither a *de jure* nor *de facto* officer. *Kirby v. State*, 28 Vr. 320.

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.

27. That 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 a 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 fraudulent voting.
Ib., § 50.

28. That 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 advising to vote illegally.
Ib., § 51.

29. That 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)

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

30. That 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 willfully 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.

Influencing voters.
Ib., §§ 108, 109.

Militia not to be called out.

Proviso.

II. Against the public peace.

31. That 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 shall be punished by fine not exceeding five hundred dollars, or imprison-

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

(a) If the indictment charge that the defendant did "willfully 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," &c. 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.

ment 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)

Sending threaten-
ing letters.
R. S. 257, § 65.

32. That 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, outhouse, 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.

Prizefighting.
Ib., § 88.

33. That every person who shall be engaged in any fight or combat, with fists, commonly denominated prizefighting, 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.

Carrying passen-
gers to such ex-
hibitions.
Ib., § 89.

34. That 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.

Being present at
them.
Ib., § 90.

35. That 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.

Amended.

Opposing the
making procla-
mation dispersing
unlawful assem-
blies, how pun-
ished.
R. S. 597, § 3.

36. That if any person or persons do or shall, with force of arms, willfully and knowingly oppose, obstruct, or in any manner willfully 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.

Penalty for un-
lawfully continu-
ing together an
hour after procla-
mation made.
Ib., § 4.

37. That 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

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

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.

III. Against public morals and the institution of marriage.

38. That 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. Sodomy.
R. S. 257, § 9.

39. [Amended by Sec. 213, *post.*]

40. That 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) Adultery.
Ib., § 16.

41. That 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 offense 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) Fornication.
Ib., § 17.
Amended.

42. That 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. (c) Lewdness.
Ib., § 18.

43. That 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. Polygamy.
Ib., § 13.

To whom this act
does not extend.

44. That 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, 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 Har. 330. 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 offense. *State v. Gray*, 3 Vr. 308.
(b) Under *Albion*, p. 4, § 3 (A. D. 1794), fornication without issue born was not indictable. *Smith v. Minor*, *Coe* 16. The omission to prove that the complaining witness was a single woman is not error; the single state being the natural one will be presumed until the contrary is proved. *Gaunt v. State*, 21 Vr. 490. On trial for fornication the jury may judge as to a personal resemblance between the bastard and the putative father, but not hear testimony on that subject. *Ib.* On trial for fornication, the female swore, on direct examination, that she had sexual intercourse with the defendant less than six months before the birth of her child, and had never had sexual intercourse with any person prior thereto. On cross-examination,

the defendant, insisting that the child was mature at its birth, asked the witness a question concerning her whereabouts nine months before that event, with a view of proving facts which might tend to show conception at that time. This question was overruled. *Held*, error and conviction reversed. *Gaunt v. State*, 23 Vr. 178.
(c) The crime is committed if a person intentionally makes such exposure in the view from the windows or two neighboring dwelling-houses. *Von Houten v. State*, 17 Vr. 16. Not necessary that any person should actually see such exposure if it was made in a public place with intent that it should be seen and persons were there who would have seen if they had looked. *Ib.* *S. C.*, 5 N. J. L. J. 311. Where a man and woman live together as man and wife under an honest belief that they are legally married, such cohabitation is not indictable under the statute making open lewdness punishable. *Schubert v. State*, 28 Vr. 209.

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 offense.

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.

45. That 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 offense, 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 offense 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 sending by mail, express, &c.
Ib.

46. That 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 willfully 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 offense to the same fines and penalties as are prescribed in the foregoing section of this act for the offenses therein set forth; and said fine shall be divided and paid in the same manner as therein provided.

Magistrates authorized to issue warrant.
Ib.

47. That 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.

48. That 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 offenses 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.

Judge to charge grand jury at each term of court of offenses in violation of this act.
Ib.

49. That 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.

Act, how construed in relation to physicians.
Ib.

50. That 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 offenses against this state, and the authors, parties, players, bettors, wagerers, contrivers, and abettors in and of the same, shall be prosecuted and proceeded against by indictment. (a)

Gaming.
R. S. 572.

51. That 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 offenses. (b)

Lotteries.
R. S. 589.

52. That 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 in 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.

Selling tickets.
P. L. 1852, p. 348.

53. That 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

Or policies insuring for or against the drawing of any ticket, &c.
Ib.

(a) Playing cards for beer, to be purchased and paid for by the loser, is gaming. *Brown v. State*, 20 Vr. 61. An indictment charges the keeping a disorderly house, setting out the causes of disorder. Among such charges gaming was not included. *Held*, the defendant could not be convicted on such a charge of keeping a common gaming-house. *Linden Park Horse Asso. v. State*, 26 Vr. 557. Gaming was not an offense at common law, but being an offense by a statute of this state, which affixes thereto no punishment, it may be proceeded against by indictment under the common law, as well as by indictment under the statute. *State v. Sanford*, 6 N. J. L. J. 92. This section is embraced within the one hundred and ninety-second section of the crimes act, which prescribes that all offenses of an indictable nature at common law are misdemeanors and prescribes the penalty. *Ib.*

(b) 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. 393. 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. Underwood*, 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. 333, § 15. "Auction pools," "French pools" and "combination pools" upon horse races are lotteries within the crimes act. *State v. Lovell*, 10 Vr. 458, 463. In the trial of an indictment for selling numbers in a lottery scheme, it was not error to admit in evidence a book called a dream-book and a chequered paper with numbers on it, both having been found on the premises where the numbers were sold, and both being identified as being used in the policy business. *Clark v. State*, 18 Vr. 554. Not error to refuse to charge on such trial that there could be no conviction unless defendant expressly promised to pay or insure the purchaser some money or thing in the event of the number being successful, such promise being inferable from the general character of the business. *Ib.*

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.

Gaming in the neighborhood of colleges.
P. L. 1853, p. 326.
" 1854, p. 109.
Combined.

54. That 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 shuffleboard, 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 offenses against this state; and the owner, tenant, keeper, or attendant, of such room or place, shall be prosecuted 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)

Racing for money prohibited.
R. S. 575, § 1.
P. L. 1863, p. 489.

55. That 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 offenses 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.

Proviso.

56. [Amended by Sec. 222, *post.*]

57. [Amended by Sec. 223, *post.*]

58. [Amended by Sec. 224, *post.*]

59. [Amended by Sec. 225, *post.*]

Liquor-selling without license.
R. S. 577, § 37.

60. That 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 offense 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)

Proviso.

Proviso.

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

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

(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. For*, 1 Har. 152. If the indictment be for selling "mixed liquors" it must show the mixture is composed of some intoxicating liquors. *Townley ads. The State*, 3

Har. 312 (said to have been overruled in *State v. Wyman*. See Gifford's Stat. Con. 181, note). A house in which unlawful sales of liquor are habitually made is an indictable nuisance, although there is a city ordinance prescribing penalties for such sales, as such traffic is not only a breach of the city law, but is also forbidden by the state law. *Meyer v. State*, 13 Tr. 145. *State v. Anderson*, 11 Tr. 224. *Sparks v. Stokes*, 11 Tr. 487. *Riley v. Trenton*, 22 Tr. 498. *Herrman v. Camden*, 23 Tr. 308.

61. That 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 on Sunday.
P. L. 1848, p. 183.
" 1849, p. 61.

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62. That 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 in court-house
or jail.
R. S. 577, § 40.

63. That 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.

Or on election day.
P. L. 1867, p. 1013.

64. That 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 offense; and for the effectual prevention and punishment of any pretenses 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 offense, be punished by fine not exceeding fifty dollars, or imprisonment not exceeding three months, or both.

Witchcraft, &c.,
no prosecution for.
R. S. 257, § 19.

65. That 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 offense by a fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or both.

Pretenders to,
punishable.
Ib., § 20.

Impostors in
religion.
Ib., § 21.

66. That if any person shall willfully 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.

Blasphemy.
Ib., § 22.

(a) The sale of liquor on the Sabbath day renders such a house disorderly. *State v. Williams*, 1 *Pr.* 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. *Meyer v. State*, 13 *Pr.* 145.

II.—CRIMES WHICH INVOLVE PRIVATE INJURY.

IV. To the persons of individuals.

Murder.
R. S. 257, § 3.

67. That 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 anyone 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.

Punishment of.
Ib., § 5.

68. [Amended by Sec. 271, *post.*]

69. That every person convicted of murder of the first degree, his or her aiders, abettors, counselors 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.

Proviso.

Rescue of body.

Manslaughter.
Ib., § 7.

70. That 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.

Killing person attempting to murder, &c.
Ib., § 74.

71. That 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 defense.
Ib., § 75.

72. That if any person kill another by misadventure, or in his or her own defense, or in the defense 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)

(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-defense, it must clearly appear that it was a necessary act in order to avoid destruction or some severe calamity. *State v. Wells*, *Cove* 424.

73. That all willful poisoning or 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.

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

74. That 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.

Vending unwholesome provisions.
Ib., § 77.

75. [Amended by Sec. 231, *post.*]

76. That 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. (a)

Mayhem.
R. S. 257, § 63.

77. That 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 counselors, aiders and abettors, shall be deemed guilty of a high 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 ten years, or both.

Assault with intent to rob, &c.
Ib., § 39.

78. That every person who shall be convicted of an assault with 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. (b)

Assault with intent to murder, &c.
Ib., § 40.

79. 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 entrusted 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.]

Kidnaping.
Ib., § 62.

80. [Amended by Sec. 250, *post.*]

81. That 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, counselors and procurers, and such as wittingly receive such woman, so taken against her will, and knowing the same, shall be deemed guilty of a

Abduction.
Ib., § 11.

(a) If the nose is *bitten* off, it is a cutting off within the meaning of the statute. *State v. Mairs, Coxe* 453. *S. C. Coxe* 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. *Castner v. Sikes, 4 Vr.* 507.

(b) Assault with intent to commit murder was a misdemeanor

at common law and retains that character in the statute and is punishable, as at common law, by fine and imprisonment. *Jackson v. State, 20 Vr.* 255. It is such offense as, neither in species nor in the character of punishment, required the presence of the accused when the verdict was rendered, as essential to the legality of the verdict. *Ib.* See *Connors v. State, 16 Vr.* 411.

Marriage void.

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.

Seduction, &c.,
of infant.
Ib., § 12.

82. That 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. (a)

Concealment of
pregnancy and
birth.
Ib., § 14.

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 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, counselors 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.

Secreting issue.

V. To property—1. By direct injury.

1. TO DWELLINGS AND OTHER BUILDINGS.

Arson.
R. S. 257, § 30.

84. That if any person willfully 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

(a) On trial of indictment for unlawfully conveying or taking away a woman child under the age of fifteen years, with intent to seduce, &c., under this section, she is a competent witness on behalf of the state. *State v. Gordon*, 17 Vt. 432. If the defendant brought her within this state from another, and here, with the intent set out in the statute, interposed his will or per-

suasion between her and her guardian's control, so as to overcome her intention to return to her home, the abduction is accomplished and he may be indicted in this state. *Ib.* A conviction for abduction under this section is no bar to an indictment for marrying the child so abducted. *State v. McCormick*, 9 N. J. L. J. 152.

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. That if any person willfully 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, storehouse, warehouse, 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, workhouse, 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.

Burning buildings, &c.
Ib., § 31.

86. That if any person shall willfully and maliciously set fire to, or aid, procure, or consent to the setting fire to any church, meeting-house, court-house, workhouse, jail, or other public building, or any dwelling-house, kitchen, shop, storehouse, warehouse, 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.

Setting fire to, &c.
Ib., § 32.

87. That if any person shall willfully 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 misdemeanor, 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. (b)

Burning buildings to defraud insurers, &c.
P. L. 1859, p. 367, § 1

88. That if any person shall willfully 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, warehouse, 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. That 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. That 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

Burning charcoal, &c., without a watchman.
P. L. 1864, p. 577.

(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, Sec. 231, *post*, note.

(b) At common law and independently of the act of 1859 (Sec. 87), a man might burn his own house without incurring liability to indictment, unless it was so situated, with respect to the houses of others, as to endanger their safety. After the act of 1859 became a law, a man might still burn his own house, if it was done without intent to prejudice the insurance thereon. *Kane v. Hibernia Ins. Co.*, 10 *Vr*. 701.

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.

Obstructing firemen at fires, &c.
R. S. 257, § 91.

91. That if any person or persons shall, during an alarm of fire, willfully 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 willfully 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 willfully 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.

Penalty for injury to fire alarm telegraph or apparatus.
P. L. 1871, p. 38.
Amended.

92. That if any person or persons shall willfully 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 willfully interfere with the same, or any part thereof, with intent to create a false alarm, or shall in any way willfully 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.

Burglary.
R. S. 257, § 33.

93. That if any person shall, by night willfully and maliciously break and enter any church, meeting-house, dwelling-house, shop, warehouse, mill, barn, stable, outhouse or building whatsoever, with intent to kill, rob, steal, commit a rape, mayhem, or battery, every such offender, his and their procurers, counselors, 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)

House-breaking with intent.
Ib., § 39.

94. That if any person shall, by day, willfully and maliciously break and enter any dwelling-house, shop, warehouse, storehouse, mill, barn, stable, outhouse, 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 counselors, 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. (b)

Entering building with intent to kill, &c.
Ib., § 41.

95. That if any person shall willfully 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, outhouse, 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 counselors, 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

(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 breaking as is necessary to constitute burglary. If all the doors are open and a 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 suffi-

cient. *State v. Robinson*, 6 Vr. 71. See, also, *State v. Cooper*, 1 Gr. 362. Breaking and entering a storehouse in the night time, with intent to steal, is not, in this state, the crime of burglary, entitling the accused, on his trial, to the service of a panel and twenty peremptory challenges. *Conners v. State*, 16 Vr. 340.
(b) A canal boat, frozen fast and used as a dwelling by the captain, is not a building within the meaning of Secs. 94 and 95. *State v. Greene*, 6 N. J. L. J. 123.

hundred dollars, or by imprisonment at hard labor for any term not exceeding five years, or both.

96. That 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.

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

2. MALICIOUS MISCHIEF.

97. That 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.

Removing piles of any sea bank, &c., or obstructing navigation of a river or canal.

98. That 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.

Injury to a public bridge.

99. That if any person shall willfully, 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 milldam, 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, inclosures, piles of wood, boards or other lumber, or any trees, herbage, growing grass, hay or other vegetables, or shall willfully, 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.

Injuring bridges, dams, &c.
R. S. 257, § 70.

100. That 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

Tenants of houses &c., maliciously injuring them.

liable to imprisonment at hard labor not exceeding one year, or fine not exceeding two hundred dollars, or both.

Killing or maiming of animals.

101. That 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)

Cruelty to animals.
P. L. 1867, p. 492.

102. That 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. (b)

Unlawful cutting of timber, &c.
R. S. 599, § 2.

103. That 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 offense, 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, hers 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.

Proviso.

Receiver, how punished.
Ib., § 3.

104. That 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.

Not to apply to highways.
Ib., § 4.

105. That 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.

Tenants not exempt from conviction.
Ib., § 5.

106. That no person or persons shall be exempt or protected from conviction and punishment for any offense or offenses committed against the prohibitions in this act, by reason of being possessed of or entitled to a share or shares of propriety, under the pretense 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.

Proviso.

Appropriating driftwood, &c.
P. L. 1855, p. 322.
" 1857, p. 385.

107. That 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

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

(b) *Query*—Is this section repealed by the repealer in an act

entitled "An act for the prevention of cruelty to animals," approved March 11th, 1880? See *ante*, title ANIMALS, p. 38, Sec. 39.

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. That all offenses 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.

When offenses against five preceding sections to be prosecuted.

109. That 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 lighthouse 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 willfully 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 lighthouse board, shall for every such offense 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 lighthouse board, to be used in the repairing of the said bouys 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.

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.

110. That whosoever shall unlawfully and maliciously cut through, break down, or otherwise destroy the dam, floodgate or sluice of any fishpond, 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 millpond, 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.

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

111. That 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

Obstructions on railways.

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.

Obstructing engines or carriages on railways.

112. That whosoever by any unlawful act, or by any willful 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.

Injuring railroads, &c.
R. S. 257, § 71.

113. That if any person or persons shall willfully 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.

Unauthorized attempt to control railway trains, &c.
P. L. 1863, p. 88, § 1.

114. WHEREAS, Great danger is liable to be incurred by the acts of unauthorized persons in attempting to control the running and management of railway 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.

Injuries to telegraphs.

115. That 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 water and gas pipes.

116. That if any person shall willfully, unlawfully and maliciously cut down, break down, level, demolish, or otherwise destroy or damage any conduit, aqueduct, or artificial water-course, for the purpose of leading water to any dwelling-house, barn, spring-house, or other outbuilding, or to the lands of any person, or the pipes or other machinery for making or conveying gas belonging to any incorporated gaslight 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.

Conveying water into a mine, obstructing the shaft, &c.

117. That whosoever shall unlawfully and maliciously cause any water to be conveyed or run into any mine, clay pit, or marl pit, or into any subterranean passage communicating therewith, with the 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 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 underground, by any owner of any adjoining mine, or pit, in working the same, or by any person duly employed in such working.

Proviso.

118. That 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 of 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.

Damaging steam engines, wagonways, &c., for working mines.

119. That if any person or persons shall hereafter willfully 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.

Machinery.
P. L. 1866, p. 352.

120. That whosoever 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.

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

Proviso.

121. That 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 willfully 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.

Injury or theft of flowers, &c., in graveyards.
P. L. 1867, p. 992.

122. That 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 wanton-

Robbing or desecrating graves.
R. S. 257, § 87.

ness, 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 a fine not exceeding two thousand dollars, or imprisonment at hard labor not more than five years, or both, at the discretion of the court.

Malicious destruction of deeds, &c.
Ib., § 69.

123. That if any person shall willfully, 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, indorsement 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.

Destroying land-marks.
P. L. 1863, p. 95.

124. That any person who shall willfully and 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 willfully 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 willfully 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)

Guideposts, &c.
Ib.

125. That every person who shall willfully 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 willfully or

(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. 333.

(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. B. 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 Vt. 410.

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.

126. That 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. (a)

Malicious damage to any goods, &c.

127. [Amended by Sec. 229, *post.*]

3. STEALING AND OTHER TAKINGS.

128. [Amended by Sec. 210, *post.*]

129. That 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. (b)

Larceny over \$20. R. S. 257, § 36.

130. That 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.

Stealing vegetables, &c. *Ib.*, § 67.

131. That if any person shall sever from land anything fixed therein, or attached thereto, with intent to steal the things 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, *ante.*]

Fixtures when severed from realty deemed personal property.

132. That 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, outhouse, 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 punished by fine not exceeding fifty dollars, or imprisonment at hard labor not exceeding nine months, or both. (c) [See Sec. 142, *post.*]

Stealing certain articles. R. S. 257, § 66.

133. That 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 offense, shall be punished by a 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.

(a) See *State v. Nugent*, 3 N. J. L. J. 347.

(b) 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, Coxe*, 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. 176. 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. Le Blanch*, 2 Vr. 82. The indictment under this section need not charge that the act was done feloniously or with felonious intent. *Gardner v. State*, 26 Vr. 17. The word "steal" or "stealing" in a criminal statute, when unqualified by the context, signifies a taking which at common law would have been denominated felonious, and imports the common-law offense of larceny. *Ib.*

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

Robbery.
Ib., § 38.

134. That 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.

Larceny from the
person.
P.L. 1859, p. 367, § 3.

135. That 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. (a)

Stealing bills,
bonds, &c.
R. S. 257, § 45.

136. That 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 deeds, &c.
Ib., § 46.

137. That 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.

Killing animals
with intent to steal
the carcass, &c.

138. That whosoever shall willfully 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.

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

139. That 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 offense be necessary to allege that such will, codicil or other instrument is the property of any person; *provided*, that nothing in this section

(a) An indictment under this section and section 136, is sufficient if it characterizes the offense as an unlawful and malicious taking and stealing from the person, without charging a felonious stealing and taking away. *Randall v. State*, 24 *Vr.* 485.

(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 *Hal.* 299.

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 offense 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 offense 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 offense, 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.

Other remedies not to be affected.

140. That 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 willfully 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 willfully, 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.

Stealing or dredging for oysters in oyster fisheries.

Proviso as to fish.

141. That 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.

Animals property and subject of larceny.

142. That 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.

Stealing, &c., metal, glass, wood, &c., fixed to house or land. P. L. 1863, p. 71.

Amended.

143. That 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.

Or receiving same. *Ib.*

144. That 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

Stealing or cutting trees, plants or fences, &c.

(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. Levenson*, Pen. *391, *Arnold v. Mundy*, 1 *Hal.* 1.

- guilty of a misdemeanor, and on being convicted thereof, shall be liable to be punished as in case of larceny.
- 145.** That whosoever shall steal, or sever with intent to steal, the ore of any metal, coal, mari, (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.
- 146.** That 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.
- 147.** That 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 a fine not exceeding three hundred dollars, or imprisonment at hard labor, not exceeding three years, or both. (b)

Stealing or digging ore, clay, &c.

Embezzlement of ore, &c., by employe.

Receiving stolen goods, &c.
R. S. 257, § 72.
P. L. 1852, p. 87.
Combined.

2. Frauds.

- 148.** That 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. (c)
- 149.** That 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.
- 150.** That 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. (d)
- 151.** That 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 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

Embezzlement by public officer.
R. S. 257, § 50.

Amended.

Embezzlement by collector of county, &c.
P. L. 1866, p. 1078.

Penalty when city, township, ward or county officer unlawfully obtains or counsels the obtaining of money, &c.
P. L. 1872, p. 34.

Unlawful detention of public property.
R. S. 257, § 51.
Amended.

1076-151
38V-383

(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.* #950.
(c) In an indictment under this section, the ownership of the property, if known, must be stated and there must be an allega-

tion of an intent to defraud. *State v. Lyon*, 16 Vr. 272. The time of the commission of the act must be alleged in all indictments. *Ib.*
(d) A member of the board of chosen freeholders is a county officer, within the meaning of this section, and is subjected to its penalties. *State v. Crowley*, 10 Vr. 264.

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.

152. That if any director of any incorporated bank in this state, or any cashier, bookkeeper, or other officer or agent of any such bank, shall knowingly overdraw his account with the bank of which he shall be director, cashier, bookkeeper, 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, bookkeeper 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.

Embezzlement or fraud by officers of banks.
R. S. 125, §§ 1, 2.

153. That 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.

Fraudulent disposition of property by trustees.

154. That 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.

Directors, &c., of any body corporate, or public company, fraudulently appropriating property.

155. That 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 keeping fraudulent accounts.

156. That 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

Or willfully destroying books, &c.

(a) The cashier of a bank may be indicted for knowingly overdrawing 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.

Or publishing
fraudulent state-
ments.

157. That 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 entrust 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.

No person to be
exempt from
answering ques-
tions in any court,
but no person
making a dis-
closure in any
compulsory pro-
ceeding to be
liable to prose-
cution.

158. That 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 offense 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 remedy at law
or in equity shall
be affected.

159. That 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 offense 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.

Convictions shall
not be received in
evidence in civil
suits.

Embezzlement,
&c., by apprentice
or servant.
R. S. 257, § 43.

160. That 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.

Proviso.

By other agents.
P. L. 1863, p. 240,
§ 1.

161. That 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 willfully 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, and, on conviction, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding three years, or both. (a)

162. That 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.

By lodger.
R. S. 257, § 44.

163. That 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.

Embezzlement
by carrier.
P. L. 1848, p. 184,
§ 1.

164. That 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.

Person purchas-
ing without con-
sent of owner,
how sued.
Ib., § 2.
Amended.

165. That 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
by operatives.
P. L. 1852, p. 87.

166. That 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.

Embezzlement of
silk, &c., by
employee.
P. L. 1867, p. 381.

167. That 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,

Receiving same.
Ib.

(a) Where the indictment contained a count charging embezzlement and another charging a larceny, and the jury found the defendant guilty "of larceny and embezzlement as he stands

charged in the indictment"—*Held*, the proceeding was regular *Stephens v. State*, 24 *Vr.* 245.

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.

Punishment
therefor.
Ib.

168. That 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.

Bailee fraudu-
lently converting
property, guilty
of larceny,

169. That 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 offense punishable on summary conviction. [See Sec. 296, *post.*]

Thimblerrigging,
&c.
P. L. 1855, p. 425,
§ 1.

170. That 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 offense shall be tried.

Obtaining goods
by false pretenses.
R. S. 257, § 52.

171. That all persons who knowingly and designedly, by color of any false token, counterfeit letter or writing, or false pretense or pretenses, 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)

Inducing persons
by fraud to exe-
cute deeds and
other instruments.

172. That whosoever, with intent to defraud or injure any other person, shall, by any false pretense, fraudulently cause or induce any other person to execute, make, accept, indorse 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. (b)

173. [Amended by Sec. 235, *post.*]

(a) The indictment need not charge that any false token or counterfeit letter or writing was used; a verbal pretense, 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 a credit, is an offense within the statute. *State v. Vanderbilt*, 3 *Dutch*, 323. *State v. Tomlin*, 5 *Dutch*, 13. But a mere general allegation that the matter stated was a pretense, 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 matter the character of a false pretense. *Byard v. Holmes*, 5 *Vr*, 296. Nor is it any defense 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 pretenses, the sufficiency of the allegations in such indictment to sustain the offense charged, under the laws of such state, cannot be inquired into. *Matter of Voorhees*, 3 *Vr*, 150. An indictment for obtaining goods by false pretenses, which sets out that a defendant obtained, by false

representations, certain house mouldings, inside doors, corner blocks, &c., of the value of \$500, contains a sufficient description of the property and a sufficient statement of the value. *Hagerman v. State*, 25 *Vr*, 104. The wrong prohibited is obtaining money not due and owing; the means whereby a wrongdoer gets it is in no way material as an element in the statutory misdemeanor. *State v. Crowley*, 10 *Vr*, 264. Charging the obtaining of money from the board of chosen freeholders by certain false pretenses made to the county collector is sufficient. *Ib.* The signature of an instrument which cannot, under any circumstances, affect the signer, if he proves it was obtained by false pretenses, is not a "valuable thing," within the meaning of this section. *Robinson v. State*, 24 *Vr*, 41.

(b) An indictment for procuring one to indorse accused's promissory note by false pretenses, charged that one false pretense consisted in falsely stating that the property of the accused was not incumbered by any lien. *Held*, that this charge was not sustained by proof that, in response to a question as to his ownership of his property, the accused falsely stated that he did not owe a dollar to any man. *Sharp v. State*, 24 *Vr*, 511.

174. That 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.

Selling or receiving counterfeit paper.
Ib., § 78.

175. That 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.

Engraving plates for forging.
Ib., § 79.

176. That 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.

Possessing or receiving forged paper.
Ib., § 80.

177. That 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.

Having or filling up blank notes, with intent to defraud.
Ib., § 81.

178. That 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.

Having plates for forging, &c.
Ib., § 82.

179. That any person convicted of any of the offenses 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.

Punishment.
Ib., § 83.
Proviso.

180. That 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. That 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. That 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

Having counterfeit coin, with intent to export.
Ib., § 86.

Proviso.

Penalty for printing or circulating any publication offering for sale, &c., counterfeit paper money or coin.

P. L. 1873, p. 167.

Uttering bad bills.

P. L. 1862, §. 113.

Counterfeiting letters of credit.
Ib.

Counterfeiting trade-marks, and selling without notice.

R. S. 284, §§ 1, 2.

Forging passenger tickets.

P. L. 1864, p. 738.

Using fraudulent tickets.
Ib.

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.

183. That 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.

184. That 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.

185. That 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.

186. That every person who shall knowingly and willfully 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.

187. That 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.

188. That 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.

189. That 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 willfully 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 willfully 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 willfully, 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.

Issuing false stock.
P. L. 1855, p. 654.

190. That 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 a 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.

Fraudulent acts committed by personation of others.
R. S. 257, § 49.

Proviso.

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

191. [Amended by Secs. 209 and 236, *post*.]

192. That assaults, batteries, (a) false imprisonment, affrays, riots, routs, unlawful assemblies, nuisances, (b) cheats, deceits, and all other

1083-192
33V-523

(a) 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 Har. 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, *post*, Sec. 252, note.

(b) 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 Jer-*

sey R. E. 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 Har. 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. *Id.* 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

Offenses indictable at common law deemed misdemeanors. *Ib.*, § 92.

Attempts to commit offenses.

Convict escaping. *R. S.* 257, § 93.

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

Conviction of second offense. *Ib.*, § 94.

offenses of an indictable nature at common law, (a) 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. [See Sec. 272, *post.*]

193. That if any person shall attempt to commit any of the offenses mentioned in this act, or any offense of an indictable nature at common law he shall, though such offense 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. (b)

194. That 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. (c)

195. That if any person be convicted of any offense 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.

196. That 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 offense 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 offense.

III.—SUPPLEMENTS.

Supplement.

P. L. 1875, p. 51.

Kidnaping.

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 entrusted 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.

Supplement.

P. L. 1875, p. 87.

198. SEC. 1. [Amended by Secs. 207 and 257, *post.*]

Approved April 9, 1875.

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. A place of public resort, kept for the sale of pools upon horse races, is a disorderly house. *State v. Lovell*, 10 *Vr.* 463. To constitute a disorderly house, an habitual violation of the law must be permitted by its occupant. *Brown v. State*, 20 *Vr.* 61. Whether an act is illegal, and what constitutes a disorderly house, is a question of law to be settled by the court, but it must be left to the jury to find, as a question of fact, whether satisfactory evidence is produced to show that the defendant habitually permits such acts on his premises as are declared to be illegal. *Ib.* In an indictment for being a common scold, it is sufficient to charge that she is a common scold, to the nuisance of the public. *Baker v. State*, 24 *Vr.* 45. Acts which would have constituted a public nuisance under the common law are, in New Jersey, a statutory misdemeanor by force of this section. *State v. Crustus*, 28 *Vr.* 279. See *State v. Sanford*, 6 *N. J. L. J.* 92.

(a) 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 *Har.* 206. Nor an indictment for conspiracy. *State v. Norton*, 3 *Zab.* 33.

(b) An attempt to steal, accompanied by an overt act or acts towards its commission, constitutes an attempt to commit larceny. *Supple v. State*, 17 *Vr.* 197. The overt act or acts must be such as will apparently result, in the usual and natural course of events, if not hindered by extraneous causes, in the commission of the crime itself. *Ib.* Mere preliminary preparations are not the overt acts required. *Ib.* By force of this section it is an indictable offense to attempt to commit the crime denounced by Sec. 232, *post.* *Furrell v. State*, 25 *Vr.* 421.

(c) A person convicted for an escape, or attempt to escape, from prison, may be punished therefor by imprisonment in a jail or prison other than that from which he escaped, or attempted to escape. *State v. Strauss*, 21 *Vr.* 345.

Supplement.

Approved April 9, 1875. P. L. 1875, p. 104.

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.

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

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

Verdict of jury.

Supplement.

Approved February 7, 1876. P. L. 1876, p. 18.

201. SEC. 1. That if any board of chosen freeholders, or any township committee, or any board of alderman, or common councilmen, or any board of education, or any board of commissioners of any county, township, city, town or borough in this state, or any committee or member of any such board or commission, shall disburse, order or vote for the disbursement of public moneys, in excess of the appropriation respectively to any such board or committee, or shall incur obligations in excess of the appropriation and limit of expenditure provided by law for the purposes respectively of any such board or committee, the members thereof, and each member thereof, thus disbursing, ordering or voting for the disbursement and expenditure of public moneys, or thus incurring obligations in excess of the amount appropriated, and limit of expenditure as now or hereafter appropriated and limited by law, shall be severally deemed guilty of malfeasance in office, 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. [See Sec. 217, *post.*] (a)

Penalty for disbursing, ordering or voting for disbursement of public moneys in excess of amount appropriated and limited by law.

1085-201
30V-875
33V-183

Supplement.

Approved March 16, 1876. P. L. 1876, p. 56.

202. SEC. 1. That if any person shall make a transfer of any property or goods or chattels liable to taxation by the laws of this state, for the purpose of thereby evading the payment of any taxes that may be afterward assessed thereon, or shall obtain a loan for the purpose of thereby claiming a deduction in any taxes that may be afterward assessed against him or her, with the intention of obtaining a retransfer of said property, or goods, or chattels, or of taking up said loan when such purpose shall be accomplished, he or she shall be deemed guilty of a misdemeanor, and on being convicted shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or both, in the discretion of the court.

Penalty for evading the payment of taxes.

Supplement.

Approved March 30, 1876. P. L. 1876, p. 65.

203. SEC. 1. That if any married man shall have sexual intercourse with any single female of good repute for chastity, by representation that he is a single man, or under promise of marriage, and she shall thereby become pregnant, he shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding five thousand dollars, or by imprisonment at hard labor for a period not exceeding five years, or both.

Penalty if married man shall have sexual intercourse with single female under promise of marriage, &c.

(a) By the terms of this act an indictment need not charge a corrupt intent or guilty knowledge. *State v. Halsted*, 10 Vr. 402; affirmed, 12 Vr. 552. A resolution directing the issue of bonds in excess of the appropriation and limit of expenditure as fixed by law is illegal and will be set aside on *certiorari*. *Siedler v. Chosen Freeholders of Hudson*, 10 Vr. 632. See, also, *Mabon v. Halsted, Director, &c.*, 10 Vr. 645. Where there is a city ordinance prescribing appropriations and the limit of ex-

penditure for city purposes for a stated period, it is criminal for the city council to incur obligations during that period in excess of such appropriations and limit of expenditure. *Atlantic City Water Works Co. v. Read*, 21 Vr. 665. The water companies act of April 21st, 1876, does not modify the operations of this act. *Id. v. Humphries v. Bayonne*, 26 Vr. 244. See *St. Vincent de Paul v. Bordentown*, 27 Vr. 48.

Penalty if single man shall offend against the provisions of this act.

1086-204
30V-2
32V-500

Proviso.

204. SEC. 2. That if any single man over the age of eighteen years, under promise of marriage, shall have sexual intercourse with any single female of good repute for chastity, under the age of twenty-one years, and she shall thereby become pregnant, any person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding five thousand dollars, or by imprisonment at hard labor for a period not exceeding five years, or both; but in such cases (in both of these sections) the evidence of the female must be corroborated to the extent required in case of indictment for perjury; *and provided*, that in case the party offending marry the female at any time before sentence, then sentence shall be suspended and he be discharged from custody, and in case he marry the female after sentence, then he shall be discharged from all further imprisonment. (a)

Supplement.

Approved April 6, 1876.

P. L. 1876, p. 83.

Penalty for endangering property by burning brush or other material.

205. SEC. 1. That any person or persons who shall burn any pit of charcoal, or set fire to or burn any brush or other material, whereby any property may be endangered, unless he or they shall keep and maintain a careful and competent watchman in charge of said pit, bed or other material while burning, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months, or both.

Supplement.

Approved April 20, 1876.

P. L. 1876, p. 228.

Punishment if any employe or person having control of any institution supported by the state shall be interested in furnishing any goods or supplies to such institution.

206. SEC. 1. That if any employe or person or persons having the control or management of any institution, the moneys for the support of which are drawn in whole or in part from the treasury of the state, shall be directly or indirectly interested in furnishing any goods, chattels, supplies or property of any kind whatsoever to or for the use of any such institution, which may be in whole or in part supported by appropriations, paid out of the treasury of the state, such person, officer or employe shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding one year, or both, at the discretion of the court.

Supplement.

Approved March 8, 1877.

P. L. 1877, p. 62.

207. SEC. 1. [This section, amending Sec. 198, *ante*, is amended and supplied by Sec. 257, *post*.]

Supplement.

Approved March 8, 1877.

P. L. 1877, p. 105.

Penalty for stealing railroad tickets.

208. SEC. 1. That if any person shall steal from any railroad corporation or its agents or depositaries the certificate or certificates, contract or contracts for passage, commonly known and designated a "ticket" or "tickets," which would entitle the holder thereof, or any other person, to carriage on the cars of the said or other corporations between the places designated on such ticket or tickets, and which if sold by said corporation in the regular course of its business would have produced in the aggregate a sum less than twenty dollars, he or she so offending shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by confinement in the jail of the county where convicted for a period of three months, or by both, and if such ticket or tickets, if sold as aforesaid by said corporation, would have produced in

(a) The good repute of the female must be proven affirmatively by the state; it will not be presumed. *Zabriskie v. State*, 14 Vr. 640. The proviso that if the party offending marry the female he shall be discharged from custody, &c., does not re-

peal section 4 of the act concerning marriages, births and deaths (Rev. p. 631), which imposes a penalty on clergymen who solemnize the marriage of minors without the consent of parents or guardians. *Craft v. Jachetti*, 18 Vr. 205.

the aggregate a sum equal to or greater than twenty dollars, he or she, so offending as aforesaid, shall on conviction thereof be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding ten years, or by both.

Supplement.

Approved March 9, 1877. P. L. 1877, p. 142.

209. SEC. 1. [This section amending Sec. 191 of the original act, amended and supplied by Sec. 236, *post.*]

Supplement.

Approved February 7, 1878. P. L. 1878, p. 13.

210. SEC. 1. That section one hundred and twenty-eight of the act to which this is a supplement, which section reads as follows [see Rev. p. 250], be and the same is hereby amended so as to read as follows:

[That if any person shall steal of the money, 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 offense 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 one year; and no person hereafter convicted of larceny, under the value of twenty dollars, shall be sent to the state prison for such offense.]

Penalty for larceny under §20. R. S. 257, § 34.

Supplement. (1)

Approved March 19, 1878. P. L. 1878, p. 137.

211. SEC. 1. That whenever any furniture or implements made or used for the playing of the game of faro, roulette, rouge et noir or any unlawful game, shall be seized or captured by the police, constabulary or other officers in this state, it shall be the duty of the prosecutor of the pleas in the county where such seizure is made, to have the same destroyed or rendered useless for the uses and purposes aforesaid, and it shall be unlawful to return the same to the person or persons owning the same, or to any person whatsoever.

Furniture or implements made or used for the playing of any unlawful game, shall be seized and destroyed.

Supplement. (2)

Approved March 21, 1878. P. L. 1878, p. 168.

212. SEC. 1. That a mortgagor of personal property in possession of the same, who, without the consent of the owner of the claim secured by mortgage, and with intent to defraud, removes any of the property mortgaged out of the county where it was situated at the time it was mortgaged, or secretes, destroys, sells or exchanges the same without such consent, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or imprisonment at hard labor not exceeding six months, or both, at the discretion of the court.

Penalty for removal, by mortgagor, of any property out of the county where it was situated at the time it was mortgaged.

Supplement.

Approved April 3, 1878. P. L. 1878, p. 262.

213. SEC. 1. That the thirty-ninth section of the act to which this is a supplement, and which section reads as follows [see Rev. p. 234], be and the same is hereby amended so that the said section shall read:

[That 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

Penalty for intermarrying within degrees prohibited by law. R. S. 257, § 15. Amended.

(1) Query—Has this act been repealed? See chattel mortgage act (P. L. 1885, p. 313, § 14), and 9 *N. J. L. J.* p. 189.

(2) Query—Has this act been repealed? See chattel mortgage act (P. L. 1885, p. 313, §§ 13, 14), and 9 *N. J. L. J.* p. 189.

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; *provided*, that this section shall not apply to persons being related to each other as parent and child.]

Proviso.

Incestuous conduct between parent and child.

214. SEC. 2. That all persons being related to each other as parent and child, who shall intermarry, or together commit fornication or adultery, shall be adjudged to be guilty of incest and a high misdemeanor; and every parent who shall be guilty of open lewdness with, or any act of indecency towards, and tending to debauch the morals and manners of any child or children of such parent, and every parent who shall make any infamous proposal to any child or children of his or her own flesh and blood, with intent to commit adultery or fornication with such child, shall be adjudged guilty of a high misdemeanor; and any person convicted of the crimes mentioned in this section or any of them, shall, on conviction, 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.

Supplement.

Approved April 5, 1878.

P. L. 1878, p. 363.

Filling in of lands on tide or river-waters with any substance prejudicial to health, &c., declared unlawful.

215. SEC. 1. That it shall hereafter be unlawful for any individual, individuals, firms or corporations owning lands bordering upon the tide or river-waters of this state, or who own or possess rights to low lands or lands covered by tide or river-waters, to cause or allow said lands to be filled in with any substance containing animal or vegetable matter or any other material which is or is likely to become prejudicial to the health or comfort of any of the inhabitants of the city, town, township or village within whose limits such filling is caused or allowed; *provided, however*, that nothing in this act shall be held to prevent the dumping or depositing of any animal or vegetable matter by any individual or individuals, firms or corporations, or the employe or employes or agents of such individual or individuals, firm or corporation, during the months of October, November, December, January, February and March; *and provided further*, that the matter and refuse so dumped be covered with earth so that it will not emit any stench, to the discomfort of or danger to the health of the inhabitants of any city, town, township or village within whose limits such filling is done.

Proviso.

Proviso.

Penalty for offending against the provisions of this act.

216. SEC. 2. That any person or persons, firms or corporations owning such lands, or in possession or having the control thereof, or any officer or officers, agent or agents, attorney or attorneys, employe or employes of any corporation or firm owning or in possession of such lands, who have the control or management thereof on behalf of such corporation or firm, offending against the provisions of this act, and being convicted thereof, shall be deemed and adjudged to be guilty of a misdemeanor and be punished by fine not exceeding two hundred and fifty dollars, or imprisonment at hard labor not exceeding six months, or both.

Supplement.

Approved February 19, 1879.

P. L. 1879, p. 28.

Preamble.

WHEREAS, By a supplement to an act entitled "An act for the punishment of crimes," approved March twenty-seventh, one thousand eight hundred and seventy-four, which was approved February seventh, one thousand eight hundred and seventy-six [see Sec. 201, *ante*], it is provided that no board of education of any city in this state, or any committee or member thereof, shall disburse, order or vote for the disbursement of any public moneys in excess of the appropriation, respectively, to any such board or committee; *and whereas*, it sometimes occurs that a considerable period elapses between the expiration of the time for which appropriations have been made and the making of new appropriations; therefore,

Boards of education may incur obligations in anticipation of appropriations.

217. SEC. 1. That it shall be lawful for any board of education to keep open the public schools under its charge, in anticipation of appropriations, for a period not exceeding three months after the organization of such

board, and for that purpose to incur the necessary obligations, not exceeding one-quarter of the sum appropriated for the year immediately preceding; *provided*, that this act shall not apply to counties having less than fifty thousand inhabitants or more than sixty thousand inhabitants. Proviso.

Supplement.

Approved March 11, 1879. P. L. 1879, p. 111.

218. SEC. 1. That if any member of any state, county or city government, or any member of any public board, association or commission, shall hereafter solicit or receive, either directly or indirectly, any money or valuable consideration for his vote in the appointment of any person or persons to any position in any department of any public body aforesaid, the person or persons so offending shall be deemed and taken to be guilty of a misdemeanor, and, on conviction thereof, be punished by a fine or imprisonment, or both; said fine not to exceed one thousand dollars, nor such imprisonment one year, and be forever thereafter debarred from holding any office of profit, trust or emolument in this state. Penalty for soliciting or receiving money for votes.

Supplement.

Approved March 14, 1879. P. L. 1879, p. 232.

219. SEC. 1. That any person who shall directly or indirectly give, or receive, or promise, contract or agree to give or receive, any sum or sums of money, or any goods, chattels, gift, lands or real estate, or any other thing, bribe, present or reward whatsoever, for, or to obtain, or for giving out the printing of blanks, notices, advertisements, or any other printing, or for, or to obtain, or for giving out any other work or thing, connected with, or in or appertaining to, any office or department of this state, or any office or department in any county, city, town, township, borough or other place in this state, shall be guilty of a misdemeanor, and, on conviction thereof, shall, for every such offense, be liable to a fine not exceeding three hundred dollars, or suffer imprisonment at hard labor not exceeding one year, or both, at the discretion of the court. Penalty for giving or receiving bribe, &c., for giving out the printing of blanks, &c.

Supplement.

Approved March 14, 1879. P. L. 1879, p. 251.

220. SEC. 1. That if any person acting as executor, administrator, trustee or guardian, appointed by any will, deed or other written instrument, or by the judgment, order or decree of any court in this state, shall willfully or fraudulently convert to his own use, to take, make away with, or secrete with intent to convert to his own use, or shall fraudulently withhold any money, goods, property, rights in action, or other valuable security or effects whatever belonging to the estate or person or persons for whose benefit or in whose behalf such executor, administrator, trustee or guardian may have been appointed, and which shall have come into his possession or under his care and control by virtue of said trust, employment or office, he shall be adjudged guilty of embezzlement, and shall, upon conviction, be punished by a fine of not more than one thousand dollars, or imprisonment not to exceed five years, or both, in the discretion of the court. Penalty for willfully or fraudulently converting or withholding trust funds, &c.

Supplement.

Approved March 3, 1880. P. L. 1880, p. 83.

221. SEC. 1. That if the owner or owners in fee of any mortgaged premises, or any tenant or tenants under him, her or them, shall willfully remove, tear down or destroy, or aid, counsel, procure or consent to the removing, tearing down or destroying any dwelling-house, shop, warehouse, storehouse, mill, barn, stable, wagon-house, outhouse or other building whatsoever erected upon said mortgaged premises, or any of the fencing thereon, or shall cut down and remove the growing timber with the intent Penalty if owners in fee of mortgaged premises or tenants shall willfully remove, tear down or destroy any dwelling-house, shop, &c., after foreclosure proceedings commenced.

to cheat, wrong or defraud the parties holding incumbrances after foreclosure proceedings have been commenced against the same, and a subpoena legally served upon such owner or tenant, without having first obtained the written consent of the complainant in such suit, and of all other persons holding incumbrances against said mortgaged premises, or the written consent of the chancellor, or of one of the justices of the supreme court, if foreclosure be commenced in the circuit court, upon petition for that purpose, he, she or they so offending shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor for any term not exceeding one year, or both.

Supplement.

Approved March 11, 1880.

P. L. 1880, p. 195.

1090-222
32V-78

Penalty for unauthorized person making up a purse for running, pacing or trotting of horses.
R. S. 375, § 2.

222. SEC. 1. That the fifty-sixth section of the act to which this is a supplement, and which reads as follows [see Rev. p. 237], shall be amended so that the same shall read as follows:

[That if any person not authorized by an agricultural society or incorporated body of this state shall be concerned in making up any purse for any running, pacing or trotting of any horse or horses, mares or geldings, 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.] [See Sec. 274, *post.*]

223. SEC. 2. That the fifty-seventh section of the act to which this is a supplement, and which reads as follows [see Rev. p. 237], shall be amended so that the same shall read as follows:

[That 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.] (a)

224. SEC. 3. That the fifty-eighth section of the act to which this is a supplement, and which reads as follows [see Rev. p. 237], shall be amended so that the same shall read as follows:

[That if any such 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.]

225. SEC. 4. That section fifty-nine of the act to which this is a supplement, and which reads as follows [see Rev. p. 237], shall be amended so that the same shall read as follows:

[That if any person or persons shall let or rent his, her or their land for the purpose of a race-course 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; *provided, however,* that this section shall not apply to fairs, agricultural societies, or any incorporated body of this state.]

Penalty for any such person who is a stakeholder, rider or driver of any horse.
Ib., § 3.

Penalty for asking any person to contribute or collect any money to make up a purse, &c.
Ib., § 4.

Penalty for any persons who shall rent or let their land for the purpose of race-course.
Ib., § 5.

Proviso.

(a) Betting and holding stakes upon horse races to be run outside of this state, are misdemeanors, and a place of public resort kept for the carrying on of such practices is a disorderly house. *State v. Lovell*, 10 Vr. 463. By force of this act, repealing the

fifty-sixth section of the crimes act (Rev. p. 237), betting upon horse-racing was not thereafter indictable. *McClellan v. State*, 20 Vr. 471. *Haring v. State*, 22 Vr. 386.

226. SEC. 5. That no person or persons shall make up any purse, plate or other thing for any running, pacing or trotting of any horses, mares or geldings, or contribute or collect, or ask any other person to contribute or collect, any money, goods or chattels, to make up any purse, plate or other thing to be run, paced or trotted for by any horse, mare or gelding, at any place in this state, except when authorized by a fair, or agricultural society, or an incorporated body of this state, and within the exterior inclosure where the exhibitions of speed are to take place; and any person violating the provisions of this section 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.

Penalty for making purse except when authorized by a fair of agricultural society, &c.

1091-226
32V-77

227. SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

Supplement.

Approved February 5, 1881.

P. L. 1881, p. 13.

228. SEC. 1. That if any person serving out a sentence of imprisonment in the state prison, or in any county penitentiary, or in any county jail in this state, shall escape from such prison, penitentiary or jail and shall be recaptured, such person shall be required to serve out the whole of the term for which he was originally sentenced, without deducting any of the time he shall have been at large after so escaping; and it shall be the duty of the keeper or warden of such prison, penitentiary or jail, to enter upon his record of prisoners the time of the escape of any such prisoner, and the time when he shall be returned to custody, and the entry so made shall be prima facie evidence of the time such prisoner has been absent from custody, in computing the remaining period for which he is to be confined in the prison, penitentiary or jail to which he was originally sentenced. (a)

Person escaping from state prison, jail, &c., on recapture shall serve out whole of term for which he was sentenced.

Keeper or warden to make entry of escape and recapture.

Supplement.

Approved March 21, 1881.

P. L. 1881, p. 157.

229. SEC. 1. That section one hundred and twenty-seven of the act to which this is amendatory [see Rev. p. 250], be and the same is hereby amended to read and be in the following words, to wit:

[That 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, 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 fine not exceeding one hundred dollars.]

Penalty for unlawfully and maliciously damaging or injuring real or personal property.

230. SEC. 2. That all acts or parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Supplement.

Approved March 25, 1881.

P. L. 1881, p. 240.

231. SEC. 1. That section seventy-five of the act to which this is a supplement [see Rev. p. 240], be and the same is hereby amended so as to be and read as follows, viz.:

[That if any person maliciously or without lawful jurisdiction, 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 or 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

Penalty for causing or procuring miscarriage.
P. L. 1872, p. 45.

(a) As to the mode of proof of the time of absence this legislation is remedial, but in other respects it is merely declaratory of the common law. *In re George W. Edwards*, 14 Vt. 555, 561.

exceeding five thousand dollars, or imprisonment at hard labor for a term not exceeding fifteen years, or both, at the discretion of the court; 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 one thousand dollars, or imprisonment at hard labor for a term not exceeding five years, or both, in the discretion of the court before whom such conviction shall be had.] (a)

P. L. 1882, p. 45.

Relatives or parties applying for body, &c., to file with sheriff a bond.

Bond, when forfeited.

Sheriff may deliver body to any medical college when not applied for or bond given.

Penalty for violation of this act.

Supplement.

Approved March 3, 1882.

232. SEC. 1. [Amended by Sec. 261, *post.*]

233. SEC. 2. That prior to the delivery of the body of any such person upon whom the death penalty shall have been inflicted to the relatives or friends, or to any person or persons, or to any association, the party or parties so applying for possession of such body shall file with the sheriff having custody of such body, a bond in the sum of one hundred dollars, with two sufficient sureties, which bond shall be forfeited to the county in case of a violation of the provisions of this act; and if no application for such body be made, and bond filed, on or before the day on which the death penalty is inflicted, the sheriff may deliver such body to any surgeon or medical college for dissection, or he may cause such body to be otherwise properly disposed of.

234. SEC. 3. That any person or persons offending against the provisions of this act, and being convicted, shall be deemed and adjudged to be guilty of a misdemeanor, and be punished by fine not exceeding two hundred and fifty dollars, or imprisonment at hard labor not exceeding six months, or both.

P. L. 1882, p. 94.

Penalty for making, altering, forging or counterfeiting records, drafts, notes, &c.
R. S. 257, § 48.

Supplement.

Approved March 14, 1882.

235. SEC. 1. That section one hundred and seventy-three of said act be and the same is hereby amended so that the same shall read as follows:

[That 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, character, 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, indorsement or assignment of any check, draft, 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, real or personal, with intent to prejudice, injure, damage or defraud any person

(a) To cause or procure abortion before the child is quick is not a criminal offense 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 offense 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. This act makes the intent to cause

a miscarriage of a pregnant woman an essential element of the crime created. Knowledge of the woman's condition is not an essential element of the crime, mere belief of the existence of pregnancy being sufficient, with other circumstances, to justify the inference of intent. *Powe v. State*, 19 Vr. 34. A woman who voluntarily takes a potion administered to her for the purpose of causing an abortion, is not an accomplice in the crime of the person administering it, the law making it no crime in her to take the potion. *State v. Hyer*, 10 Vr. 598. The thing administered must be noxious in its nature, but it is not necessary to prove that it will produce miscarriage. If it be administered with intent to cause miscarriage the crime is complete, whether in the opinion of others it is capable of producing that result or not. *State v. Gracie*, 14 Vr. 87.

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)

Uttering or publishing the same.

Supplement.

Approved March 28, 1882. P. L. 1882, p. 200.

236. SEC. 1. That section one hundred and ninety-one [see Secs. 191 and 209, *ante*] of said act be and the same is hereby amended to read as follows:

[That if two or more persons shall combine, unite, confederate, conspire or bind themselves by oath, covenant, agreement or other alliance to commit any crime, or falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime, 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 obtain money by false pretenses, or to conceal or spread any contagious disease, or to commit any act 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 crime 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.] (b)

Conspiracy.
R. S. 257, § 61.

Supplement.

Approved March 7, 1883. P. L. 1883, p. 80.

237. SEC. 1. That any person or persons who, within this state, shall, directly or indirectly, transact any fire insurance business, for or on behalf of any fire insurance company or association, not authorized by the laws of this state to do business within this state, or shall, directly or indirectly,

Penalty for transacting or seeking to transact the business of fire insurance without authority.

(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 *Har.* 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 *Har.* 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 *Har.* 507. Or the omission to do so be excused by proper averment. *State v. Potts*, 4 *Hal.* 26. And the instrument shown must correspond. *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.* 472. *State v. Robinson*, 1 *Har.* 507. *State v. Poyan*, 4 *Dutch.* 319. *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, Sec. 47. The intent to defraud is a material element in the crime of uttering forged paper. The placing, by the holder, of notes with forged indorsements in the bank where they are payable, with direction to the bank officers to present for payment and give notice of protest, followed by actual presentment and notice, will not support a conviction for uttering with intent to defraud, if it appears that the holder knew at the time that both maker and endorser had knowledge of the existence and forged character of the paper. *State v. Redstrake*, 10 *Vr.* 365. All that is necessary in an indictment for forgery is to show an instrument which, on its face, is capable of being used to create a liability, and to aver that it was made with intent to defraud. *Mead v. State*, 24 *Vr.* 601.

(b) A conspiracy to commit a crime of an indictable nature constitutes the offense, although no overt act be done. *State v. Rickey*, 4 *Hal.* 293. As a conspiracy to destroy or erase an indorsement on a promissory note. *State v. Norton*, 3 *Zab.* 33. Or to falsely charge a person with having committed an offense 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*, 3 *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. *Patten v. Freeman*, *Coxe* 113. So, if an individual connect himself with a conspiracy, it is no defense 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 *Har.* 90, *per Dayton, J.* An indictment for a conspiracy to obtain goods by false pretenses must charge the doing of an overt act or it will be void. *Wood v. State*, 18 *Vr.* 180. A conspiracy to slander a person by charging him with a criminal offense is indictable. *State v. Hickling*, 12 *Vr.* 208. The statute, in requiring an overt act, does not require full execution of the conspiracy in order to make it punishable. *Id.* To constitute a combination a conspiracy it must be corrupt. *Wood v. State*, 18 *Vr.* 461. An indictment under this section charged defendants with conspiring to pervert and obstruct the administration of the election laws by doing certain acts with intent to unlawfully influence the result of a certain election. *Held*, that a crime under the provisions of this section was sufficiently shown. *Moschell v. State*, 24 *Vr.* 496. An indictment which sets out that certain persons, being members of, composing and acting as a municipal board, conspired to cheat the city of its moneys by corruptly purchasing supplies for the city at excessive prices, and by paying salaries to persons who rendered no service, is good. *Madden v. State*, 28 *Vr.* 324. After this general allegation of a corrupt intent, it is not essential that the statement of the means by which the conspiracy was to be executed should also show it. *Id.* The accomplishment of the purpose does not free the defendants from the crime of conspiracy. *State v. Puston and Rose*, 1 *N. J. L. J.* 117. See *State v. Lynch*, 7 *N. J. L. J.* 153.

transact any fire insurance business without being authorized by law to transact the same, or shall in any way, directly or indirectly, seek or effect, or cause, procure or assist to be made or effected, or attempt to procure or effect, any fire insurance on property within this state, by or in behalf of any insurance company or association, or any company or person whatsoever, not authorized by the laws of this state and duly qualified thereunder to effect fire insurance on property within this state, or shall act as agent, surveyor, canvasser or other representative of or for any such company, association or person in or about any business not permitted by the laws of this state, 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 six months, or both.

Former penalties
not abolished.

238. SEC. 2. That nothing in this act shall abolish, alter or affect any penalty now provided or imposed by law and recoverable in the name of the state, but all such penalties shall remain recoverable as heretofore.

Supplement.

Approved March 23, 1883.

P. L. 1883, p. 199.

Penalty for
breaking and
entering railway
car, canal boat,
ship or vessel.

239. SEC. 1. That whoever shall willfully and maliciously break and enter any railway car, canal boat, ship or vessel, with intent to rob, steal or commit any malicious mischief, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding five years, or both.

Penalty for enter-
ing railway car,
&c., with intent to
rob.

240. SEC. 2. That whoever shall willfully and maliciously, without breaking the same, enter any railway car, canal boat, ship or vessel, with intent to rob, steal or commit any malicious mischief, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding three hundred dollars, or imprisonment at hard labor not exceeding three years, or both.

Supplement.

Approved March 13, 1884.

P. L. 1884, p. 80.

Penalty for defac-
ing public bridges
or laying tele-
graph or telephone
wires or gas or
water mains on
such bridges with-
out permission.

241. SEC. 1. That if any person shall deface or mar any of the public bridges in this state, or obstruct, or attach, or lay upon any such bridge any telegraph, telephone or electric wires, or any water or gas mains, without permission first had and obtained from the board of chosen freeholders of the county, or other proper authority, wherein such bridge is situate, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned for a term not exceeding one year, or punished by a fine not exceeding five hundred dollars, or both.

Supplement.

Approved March 19, 1884.

P. L. 1884, p. 83.

No cemetery
association shall
refuse to permit
burial because of
the color of the
deceased.

242. SEC. 1. That no cemetery corporation, association or company organized under any law of this state, owning or having control of any cemetery or place for the burial of the dead, shall refuse to permit the burial of any deceased person therein because of the color of such deceased person, and any cemetery corporation, association or company which shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and, on being convicted thereof, shall be punished by a fine not exceeding five hundred dollars.

Penalty.

Supplement.

Approved April 2, 1884.

P. L. 1884, p. 122.

Indictment for
libel against news-
paper publishers
may be found in
county where pub-
lished or where
complainant
resides.

243. SEC. 1. That no indictment for libel shall be found against any corporation, individual or copartnership publishing any newspaper, magazine or periodical within this state, or any editor, reporter, writer or other employe thereon, or correspondent thereof, for any matter, item or thing published in any such newspaper unless such indictment be found by the grand

jury of the county within which the office of publication of such newspaper is located, or within which the party alleged to have been libeled resides, at the time of the alleged libelous publication.

Supplement.

Approved March 9, 1885. P. L. 1885, p. 62.

244. SEC. 1. That in all cases where any person shall hereafter be convicted of malicious mischief under the act to which this is a supplement, it shall be lawful for the court before which conviction shall be had, to sentence such offender to the workhouse or jail, there to be kept at hard labor for the term for which he shall be sentenced.

Persons convicted of malicious mischief sentenced to hard labor.

Supplement.

Approved March 26, 1886. P. L. 1886, p. 140.

245. SEC. 1. That if any person or persons shall, by means of any boats, scows or vessels, or in any manner whatever, cast or cause to be cast, thrown, dumped or deposited, any mud, earth, soil, ashes, gravel, refuse rock or other solid material into the waters of the river Delaware below the head of navigation, such person or persons, for each and every such offense, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding three hundred dollars, or by imprisonment not exceeding two years, or both, at the discretion of the court; *provided, however,* that nothing in this act shall be taken to interfere with or prevent any person or persons dumping or depositing any such material within any bulkhead, or by the side of any bulkhead to be forthwith thrown into the same, or where the same shall be so confined that no dirt or refuse therefrom can escape into the waters of said river, or with improvements made upon lands under water which have been or may hereafter be granted or leased by the riparian commissioners, or granted by legislative act, but all such improvement shall be so made that no portion of such filling-in shall escape upon the lands of any such adjoining grantee or lessee; *provided,* the same shall not apply to any person acting under and by virtue of any act of congress of the United States or authority of the secretary of war of the United States.

Deposit of mud, &c., in Delaware river below head of navigation.

Proviso.

Proviso.

246. SEC. 2. That for any violation of this act, done in the view of any constable or police officer, such constable or officer is hereby authorized and required, without warrant, to arrest and carry such offender or offenders before a justice of the peace of the county where such arrest is made or offense committed, and such justice is hereby required to take from such officer a complaint in writing, under oath or affirmation, of such offense, and upon receiving such complaint the said justice shall proceed as in criminal cases.

Constable or police officer may arrest offenders without warrant.

247. SEC. 3. That if any constable or police officer shall neglect or refuse to perform the duties required of him by this act, such constable or police officer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of fifty dollars.

Penalty for constable, &c., neglecting or refusing to perform duties.

Supplement.

Approved April 8, 1887. P. L. 1887, p. 151.

248. SEC. 1. That if any person shall purchase, sell, dispose of or traffic in any property, goods or chattels which contain the words, "not to be sold," a description of which is filed and registered, according to law, in the offices of the county clerks of this state, without the consent of the owner or owners thereof, 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 two years, or both.

Purchasing, selling, &c., goods and chattels containing words "not to be sold." Repealer.

249. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

P. L. 1887, p. 230.

Supplement.

Approved April 28, 1887.

250. SEC. 1. That section eighty of the act to which this is a supplement be amended to read as follows :

Rape, &c.

Abuse of infant.
R. S. 257, § 10.

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

Supplement.

Approved February 6, 1888.

P. L. 1888, p. 18.

Cutting or mutilating books, &c., belonging to a library.

251. SEC. 1. That if any officer, clerk, agent or member of any library association duly incorporated under the laws of the state of New Jersey, or any other person whatsoever, shall willfully cut, mark, mutilate or otherwise injure any book, volume, map, chart, magazine, newspaper, painting or engraving belonging to or deposited with any library so incorporated as aforesaid, or shall procure such injury to be done as herein stated, every such person shall be deemed to be guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction, shall be liable for each offense to a fine of not more than one hundred dollars, at the discretion of the court; *provided, however,* that no prosecution shall be maintained under this act unless the library association so complaining shall have at least two printed copies of this act conspicuously placed upon the premises.

Proviso.

Supplement.

Approved March 1, 1888.

P. L. 1888, p. 117.

Burning dwelling-house, &c, under lease.

252. SEC. 1. That if any person, being in the possession of any dwelling-house, or any kitchen, shop, barn, stable or other outhouse that is parcel thereof, or belonging or adjacent thereto, under lease or other lawful possession, but not being the owner thereof, shall willfully and maliciously burn, or caused to be burned, or aid, counsel, procure or consent to the burning of such dwelling-house, or such kitchen, shop, barn, stable or other outhouse that is parcel thereof or belonging or adjacent 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, on conviction thereof, shall be punished by imprisonment not exceeding fifteen years, or by fine not exceeding two thousand dollars, or both, at the discretion of the court.

Supplement.

Approved March 22, 1888.

P. L. 1888, p. 195.

Selling, &c., obscene papers, books, &c.

253. SEC. 1. That any person who shall sell, circulate, or attempt to circulate, or offer for sale, or keep, or expose on any news-stand or other place of sale, any obscene, vulgar or indecent papers, books or periodicals, or any in which are illustrated any indecent or vulgar pictures, or three or more pictures purporting to illustrate the commission of criminal acts, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or imprisonment not exceeding two months, or both.

(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 offense, 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 Cr. 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.* There may be submission by a child of tender years without her consent.

Cliver v. State, 16 Vr. 46. Carnal abuse under this statute is necessarily attended with an assault, and therefore the offense is accurately described by alleging that there was an assault. *Furvell v. State, 25 Vr. 416.* In legal contemplation there cannot be a consent of the infant by which the charge of assault will be repelled. *Id.* In an indictment under this statute, it is not necessary to aver whether the carnal abuse was committed with or without the consent of the infant. The effect of the statute is to render the infant incapable of giving a legal consent to the prohibited intercourse with her. *Id.*

Supplement.

Approved March 30, 1888.

P. L. 1888, p. 338.

254. SEC. 1. That any person who prints, writes, utters, publishes, sells, lends, gives away, circulates or distributes, or has in his possession, with intent to utter, publish, sell, lend, give away, circulate or distribute, any letter, writing, circular, paper, pamphlet, handbill or any other written or printed matter, advertising, offering or purporting to advertise or offer for sale, loan, exchange, gift or distribution, or to furnish, procure or distribute any counterfeit coin, paper money, internal revenue stamp, postage stamp, or any other token, of value, or what purports to be counterfeit coin, paper money, internal revenue stamp, postage stamp, or any other token of value, or giving, or purporting to give, either directly or indirectly, information where, how, of whom or by what means any counterfeit coin, paper money, internal revenue stamp, postage stamp or token of value can be procured or had, or what purports to be counterfeit coin, paper money, internal revenue stamp, postage stamp or other token of value can be procured or had, or whoever shall aid, assist or abet in any manner, in any scheme or device whatsoever, offering or purporting to offer for sale, loan, gift, exchange or distribution any counterfeit coin, paper money, internal revenue stamp, postage stamp or other token of value, whether called "green articles," "queer coin," "paper goods," "bills," "spurious treasury notes," "United States goods," "green paper goods," "business that is not legitimate," "cigars," "green segars," or by any other name or title, or any other device of a similar character, shall be guilty of a felony, and on conviction shall be punished by imprisonment for not less than one year nor more than five years, and by a fine of not less than one hundred dollars nor more than one thousand dollars for each offense.

Printing or circulating publication offering for sale, &c., counterfeit coin, paper money, &c.

255. SEC. 2. That whoever for executing, operating, promoting, carrying on, or in the aiding, assisting or abetting in the promoting, operating, carrying on or executing of any scheme or device whatsoever to defraud by use or means of any papers, writings, letters, circulars or written or printed matters concerning the offering for sale, loan, gift, distribution or exchange of counterfeit coin, paper money, internal revenue stamps, postage stamps or other token of value, as provided in section one of this act, shall use any fictitious, false or assumed name or address, or name or address other than his own right, proper and lawful name, or whoever, in the executing, operating, promoting, carrying on, aiding, assisting or abetting in the execution, promotion or carrying on of any scheme or device offering for sale, loan, gift or distribution, or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit coin, paper money, internal revenue stamp, postage stamp or other token of value can be obtained or had, or who shall knowingly receive or take from the mails of the United States any letter or package addressed to any such fictitious, false or assumed name or address, or name other than his own right, proper or lawful name, shall be guilty of a felony, and on conviction shall be punished by imprisonment for not less than one year nor more than five years, and by a fine of not less than one hundred dollars nor more than two thousand dollars.

Using fictitious name or address in executing scheme to defraud by means of papers, letters, &c.

256. SEC. 3. That any letter, circular, writing or paper, offering or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit coin, paper money, internal revenue stamp, postage stamp or token of value may be obtained or had, or concerning any similar scheme or device to defraud the public, whether such article, matter or thing is called "green articles," "queer coins," "paper goods," "queer," "articles," "bills," "business that is not legitimate," "spurious treasury notes," "United States goods," "green paper goods," "green articles," "cigars," "green segars," or by any other name, device or title of a similar character, shall be deemed presumptive proof of the fraudulent character of such scheme.

Writings or papers proof of the fraudulent character of scheme.

Supplement.

P. L. 1888, p. 527.

Approved April 24, 1888.

257. SEC. 1. That section one [see Secs. 198 and 207, *ante*] of the act entitled "A supplement to an act entitled 'An act for the punishment of crimes,'" approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved April ninth, one thousand eight hundred and seventy-five, be and the same is hereby amended to read as follows :

Public officer
being concerned
in any public
contract.

[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 education or school trustees in any city, or any board of commissioners of any county, township, city, town, borough or school district 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, borough or school district, 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, borough or school district, the contract or agreement for which is made, or the expense or consideration of which is paid by the board, council or committee of which such member is a part, 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.] (a)

Supplement.

P. L. 1889, p. 149.

Approved April 2, 1889.

Willfully abusing
horse, &c., prop-
erty of livery-
keeper.

258. SEC. 1. That any person who shall hire, or cause to be hired, for his or her own use, any horse, mare, mule, wagon or other vehicle or livery driving rig or outfit from any keeper of a livery stable resident in the state, and who shall willfully abuse, injure, overdrive or neglect to properly care and provide for and return any such personal property to the custody of the person so hiring out the same, every such person 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 by imprisonment in the county jail for a term not exceeding six months, or both.

Fraudulent hiring
of property of
livery-stable
keeper.

259. SEC. 2. That any person hiring, or causing to be hired, for his or her own use, any of the personal property mentioned and described in the first section of this act, from any keeper of a livery stable resident of this state, and who shall obtain or procure such thing or obtain the possession, as aforesaid, through or by means of any false token, deceit, fraud or misrepresentation, every such person so offending shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished in like manner as provided in the first section of this act.

Repealer.

260. SEC. 3. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

A supplement to an act entitled "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which said supplement was approved March third, anno domini one thousand eight hundred and eighty-two.

P. L. 1890, p. 25.

Approved March 4, 1890.

261. SEC. 1. That section one [see Sec. 232, *ante*] of the act to which this is a supplement be amended so as to read as follows :

(a) An ordinance providing for the purchase by a city of the property of a water company, stock in which company was held by four members of the common council who voted for

the ordinance, is illegal, because opposed to the policy and intent of this section. *Stroud v. Consumers' Water Co.*, 27 Vt. 422.

[That it shall be unlawful to expose to public view the body of any person who shall have suffered the infliction of the death penalty, either in this state or in any part of the United States, for the crime of murder after such body shall have been delivered from the custody of the sheriff, and it shall be unlawful to have any public funeral or gathering in connection with the burial of the body of any such offender; *provided, however*, that nothing in this act contained shall prevent relatives within the second degree and the minister or ministers attending the execution from being present and viewing the body.]

Unlawful to expose to public view bodies of murderers, &c.

Proviso.

Supplement.

Approved May 19, 1890.

P. L. 1890, p. 335.

262. SEC. 1. That if any person shall sell, pledge, pawn or secrete any property which he has borrowed, hired, leased or purchased under an agreement in writing where the title of such property is not to pass until the agreement is fulfilled, he or she shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not more than three hundred dollars or imprisonment not to exceed one year, or both, in the discretion of the court.

Pledging, pawning, &c., property borrowed, hired, leased, &c.

A supplement to an act entitled "A supplement to an act for the punishment of crimes" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement became a law during the present session of the legislature.

Approved May 19, 1890.

P. L. 1890, p. 335.

263. SEC. 1. That no person shall be guilty of a misdemeanor under the act to which this is a supplement who shall sell, pledge, pawn or secrete any property which he has borrowed, hired, leased or purchased under an agreement in writing where the title of such property is not to pass until the agreement is fulfilled, unless the person so charged therewith does said act or acts with intent to cheat and defraud the owner of the property purchased as aforesaid.

Pledging, pawning, &c., of property borrowed must be done with intent to cheat and defraud.

264. SEC. 2. That this act shall take effect immediately, and all acts or parts of acts inconsistent herewith are hereby repealed.

Supplement.

Approved June 13, 1890.

P. L. 1890, p. 446.

265. SEC. 1. That no sheriff of a county, mayor of a city, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen or other peace officers in this state, to preserve the public peace and prevent or quell public disturbance, shall hereafter appoint as such special deputy, special constable, marshal, policemen or other peace officer, any person who shall not be a citizen of the state of New Jersey, and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constable, marshal or policeman or other peace officer without having first received his appointment in writing from the lawfully-constituted authorities of this state.

Special deputy sheriffs, special constables, marshals, policemen and other peace officers must be citizens of this state.

266. SEC. 2. [Amended by Sec. 269, *post*.]

Supplement.

Approved June 13, 1890.

P. L. 1890, p. 464.

267. SEC. 1. That if any person shall carry away with intent to steal, or unlawfully appropriate, any turkey, goose, duck, chicken or other domestic fowl, by whatever name known or designated, which is the property of another, he shall be deemed to be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not to exceed one hundred dollars, or imprisonment at hard labor for a term not exceeding three years, or both, at the discretion of the court.

Stealing of domestic fowl.

Repealer.

268. SEC. 2. That all acts or parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act to amend an act, entitled "A further supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved June thirteenth, one thousand eight hundred and ninety."

P. L. 1892, p. 225.

Approved March 23, 1892.

Exercising functions of officers without authority.

269. SEC. 1. That section two of said supplement, approved June thirteenth, one thousand eight hundred and ninety [see Sec. 266, *ante*], be and the same is hereby amended to read as follows:

[That any person or persons who shall in this state, without due authority, exercise or attempt to exercise the functions of, or hold himself or themselves out to anyone as a deputy sheriff, marshal, policeman, constable or other peace officer, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable, at the discretion of the court, to imprisonment at hard labor not to exceed one year, or a fine not to exceed five hundred dollars, or both.]

Repealer.

270. SEC. 2. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Supplement.

P. L. 1893, p. 82.

Approved March 1, 1893.

271. SEC. 1. That section sixty-eight of the act entitled "An act for the punishment of crimes" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, be and the same is hereby amended to read as follows:

[That all murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of willful, 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 degree or second degree; and in no case shall the plea of guilty be received upon any indictment for murder, and if, upon arraignment, such plea of guilty should be offered it shall be disregarded and a plea of not guilty entered, and a jury, duly impaneled, shall try the case in manner aforesaid; *provided, however*, that nothing herein contained shall prevent the accused of pleading non vult or nolo contendere to such indictment; the sentence to be imposed, if such plea be accepted, shall be the same as that imposed upon a conviction of murder of the second degree. (b)]

Murder.

Degrees of murder.
R. S. 257, § 4.

Proviso.

Supplement.

P. L. 1893, p. 187.

Approved March 10, 1893.

The fraudulent conversion of the proceeds of the sale of personal property a misdemeanor.

272. SEC. 1. That if any consignee, factor, bailee, clerk, employe, agent or servant, entrusted with the care or sale of any personal property, or entrusted with the collection or care of any moneys, 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 person or persons what-

(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 (occasioned by an omission of duty on the part of a switchtender 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 com-

mitted with malice aforethought. *State v. Zellers*, 2 Hal. 220. In an indictment for murder, when the fact that the killing was in the commission of a rape is relied on to make such killing murder in the first degree, a count in the general form authorized by the forty-fifth section of the criminal procedure act is sufficient. *Titus v. State*, 20 Vr. 36. If an intoxicated person has the capacity to form an intent to take life, and conceives and executes such intent, it is no ground for reducing the degree of his crime to murder in the second degree. *Warner v. State*, 27 Vr. 686. As to degrees of murder, see *Graves v. State*, 16 Vr. 357. *State v. Shann*, 16 N. J. L. J. 303. This act is constitutional. *State v. Genz*, 28 Vr.—

soever excepting the rightful owner thereof, he shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding a term of two years, or both, at the discretion of the court before whom such conviction shall be had. (a) [See Sec. 296, *post.*]

Penalty.

Supplement.

Approved March 10, 1893.

P. L. 1893, p. 193.

273. SEC. 1. That it shall not be lawful hereafter to indict any person or persons for the offense of maintaining a common-law nuisance or keeping a disorderly house under section one hundred and ninety-two of said act entitled "An act for the punishment of crimes," where the offense sought to be punished consists wholly in its unlawful sale of spirituous, vinous, malt or brewed liquors; but in all such cases the indictment shall be in form for the sale of intoxicating liquors contrary to law, and on conviction of such unlawful sale of any of said liquors the person or persons so convicted shall be punished as in and by said section one hundred and ninety-two of the said act entitled "An act for the punishment of crimes" is provided. (b)

When not lawful to indict persons for keeping a disorderly house, &c.

1101-273
29V-221
31V-258
32V-311
33V-523
403
35V-50

Supplement.

Approved March 14, 1893.

P. L. 1893, p. 324.

274. SEC. 1. That it shall be unlawful to permit the racing, running, trotting or pacing of horses, mares or geldings on any race-track in this state for a purse, prize or other consideration or for any other purpose whatsoever between the first day of December in any year and the first day of March of the succeeding year.

When unlawful to permit racing, &c., of horses, &c.

275. SEC. 2. That any person or persons or corporation or corporations violating the provisions of this act, or aiding, abetting or assisting in the violation of the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars, or by imprisonment for not less than six months nor more than two years, or both, in the discretion of the court.

Upon violation, guilty of misdemeanor.

Penalty.

276. SEC. 3. That when it shall come to the knowledge of the governor of this state that any person or persons or corporation or corporations is or are violating the provisions of this act, or when an application shall be made to him signed by one hundred or more of the residents of any county in this state setting forth that the provisions of this act are being violated in such county, it shall be the duty of the governor forthwith to order the chief of the state police to enforce the provisions of this act in such county, and to place under arrest all persons found violating the same or aiding or abetting in the violation thereof, and the governor shall designate to assist the said chief of the state police in the performance of his duties under this act such portion of the police force of any city or municipality of this state as the governor shall deem necessary to effectively carry out its provisions.

How and when to apply to the governor.

When state police ordered by governor to act.

277. SEC. 4. That it shall be the duty of the chief of the state police, when discharging the duties imposed upon him under the third section of this act, to maintain a sufficient portion of the police officers that have been designated to assist him in his duties at every such race-track to prevent a violation of the provisions of this act.

Duty of chief of police.

278. SEC. 5. That in case the police force so designated is unable to prevent the violation of the provisions of this act, it shall be the duty of the governor to call upon the state militia to aid in enforcing the provisions thereof upon any race-track or race-tracks whereon they are being violated.

When and by whom state militia called.

279. SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

(a) See *Fitzgerald v. State*, 21 Vr. 475.

(b) As to form of indictment under this section. *State v. Schmidt*, 28 Vr. -

Supplement.

Approved April 26, 1894.

P. L. 1894, p. 155.

1102-280
33V-458Buying or selling
pools, or book-
making a misde-
meanor.

280. SEC. 1. That if any person shall buy or sell what is commonly known as a pool, or any interest or share in any such pool, or shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or without this state, of any horse, mare or gelding, such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars and imprisonment not exceeding two years.

Penalty.

Keeping a resort
for such purposes
a misdemeanor.

281. SEC. 2. That if any person or corporation shall habitually or otherwise conduct the practices commonly known as book-making and pool-selling, or either of them, or shall keep a place to which persons may resort for engaging in such practices, or either of them, or for betting upon the event of any horse race, or other race or contest, either within or without this state, or for gambling in any form, such person or corporation shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, and by imprisonment in the state prison for not less than one year nor more than five years.

Penalty.

Corporation con-
victed of, shall
forfeit charter.

282. SEC. 3. That if any corporation of this state shall be convicted of a violation of any of the provisions of the last preceding section of this act, such conviction shall have the effect to dissolve such corporation, and to render forfeit and void its corporate franchise and powers without any other or further proceedings to that end.

Repealer.

283. SEC. 4. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved May 15, 1894.

P. L. 1894, p. 310.

Persons, com-
panies and cor-
porations for-
bidden to transmit
communications
relative to
lotteries.

284. SEC. 1. That any person, company or corporation that shall knowingly bring or transmit by letter or communication of any kind, telephonic, telegraphic or in any other way, whether written or expressed by letters, numbers, characters or by cipher, the drawing or list of numbers drawn or purporting to be drawn of any lottery or drawing to any place within this state, or that shall knowingly receive from any person by letter, telephone or telegraph such list of numbers or drawing of any such lottery shall be guilty of a felony, and shall upon conviction therefor be imprisoned at hard labor in the state's prison for not less than two nor more than five years; and every express, telephone, telegraph or other company or corporation engaged in the business of carrying or transmitting packages, letters or communications within this state that shall be convicted of such offense shall pay a fine of five thousand dollars for each offense, one-half to be paid into the treasury of the state and one-half to the person or persons who shall furnish the information upon which such conviction shall be obtained.

Penalty.

Messenger, clerk,
or other employe
liable.

285. SEC. 2. That any person who shall knowingly be engaged as messenger, clerk or copyist or in any other capacity in or about any office or room or building where lottery slips, or copies of numbers or lists of drawings of any lottery drawn or alleged to be drawn anywhere without this state shall be kept or used in connection with the business of lottery policy, so called, shall upon conviction therefor be adjudged guilty of a felony and shall be imprisoned at hard labor in the state's prison for not less than two nor more than five years, in the discretion of the court. [See Sec. 295, *post.*]

Penalty.

Liability of owners
or agents of build-
ings used for
lottery or lottery
policy business.

286. SEC. 3. That any person or persons who shall be the owner or owners, or any agent or agents of the owner or owners of any building where any part of the business of lottery or lottery policy, so called, shall be carried on, who shall knowingly permit the same to be so used after the passage of this act, shall upon conviction therefor be fined one thousand dollars for each such offense, one-half of said fine to be paid over, when collected, to the person or persons giving the information upon which such conviction shall be obtained.

tion shall be obtained and the balance into the treasury of the county where such conviction is obtained; such fine to stand as a lien upon such building or buildings until paid.

287. SEC. 4. That any person who shall knowingly have in his possession any paper, document, slip or memorandum that shall pertain in any way to the business of lottery policy shall upon conviction therefor be adjudged guilty of a felony and shall be imprisoned at hard labor in the state's prison for not less than one nor more than five years, in the discretion of the court.

Liability of persons having in possession lottery or policy paper, slip, &c.

288. SEC. 5. That if any person shall advertise either directly or by indirect, covert and suggestive language, any lottery company or the place and manner at and in which the tickets, slips or advertisements of any lottery company can or may be procured, or shall bring into this state or print or distribute herein any such advertisements, such person 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.

Liability of persons directly or indirectly advertising same.

Supplement.

Approved May 17, 1894.

P. L. 1894, p. 406.

289. SEC. 1. That whosoever shall obtain from another, with intent to cheat and defraud him or her, money or anything of value upon a promise or agreement to procure or to endeavor to procure for such person employment or a loan of money or anything of value, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment at hard labor for any term not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

Money, &c., obtained with fraudulent intent upon promise to procure employment, &c., a misdemeanor. Penalty.

Supplement.

Approved May 17, 1894.

P. L. 1894, p. 431.

290. SEC. 1. That no person in this state shall sell or offer for sale any baled hay or straw with more than ten pounds of wood to the bale, the weight of which is two hundred pounds or upwards, or more than five pounds of wood on bales weighing less than two hundred pounds. [See Sec. 356, *post*.]

Weight of wood and baled hay prescribed.

291. SEC. 2. That the gross weight of all hay and straw sold or offered for sale in this state in bales shall be plainly marked on each bale, and no person shall sell or offer for sale such hay or straw, so marked, which shall weigh less than such gross weight after deducting five pounds from each bale for shrinkage.

Gross weight shall be marked on bale.

292. SEC. 3. That no person shall put or conceal in any bundle or bale of hay or straw any wet or damaged hay or straw, dirt or stones, wood or other material, for the purpose of increasing the weight of any such bundle or bale.

Fraud in baling prohibited.

293. SEC. 4. That any person or persons offending against any of the provisions of this act, and being convicted, shall be deemed and adjudged to be guilty of a misdemeanor and be punished by a fine not exceeding two hundred and fifty dollars, or imprisonment at hard labor not exceeding six months, or both.

Penalty.

Supplement.

Approved March 22, 1895.

P. L. 1895, p. 468.

294. SEC. 1. That before foreclosing any chattel mortgage covering household goods within this state, and before the sale of any such goods covered by a chattel mortgage by the chattel mortgagee, assignee or legal representative of such chattel mortgagee or assignee, within this state, it shall be the duty of such chattel mortgagee, assignee or the legal representative of such chattel mortgagee or assignee, to serve upon the chattel mortgagor, or the person in possession of the goods covered by such chattel mortgage, a notice in writing at least five days previous to such foreclosure, stating the true amount due upon such chattel mortgage, which amount shall be the amount of the money loaned, together with legal interest thereon, less

Chattel mortgagee of household goods shall notify mortgagor previous to foreclosure; stating re-account in detail.

Penalty.

all payments made by such chattel mortgagor or owner of such goods, or other person for him or them, to the mortgagee, whether such payments were made as interest or as part payment of principal, or as payments for delay or other privileges granted by the said mortgagee or his assignee; any person who shall, either as principal or agent, violate the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding two years, or both.

Supplement.

Approved March 22, 1895.

P. L. 1895, p. 593.

Employees of lottery deemed guilty of misdemeanor.

1104-295
34V-317

295. SEC. 1. That any person who shall knowingly be engaged as a messenger, clerk or copyist or in any other capacity in or about any office or room in any building where lottery slips or copies of number of lists of drawings of any lottery drawn or alleged to be drawn anywhere within or without this state shall be printed, kept or used in connection with the business of lottery or lottery policy, so called, or any person who shall knowingly have in his or her possession any paper, document, slip or memorandum that shall pertain in any way to the business of lottery policy, so called, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding two hundred dollars or imprisonment not exceeding two years, or both. [See Sec. 285, *ante.*]

Penalty.

A further supplement to an act entitled "An act for the punishment of crimes." (1)

Approved March 17, 1874.

P. L. 1874, p. 39.

Embezzlement.

1104-296
31V-256

296. 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. (a) [See Secs. 169 and 272, *ante.*]

IV.—MISCELLANEOUS ACTS.

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

P. L. 1871, p. 105.

Manufacturing, importing and vending adulterated liquors.

1104-297
R99-211

Approved April 6, 1871.

297. 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 a 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.

(a) Upon an indictment framed under this section, a fraudulent conversion to his own use, by an agent entrusted with personal property to sell, of said property, or of the proceeds of sale thereof, is an essential ingredient of the crime charged.

and evidence merely of neglect to pay over the proceeds of such a sale will not justify conviction. *Fitzgerald v. State*, 21 Vt. 475.

(1) This act is a supplement to the revised act of 1846 (R. S. 257), and was passed before the revised act of 1874, approved March 27th, 1874, and was not repealed by the general repealer.

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

Making or vending adulterated malt liquors.

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

Approved March 17, 1874.

P. L. 1874, p. 40.

299. 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, dualin, dynamite, gunpowder, mining or blasting powder, gun-cotton, phosphorus, 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.

1105-299
R99-211

300. 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 gunpowder, 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. [See Sec. 346, *post.*]

Transportation companies may require shippers to open suspected packages.

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

Approved March 21, 1874.

P. L. 1874, p. 59.

301. 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

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

1105-301
RWS99-211

Penalty.

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. [See Sec. 348, *post.*]

Supplement.

P. L. 1881, p. 231.

Approved March 25, 1881.

Provisions extended to manufacturing and storing of nitro-naphthaline, &c.

302. SEC. 1. That the provisions of this act be extended to embrace and include the manufacturing and storing of nitro-naphthaline, blasting powder or any material of which nitro-naphthaline is an essential ingredient or forms a component part.

[[An act] to prevent the defacement of natural scenery.

P. L. 1874, p. 99.

Approved March 26, 1874.

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

303. 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 offense, 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 offense shall be tried.

Penalty.

Nor on private property without consent of owner.

304. 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.

How to be sued for and disposed of.

305. 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 offense 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 offense 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 offense shall have been committed.

An act against the unlawful taking of certain animals.

P. L. 1876, p. 54.

Approved March 16, 1876.

Penalty for unlawfully taking certain animals, although only temporarily.

306. SEC. 1. That if any person shall, within this state, unlawfully, willfully and maliciously take any horse, mare, gelding or mule without the consent of the owner thereof, and cause the same, either directly or indirectly, to be removed from the possession or control of such owner, although only temporarily, the person so offending shall be deemed guilty of misdemeanor; and being thereof convicted, shall be punished by a fine not exceeding one hundred dollars, or imprisonment at hard labor for any term not exceeding two years, or both; *provided*, that this act shall not be so construed as to apply to any case where said horse, mare, gelding or mule is taken or removed in consequence of trespass, or damage committed, or being committed, nor interfere with the full course and effect of the laws now in operation in such cases.

Proviso.

An act to prevent the willful pollution of the waters of any of the creeks, ponds or brooks of this state.

P. L. 1876, p. 244.

Approved April 21, 1876.

307. SEC. 1. [Amended by Secs. 308 and 311, *post.*]

1106-303
R99-211

1106-306
R99-211

1106-307
RWS99-212
98-864

Supplement.

Approved February 27, 1880. P. L. 1880, p. 61.

308. SEC. 1. [This section, amending Sec. 307, *ante*, is amended by Sec. 311, *post*.]

309. SEC. 2. That it shall be the duty of the owner or owners, occupant or occupants of any land whereon any such carcass, offal or other offensive matter may be, to cause the same to be buried forthwith, so that all portions thereof shall be covered with solid earth to a depth of at least two feet below the surface of the ground, and not within a distance of two hundred feet from such creek, pond or brook used as aforesaid; and any such owner or occupant who shall refuse or neglect for the space of two days to remove and bury as aforesaid, or cause to be removed and buried, any such carcass, offal or offensive matter, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding two years, or both.

Owners or occupants of lands to bury offensive matter.

Penalty for violation.

310. SEC. 3. That all acts and parts of acts inconsistent with this act, in as far as they are inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Amendatory act.

Approved March 14, 1893. P. L. 1893, p. 281.

311. SEC. 1. That the first section [see Secs. 307 and 308, *ante*] of the said act be amended so as to read as follows:

[That if any person or persons shall throw, cause or permit to be thrown into any reservoir, or into the waters of any creek, pond or brook of this state which runs through or along the border of any city, town or borough of this state, or the waters of which are used to supply any aqueduct or reservoir for distribution for public use, any carcass of any dead animal, or any offal or offensive matter whatsoever calculated to render said waters impure, or to create noxious or offensive smells, or shall connect any water-closet with any sewer, or other means whereby the contents thereof may be conveyed to and into any such creek, pond or brook, or shall so deposit or cause or permit to be deposited any such carcass, offal or other offensive matter that the washing or waste therefrom shall or may be conveyed to and into any such creek, pond, brook or reservoir, such person or persons shall be deemed guilty of a misdemeanor, and, on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding two years, or both.] (a) [See Sec. 322, *post*.]

Punishment for polluting waters.

Penalty.

312. SEC. 2. That all acts and parts of acts inconsistent with this act in as far as they are inconsistent herewith be and the same are hereby repealed, and that this shall take effect immediately.

Repealer.

An act to regulate the sale and keeping of inflammable and explosive fluids.

Approved April 21, 1876. P. L. 1876, p. 303.

313. SEC. 1. That it shall not be lawful for any person to keep or offer for sale or use in any place or building within this state, petroleum oil, or any product thereof, or to knowingly keep or offer for sale any mixture of naphtha or inflammable fluids for illuminating purposes, for use in lamps or other portable receptacles, that will flash at a less temperature or fire test than one hundred, or inflame at a less temperature or fire test than one hundred and ten degrees Fahrenheit.

Restrictions in regard to sale of inflammable fluids.

1107-313
R99-211

314. SEC. 2. That any person who shall violate any of the provisions of the foregoing section shall be deemed guilty of a misdemeanor, and upon

Penalty.

(a) The offense created by the act is committed when offensive matter is deposited in the waters of any creek, pond or brook used to supply any reservoir for distribution for public use, and which is calculated to make such waters impure at the place of deposit, although the impurity may not, in fact, appreciably affect the waters when arrived at the reservoir. Under such construction the act is not within the prohibition of the consti-

tution against the appropriation of private property for public use without compensation. Although it may limit the beneficial use of private property, it is not an exercise of the right of eminent domain, but is sustainable as a proper exercise by the legislative authorities of the police power vested in them. *State v. Wheeler*, 15 Vr. 88.

conviction shall pay a fine of not less than fifty nor more than two hundred dollars, or shall be imprisoned for a term not to exceed six months, or both, in the discretion of the court before whom such conviction is had.

An act to prevent the deposit of mud, earth, soil, ashes or refuse on the New Jersey shore of the Hudson river.

P. L. 1877, p. 285.

Approved March 9, 1877.

Deposit of mud,
earth, &c., in
Hudson river.

1108-315
R99-212

315. SEC. 1. That it shall be unlawful for any person or persons, by means of any boats, scows or vessels, in any manner whatever, to cast or cause to be cast, thrown, dumped or deposited, any mud, earth, soil, ashes or refuse rock, or other solid substance or material, into the water of the North or Hudson river, at any point west of the line between the states of New Jersey and New York, unless the same be so deposited, dumped or placed behind a bulkhead for filling, or by the side of a bulkhead, to be thrown over the same, or be so confined that no dirt or refuse can escape into the waters of said river.

Penalty for viola-
tion of act.

316. SEC. 2. That every person or persons who shall in any manner violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than twenty-five dollars nor more than fifty dollars, for each and every offense as specified in section one, except where mud is dumped by mud scows or dredging scows, then the fine to be imposed is to be not less than fifty dollars nor more than one hundred dollars, for each and every scow load dumped into the river.

Where prose-
cuted.

317. SEC. 3. That violations of this act may be prosecuted before any justice of the peace of any court having jurisdiction of violations of ordinances in any town or city of this state where said offense shall be committed; *provided, however,* that nothing in this act shall be held to interfere with improvements made upon lands under water which have been or may be granted or leased by the riparian commissioners, or which have been granted directly by legislative act, but all such improvements shall be so made as to deposit, dump or place all filling behind a bulkhead, so that no portion of such filling-in shall escape on to the lands under water adjoining such grantee or lessee of the riparian commissioners, or such grantee or lessee by direct legislative act.

Proviso.

An act to prevent the deposit of mud, earth, soil, ashes or refuse on the New Jersey shore of the Delaware river, and protect the docks and shipping interests therein.

P. L. 1878, p. 177.

Approved March 27, 1878.

Deposit of mud,
&c., in Delaware
river below Bor-
dertown.

1108-318
R98-857

318. SEC. 1. That it shall be unlawful for any person or persons, by means of any boats, scows or vessels, in any manner whatever, to cast or cause to be cast, thrown, dumped or deposited, any mud, earth, soil, ashes or refuse rock, or other solid substance or material, into the waters of the Delaware river, at any point east of the line between the states of New Jersey and Pennsylvania, below the southerly boundary line of the city of Bordertown where the same strikes the line of the Delaware river, unless the same be so deposited, dumped or placed within a bulkhead for filling, or by the side of a bulkhead to be thrown over the same, or be so confined that no dirt or refuse can escape into the waters of said river.

Penalty for viola-
tion of provisions
of act.

319. SEC. 2. That every person or persons who shall in any manner violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than twenty-five dollars nor more than fifty dollars, for each and every offense as specified in section one, except where mud is dumped by mud scows or dredging scows, then the fine to be imposed is to be not less than fifty dollars nor more than one hundred dollars, for each and every scow load dumped into the river.

Before whom
violations may be
prosecuted.

320. SEC. 3. That violations of this act may be prosecuted before any justice of the peace or any court having jurisdiction of violation of ordinances in any town or city of this state where said offense shall be com-

mitted; *provided, however*, that nothing in this act shall be held to interfere with improvements made upon lands under water which have been or may be granted or leased by the riparian commissioners, or which have been granted directly by legislative act, but all such improvements shall be so made as to deposit, dump or place all filling behind a bulkhead, so that no portion of such filling-in shall escape on to the lands under water adjoining such grantee or lessee of the riparian commissioners, or such grantee or lessee by direct legislative act.

Proviso.

An act to suppress the sending of indecent communications.

Approved March 23, 1878.

P. L. 1878, p. 211.

321. SEC. 1. That any person who shall willfully and wantonly send or convey to any female, against her will and consent, any insulting, indecent, lascivious, disgusting, offensive or annoying letter or communication, without lawful purpose in sending or conveying the same, shall be deemed to have committed a public nuisance, and be liable to be punished as for a misdemeanor at common law. (a)

Penalty for sending indecent communications.

1109-321
R98-857

An act to prevent the pollution of the waters of any of the creeks, ponds or brooks of this state.

Approved March 23, 1878.

P. L. 1878, p. 211.

322. SEC. 1. That if any person or persons shall throw, cause or permit to be thrown into the waters of any creek, pond or brook of this state, the waters of which may be used for the cutting and harvesting of ice, any carcasses of any dead animal or any offal or offensive matter whatsoever, calculated to render said waters impure or create noxious or offensive smells, or shall connect any water-closet with any sewer or other means whereby the contents thereof may be conveyed to and into any such creek, pond or brook, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars, or imprisonment not exceeding thirty days, or both. [See Sec. 311, *ante*.]

Penalty for polluting waters from which ice is harvested.

1109-322
R98-857

An act to prevent trespasses on railroad cars or trains.

Approved April 5, 1878.

P. L. 1878, p. 310.

* WHEREAS, It has become a common practice with many persons, not passengers, of jumping on and off railroad cars or trains on their approach, during their stay, or on their leaving railroad stations or depots, to the annoyance and discomfort as well as actual danger of passengers either on or for such trains; therefore,

Preamble.

323. SEC. 1. [Amended by Sec. 324, *post*.]

1109-323
RWS98-857
99-212

Amendatory act.

Approved March 2, 1881.

P. L. 1881, p. 49.

324. SEC. 1. That the first section of the act of which this is amendatory shall be and is hereby amended so as to read as follows :

[That if any person, not being a passenger or employe, shall be found trespassing upon any railroad car or train of any railroad in this state, by jumping on or off any car or train, on its arrival, stay or departure at or from any station or depot of such railroad, or on the passage of any such car or train over any part of any such railroad, such person so offending shall be deemed a disorderly person, and on conviction as such shall be punished by a fine not exceeding twenty-five dollars, or by an imprisonment in the county jail not exceeding thirty days, or both.]

Penalty for jumping on and off railroad cars.

1 (a) An indictment which does not allege that the indecent communication was sent "without lawful purpose," will be quashed. *State v. Smith*, 17 Vr. 491. The description in an indictment of the offensive writing—which was sent by mail, in-

closed in an envelope—as a "letter and communication," is not erroneous. *Larison v. State*, 20 Vr. 255. The statute makes the offense indictable only when the communication is sent to a female against her consent. *Id*.

An act to prevent gaming and the use of gaming implements by minors in places where alcoholic, vinous or malt liquors, or intoxicating drinks of any kind are sold.

P. L. 1881, p. 287.

Approved March 25, 1881.

Penalty for permitting gaming, &c., by minors in places where liquors are sold.

1110-325
R98-859

325. SEC. 1. That if any proprietor or keeper of any saloon or other place where alcoholic, vinous or malt liquors, or intoxicating drinks of any kind are sold, shall himself, or by his agent, barkeeper or other employe, permit or allow in any such place any gaming by minors, or any playing by minors, under the age of eighteen years, with cards, dice, billiard or pool balls, or any other article, device, tool or instrument whatever, such as are used in gaming, he shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be subject to fine or imprisonment, or both, as follows: for the first offense, a fine of not less than ten dollars, and not more than twenty-five dollars, or imprisonment in the county jail for a term not exceeding ten days, at the discretion of the court; for the second offense, a fine not less than twenty-five dollars and not more than fifty dollars, or imprisonment in the county jail for a term not exceeding thirty days, at the discretion of the court; and for each and every subsequent offense a fine of not less than fifty dollars and not more than one hundred dollars, or imprisonment in the county jail for a term not exceeding three months, or both, at the discretion of the court; *provided*, this act shall not be construed to prohibit playing by minors when accompanied by a parent or guardian, or when parents or guardians have previously given to the keeper of the saloon or other place where intoxicating drinks are sold, written permission for their sons or wards to play in such saloon.

Proviso.

An act to prevent the manufacture and sale of adulterated lard.

P. L. 1881, p. 241.

Approved March 25, 1881.

Penalty for selling or exposing for sale impure or adulterated lard.

1110-326
R98-859

326. SEC. 1. That any person or persons who shall knowingly sell or exchange, or expose for sale or exchange, any impure or adulterated lard, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars for each offense, or shall be imprisoned in the penitentiary or county jail for not less than sixty days, or both, in the discretion of the court; *provided*, that all persons who shall sell, or expose for sale or exchange such adulterated lard with the words "adulterated and impure lard" plainly and durably stamped in plain letters on each and every firkin, tierce, package or box, in a suitable and conspicuous place, or in case of retail sales, each parcel or package shall be stamped or labeled, as above provided, with the words "adulterated and impure lard," are hereby declared to be exempt from the penalty of this section of this act.

Proviso.

Penalty for manufacturing adulterated lard.

327. SEC. 2. That any person or persons who shall manufacture or refine lard, and shall add thereto fat of other animals than swine, or any chemical substance, and offer the product thereof for sale, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred dollars for each offense, or shall be imprisoned in the penitentiary or county jail for not less than sixty days; *provided*, that if the packages of every description containing such adulterated lard shall be plainly marked or stamped before or when the same is sold or exchanged, or exposed for sale or exchange, with the words "adulterated and impure lard," as is provided in section one of this act, then the persons who shall refine, sell, or expose for sale or exchange the same shall be exempt from the penalty of this act.

Proviso.

Penalty for rendering and exposing for sale fat of diseased swine.

328. SEC. 3. That any person or persons who shall render, or cause to be rendered, swine, or the fat of swine, that have died a natural death by disease or in transportation to market, and expose or offer the product of the same for sale or exchange as lard, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than two hundred dollars for each offense, or shall be imprisoned in the penitentiary or county jail for not less than ninety days.

329. SEC. 4. That the addition of water or any other liquid or chemical preparation to lard, or the use of chemicals for whitening, is hereby declared to be an adulteration within the meaning of this act. What constitutes adulteration.

330. SEC. 5. That it shall be the duty of district attorneys to conduct prosecutions under this act in the name of the people, and one-half the fines recovered from convictions shall be paid to the informer and the residue to the state. Duty of district attorneys.

An act to prevent vending, using or exploding of guns, pistols, toy pistols, or other firearms, to or by persons under the age of fifteen years in this state.

Approved February 10, 1882. P. L. 1882, p. 13.

331. SEC. 1. That it shall not be lawful for any person or persons to sell, barter or exchange, or to offer or exhibit for sale, barter or exchange, any gun, pistol, toy pistol or other firearms in this state to any person under the age of fifteen years. Unlawful to offer 1111-331 for sale firearms RWS98-859 to persons under certain age.

332. SEC. 2. [Amended and supplied by Sec. 334, *post.*]

333. SEC. 3. That any person offending against the provisions of this act shall be deemed guilty of a misdemeanor, and on being thereof convicted shall be punished by a fine not exceeding one hundred dollars or imprisonment at hard labor for any term not exceeding three months, or both, at the discretion of the court. Penalty for violation.

Supplement.

Approved March 2, 1885. P. L. 1885, p. 52.

334. SEC. 1. That the second section of the act approved February tenth, one thousand eight hundred and eighty-two [see P. L. 1882, p. 13], entitled as above set forth, be and the same hereby is amended so as to read as follows:

[That it shall not be lawful to sell, hire or loan to any person under the age of fifteen years any gun, pistol, toy pistol or other firearms, or for any person under the age of fifteen years to purchase, barter or exchange any gun, pistol, toy pistol or other firearms, nor for any person under the age of fifteen years to carry, fire or use any gun, pistol, toy pistol or other firearms, except in the presence of his father or guardian, or for the purpose of military drill in accordance with the rules of a school.] Unlawful for persons under fifteen years of age to purchase or carry firearms, &c.

335. SEC. 2. That any person offending against the provisions of this act shall be punished by a fine not exceeding twenty-five dollars. Penalty.

An act to regulate the sale of poisons.

Approved February 23, 1883. P. L. 1883, p. 47.

336. SEC. 1. That it shall be unlawful for any person to sell, either at wholesale or retail, any of the drugs usually denominated poisons, without distinctly labeling each and every box or package with the name of the articles and the word "poison," together with the name and place of business of the seller. Poisons sold at wholesale or retail to be labeled. 1111-336 R98-860

337. SEC. 2. That any person offending against the provisions of this act shall, upon conviction, be punished by a fine not exceeding fifty dollars, or imprisonment not exceeding three months, either or both, at the discretion of the court. Penalty for violating provisions of act.

An act to prevent the spread of contagious diseases of animals.

Approved March 23, 1883. P. L. 1883, p. 202.

338. SEC. 1. That all persons who shall own or have in their possession any poultry or animals of any kind which may come to their death by reason of any contagious disease, shall, within twenty-four hours after such death, bury such poultry or animals under the surface of the earth to a depth not less than two feet; any person or persons neglecting or refusing Poultry or animals dying of contagious diseases shall be buried not less than two feet under ground. 1111-338 R99-212

Penalty.

to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine not exceeding two hundred dollars, or imprisonment in the county jail not exceeding six months.

An act for the better protection of life.

P. L. 1884, p. 270.

Approved April 28, 1884.

1112-339
R98-860

Number of passengers allowed to be taken aboard sailboats or vessels.
Proviso.

339. SEC. 1. That no more than thirty passengers shall be taken on board within this state or permitted to be on board, at any one time, of any sailboat or sailing vessel used or engaged in the business or occupation of carrying out to sea or upon the ocean, passengers or parties from any place or places within this state; *provided*, nothing in this act shall be construed to apply to any vessel carrying passengers between different ports of the United States, or from any port in the United States to any foreign port, nor to any vessel of more than one hundred tons register.

Penalty for violation of act.

340. SEC. 2. That the captain, sailing master or other person in charge of any sailboat or sailing vessel used or engaged as aforesaid, who shall take or permit to be on board more than thirty persons at one time, contrary to the first section of this act, shall be deemed guilty of a misdemeanor, and on conviction, shall be subject to fine or imprisonment, or both, the fine not to be less than five hundred dollars or more than one thousand dollars, the imprisonment to be not more than three years.

An act to protect children.

P. L. 1885, p. 65.

Approved March 9, 1885.

1112-841
R98-860

Penalty for apprenticing minor children for mendicant or immoral purposes.

341. SEC. 1. That all and every person or persons having in his, her or their custody or control, lawful or unlawful, any minor child under the age of eighteen years, who shall apprentice, give away, let out, hire or otherwise dispose of such minor or minors for the purpose of begging, singing and playing on musical instruments, or for any other mendicant business whatsoever, or in any immoral conduct or occupation in the streets, roads and other highways and public places of this state, and whoever shall take, receive, hire, employ, use or have in custody any such minor or minors, under the age of eighteen years, and use or employ him, her or them in any mendicant or immoral business whatsoever, either in public or private places within this state, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined or imprisoned; the fine not to exceed one thousand dollars, and the imprisonment not to exceed two years at hard labor, in the discretion of the court. [See Sec. 345, *post*.]

Court may commit minor to reform school.

342. SEC. 2. That if upon such conviction the minor or minors shall have no home or means of support and no one to take proper care of him, her or them, the court may, in its discretion, if it shall appear a humane and proper thing to do, commit such minor or minors to the state reform school for boys or the state industrial school for girls, until said minor or minors attain the age of eighteen years, or for a less age in the discretion of the court.

An act to prevent persons from unlawfully using or wearing the badge of the grand army of the republic of this state.

P. L. 1885, p. 278.

Approved April 20, 1885.

Penalty for unlawfully using or wearing grand army badge.

343. SEC. 1. That any person who shall willfully wear the badge of the grand army of the republic, or who shall use or wear the same to obtain aid or assistance thereby within this state, unless he shall be entitled to use or wear the same under the rules, regulations or by-laws of a grand army post, duly and regularly organized, shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for a term not to exceed thirty days, or a fine not to exceed twenty-five dollars, or by both such fine and imprisonment.

1112-843
R98-860

An act to protect persons buying fruit trees and fruit briars.

Passed March 9, 1886.

P. L. 1886, p. 80.

344. SEC. 1. That any person selling fruit trees or fruit briars, who shall misrepresent the name or nature of said fruit trees or fruit briars, shall be 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 for a term not exceeding three months, or both, at the discretion of the court.

Penalty for misrepresenting name and nature of fruit trees and briars.

1113-344
R98-861

An act in relation to mendicant and vagrant children.

Approved March 26, 1886.

P. L. 1886, p. 123.

345. SEC. 1. That any person, whether as parent, relative, guardian, employer or otherwise, having in his or her care, custody or control any child or children under the age of twelve years, who shall sell, apprentice, give away, let out, employ, or otherwise dispose of any such child or children to any person, under any name, title or pretense, for the vocation, use, occupation, calling, service or purpose of singing, playing on musical instruments, rope-walking, dancing, begging in any public street or highway, or in any mendicant or wandering business whatsoever, and any person who shall take, receive, hire, employ, use or have in custody any such child or children for the purposes above named, or any of them, shall be deemed to be guilty of a misdemeanor, and, upon conviction thereof, before any court or other competent tribunal, shall be fined in a sum of not less than fifty nor more than two hundred and fifty dollars, or be imprisoned at hard labor in a county jail or penitentiary for a period not less than thirty days nor more than one year, or both such fine and imprisonment, in the discretion of the court. [See Sec. 341, *ante*.]

Penalty for letting out, employing or hiring of children for any mendicant or wandering business.

1113-345
R98-861

An act to prevent the transportation of giant powder, dynamite or nitro-glycerine on trains of cars carrying passengers in this state.

Approved April 12, 1886.

P. L. 1886, p. 214.

346. SEC. 1. That on and after the passage of this act it shall be unlawful for any railroad corporation, doing business in this state, to transport upon trains of cars carrying passengers in this state, any giant powder, dynamite or nitro-glycerine. [See Sec. 300, *ante*.]

Unlawful to transport giant powder, dynamite, &c., upon passenger trains.

1113-346
R98-861

347. SEC. 2. That if any railroad doing business in this state shall refuse to comply with the provisions of this act, it shall be deemed a misdemeanor, punishable by a fine of one hundred dollars for each and every offense, to be collected in any court of competent jurisdiction in this state.

Penalty for refusing to comply with act.

An act to regulate the manufacture and storage of gunpowder, dynamite and other explosives.

Approved May 11, 1886.

P. L. 1886, p. 358.

348. SEC. 1. That no person or persons or corporation shall, after the passage of this act, be permitted within this state to erect, have or maintain, or cause to be erected, had or maintained any establishment, storehouse or building in which shall be manufactured, stored or kept any gunpowder, blasting powder, dualin, dynamite, forcite, giant powder, nitro-glycerine or any powder or materials of which nitro-glycerine is an essential ingredient or forms a component part, or any other explosive within the distance of one thousand feet from any public road; and every person or corporation offending against the provisions of this act shall be guilty of a misdemeanor, and on conviction thereof shall be liable to a fine not exceeding two thousand dollars; *provided, however*, that nothing in this act shall be so construed as to prevent any person or persons from storing in fire-proof magazines any quantity of gunpowder or blasting powder not exceeding in quantity two thousand pounds, within the said distance of one thousand feet of a public road; *and provided further*, that the prohibition

No person to erect, maintain, &c., any building for the manufacture or storage of gunpowder, dynamite, &c., within a certain distance from public roads.

1113-348
R98-861

Penalty.

Proviso.

Proviso.

in this act contained shall not apply to any establishment, storehouse or building heretofore erected and used for the manufacturing, storing or keeping of any of said explosive substances. [See Sec. 301, *ante*.]

An act to prevent the transportation of dynamite and other explosives on the ponds and lakes of this state.

P. L. 1887, p. 68.

Approved March 29, 1887.

Unlawful to transport dynamite, &c., on ponds and lakes.

1114-349
R98-861

349. SEC. 1. That it shall not be lawful after the passage of this act to transport or carry in any boat or boats in or upon any of the ponds or lakes of this state, or those lying partly in this state, any dynamite, blasting powder, dualin, forcite, giant powder, nitro-glycerine, or any powder or explosive of which nitro-glycerine is an essential ingredient or forms a component part, in a greater quantity than fifty pounds; and every person or persons or corporation offending against the provisions of this act shall be guilty of a misdemeanor, and on conviction thereof shall be liable to a fine not exceeding one thousand dollars; *provided, however*, that nothing in this act shall apply to the carrying or transporting of any of the explosives above mentioned on any lake or pond near which the same is intended to be used for excavating or blasting purposes on or near the shores of any pond or lake in this state, or those lying partly within the borders of this state.

Proviso.

An act to punish false pretenses in obtaining registration of cattle and other animals, and to punish giving false pedigrees.

P. L. 1887, p. 71.

Approved March 30, 1887.

Penalty for obtaining false registration, &c., of animals.

1114-350
R98-861

350. SEC. 1. That if any person or persons shall, by any false statement or pretense as to the pedigree or breeding of any domestic animal, obtain registration or transfer of registration of any animal in the herd register or other register of any club, association, society or company for improving the breed of cattle, horses, sheep, swine or other domestic animals, the person or persons so offending shall be adjudged guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment at hard labor for any term not exceeding one year, or both, at the discretion of the court.

Penalty for giving a false pedigree.

351. SEC. 2. That any person or persons who shall knowingly or designedly give a false pedigree of any animal shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment at hard labor not exceeding one year, or both, at the discretion of the court.

Where prosecution may be had.

352. SEC. 3. That where by any false pretense a certificate of registration or transfer has been obtained the crime shall be deemed completed, and may be prosecuted either in the county in which such certificate of registration or transfer has been obtained or in the county where such false pretense has been made.

An act to regulate the sale of distilled and malt liquors.

P. L. 1888, p. 41.

Approved February 15, 1888.

Penalty for unlicensed boarding-house keeper selling liquor and beer without a license.

1114-353
R99-212

353. SEC. 1. That any person or persons not licensed by any municipality to keep a boarding-house, shall without a license for that purpose first had and obtained according to law, sell any rum, brandy or distilled spirits of any kind, or any liquid of which distilled spirits shall form a component part, or any ale, strong beer, lager beer, wine or other malt or brewed liquors, in any quantity, to be drunk on or about the premises where sold, in the state of New Jersey, he, she or they shall be deemed guilty of a misdemeanor, and, upon being convicted thereof, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding two years, or both, at the discretion of the court.

An act for the better protection of homing pigeons.

Approved February 21, 1888.

P. L. 1888, p. 71.

354. SEC. 1. That hereafter any person or persons who shall forcibly detain any homing pigeon, which may be identified by any device or mark, shall be deemed guilty of a misdemeanor, and, on conviction thereof before any justice of the peace, shall be punished by a fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding three months, or both, at the discretion of the court.

Penalty for detain-
ing homing
pigeons.

1115-354
R99-212

An act to prevent persons from unlawfully using or wearing the insignia or rosette of the military order of the loyal legion of the United States.

Approved March 30, 1888.

P. L. 1888, p. 337.

355. SEC. 1. That any person who shall willfully wear the insignia or rosette of the military order of the loyal legion of the United States or use the same to obtain aid or assistance within this state, unless he shall be entitled to use or wear the same under the constitution and by-laws, rules and regulations of the military order of the loyal legion of the United States, shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for a term not to exceed thirty days or a fine not to exceed twenty dollars, or by both such fine and imprisonment.

Penalty for wear-
ing insignia or
rosette of the
loyal legion.

1115-355
R98-892

An act to regulate the sale of baled hay and straw in the state of New Jersey.

Approved June 3, 1890.

P. L. 1890, p. 410.

356. SEC. 1. That it shall not be lawful for any person in the state of New Jersey to sell, or offer for sale, baled hay or straw with more than ten per centum of the weight thereof in wood to the bale. [See Sec. 290, *ante.*]

Unlawful to sell
with more than
ten per centum of
weight in wood.

1115-356
R99-213

357. SEC. 2. That the gross weight shall be plainly marked on each bale of hay or straw, and no person shall sell, or offer for sale, such hay or straw so marked which shall weigh less than such gross weight after deducting ten pounds from each bale for shrinkage.

Gross weight to be
marked.

358. SEC. 3. That any person or persons violating the provisions of the preceding sections of, or either of them, shall be deemed guilty of a misdemeanor or criminal offense, which shall be prosecuted according to the ordinary course of procedure in criminal accusations, before any justice of the peace of the town or before any magistrate of the city in which such person or persons shall make the sale or deliver the same, and, upon conviction thereof, shall be punished by a fine not exceeding one dollar for each and every bale so sold and the costs of the proceedings, and stand committed until said fine is paid; *provided*, nothing in this act shall be construed to apply to baled salt hay.

Penalty.

Proviso.

An act relating to depositing of refuse from chemical factories near residences.

Approved April 2, 1891.

P. L. 1891, p. 309.

359. SEC. 1. That it shall be unlawful for any manufacturer of chemicals in this state to deposit, or cause to be deposited, on any vacant lot within one hundred feet of any human habitation any refuse or proceeds from such manufacture, and that any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be liable to a fine of twenty-five dollars for each offense.

Unlawful to de-
posit refuse from
chemical factories
near human habi-
tation under a
penalty of \$25 fine
for each offense.

1115-359
R98-863

360. SEC. 2. That if any manufacturer of chemicals who may have already deposited, or caused to be deposited, any such refuse within one hundred feet of any residence at the time of the passage of this act, and who shall within thirty days after notice given to him or such chemical company at its office by any citizen living within one hundred feet of such

Penalty for refus-
ing or neglecting
to remove such
refuse upon notice.

refuse, or by the owner of any residence which is within one hundred feet of same, shall refuse or neglect to remove such refuse he shall be deemed guilty of a misdemeanor, and subject to a fine of ten dollars for each day that such refuse shall be allowed to remain after such notice.

Repealer.

361. SEC. 3. That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed, and that this act shall take effect immediately.

An act entitled "An act to prohibit the carrying of unlawful messages by telegraph, express companies and other common carriers."

P. L. 1894, p. 60.

Approved April 12, 1894.

Messages to promote or to enable persons to carry on unlawful business prohibited.

1116-362
R98-884

362. SEC. 1. That any telegraph company, telephone company, express company, or any corporation or individuals engaged in the business of common carriers, shall by this act be prohibited from knowingly carrying any message or messages that shall further or promote the interest of unlawful pursuits or in any way enable any person or persons to carry on any business or practice declared illegal by the statutes of New Jersey.

Penalty.

363. SEC. 2. That any corporation, person or persons carrying such messages shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of one thousand dollars.

Repealer.

364. SEC. 3. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

An act relating to the unsealing and recording of bids for public work or supplies by managers of state institutions and by governing bodies of counties or cities of this state and providing penalties for neglect of same.

P. L. 1894, p. 280.

Approved May 14, 1894.

Bids or proposals for public works or supplies to be received at time advertised, unsealed and publicly announced.

1116-365
R99-213

365. SEC. 1. That when bids or proposals for supplies or for public works or building or other public purposes are asked for by boards of managers having charge of any of the public institutions of the state, or by boards of freeholders, common councils, boards of works or other bodies having control of the counties or cities of the state, or any department of the same, or any properly-appointed committees representing such boards or bodies such boards or bodies or committees shall proceed in the manner following, to wit: said boards or governing bodies or committees shall give public notice at the time such bids or proposals are advertised, of the time and place when such bids shall be received, and at such time and place the said board or governing body or committee, being in session, shall receive such bids and thereupon immediately proceed to unseal the same and publicly announce the contents in the presence of the parties bidding or their agents, provided said parties or agents choose to be then and there present, and also make proper record of the prices and terms upon the minutes of the body; no bids shall be received previous to the hour designated in the public notice and none shall be received thereafter.

Failure to comply with act a misdemeanor.

Penalty.

366. SEC. 2. That any failure to comply with the provisions of this act shall be deemed a misdemeanor; for the first offense any person neglecting to conform to the provisions of this act shall be subject to a fine of two hundred and fifty dollars; for any repetition of the offense the person convicted shall be subject to a fine not less than two hundred and fifty dollars and not more than five hundred dollars or to imprisonment in the county jail not less than three months and not more than one year, or both fine and imprisonment within the limits aforesaid, at the discretion of the court.

Repealer.

367. SEC. 3. That all acts inconsistent with this act are hereby repealed.

An act to regulate the practice of law before any law or president judge of the inferior court of common pleas or county judge.

Approved March 25, 1895. P. L. 1895, p. 657.

368. SEC. 1. That it shall not be lawful for any practicing attorney of this state, who shall be in the employ of or who shall occupy an office with any judge aforesaid, to practice before or transact any business whatever pertaining to said practice before said judge in any court where said judge shall preside alone or in conjunction with any other judge or judges.

Certain attorneys forbidden to practice before certain judges.

1117-368
R99-213

369. SEC. 2. That any person violating the provisions of the first section of this act shall be deemed guilty of a misdemeanor, and shall for each offense be punished by a fine not exceeding one hundred dollars.

Penalty.

370. SEC. 3. That this act shall take effect on the first day of December, one thousand eight hundred and ninety-five.

When act shall take effect.

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 indorsing warrant protected.
6. Justice may appoint citizen to act as constable.
7. After commitment, another justice may not bail.
8. If recognizer 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. Amended by section 161.
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.
22. Witnesses not to be detained except in certain cases.

II. COURTS.

23. Quarter sessions constituted. Jurisdiction.
24. Indictments, where sent.
25. Of writs and processes.
26. Oyer and terminer, how constituted. Jurisdiction.
27. When held.
28. If supreme court justice absent, quarter sessions may organize grand jury.
29. Oyer and terminer, how long continued.
30. Oyer and terminer shall have cognizance of all crimes.
31. May send indictments to sessions.
32. Indictments from sessions may be remanded.
33. Fees to be allowed.
34. Clerk.
35. Amended by section 160.
36. Grand and petit jurors for oyer and terminer.
37. Trial before two justices for larceny.
38. Procedure on such trial.
39. Duty of two justices. Penalty for neglect.
- 39a. Justices not to act, if it shall appear that the person has before been convicted of petit larceny.

III. INDICTMENTS AND PROCEEDINGS THEREON.

40. Clerical errors, how taken advantage of.
41. Effect of plea of misnomer.
42. What defects shall not vitiate an indictment.
43. Variance may be amended.

44. Judgments on amended indictments good.
45. What sufficient in indictment for murder and manslaughter as to manner of death.
46. What sufficient in indictment for perjury.
47. Form of indictment in cases of forgery, &c.
48. In engraving plates.
49. In other cases.
50. General intent to defraud need only be alleged or proved in cases of forgery, &c.
51. Not necessary to name party intended to be defrauded.
52. Party indicted for felony or misdemeanor may be found guilty of an attempt.
53. Formal objections to be taken before jury sworn.
54. Plea of *autrefois* convict or acquit.
55. On indictment for robbery, jury may convict of assault with intent to rob.
56. Persons indicted for false pretenses, embezzlement or fraudulently disposing of property, may be convicted of larceny, and *vice versa*.
57. Several acts of embezzlement may be joined.
58. As to election in case of different larcenies.
59. On indictment for jointly receiving, separately receiving punishable.
60. Coin and bank notes may be described as money.
61. Any court, &c., may direct a person guilty of perjury in any evidence, &c., to be prosecuted.
62. Or for subornation of perjury or other like offenses.
63. Existence of a lottery or actual signing of tickets need not be proved.
64. Only two indictments at one term for unlawful sale of liquor.
65. Indictments, when tried.
66. When copy of indictments, &c., furnished prisoner.
67. Amended by sections 150 and 172.
68. Evidence in treason.
69. Effect of plea of not guilty.
70. Proceedings if defendant stands mute.
71. Defendant's right of challenge.
72. How panel selected. Deficiency supplied.
73. Talesmen, whence taken.
74. *Peine forte et dure* abolished.
75. Indictor not to sit on inquest if challenged.
76. Amended by section 146.
77. Rule as to accessories.
78. Death in state. Offense out of it.
79. Summons on indictment, &c., against corporations.
80. Proceedings after return "served," &c.
81. Process "not served." Order for publication.
82. Offenders tried separately when indicted jointly.

IV. JUDGMENT AND ERROR.

83. Writ of error in criminal cases.
84. When defendant shall not pay costs.
85. Of costs where jointly indicted.
86. How fines and costs collected.