

ORDER IN COUNCIL

II
1958

ratifying a Projet de Loi

ENTITLED

The Larceny (Guernsey) Law, 1958

(Registered on the Records of the Island of Guernsey
on the 8th day of February, 1958.)



1974.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 8th day of February, 1958, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present:— Sir John Leale, Arthur Falla, William Robert Freake Clark, Esquires, Bertram Bartlett, Esquire, O.B.E., Donald Carey Brock, Esquire, C.B.E., Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez, Bertram Guy Blampied, Esquires, Richard Edward Gibson, Esquire, O.B.E., Claude Fortesque Nason, and Henry Robin Bichard, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 7th day of January, 1958, ratifying a *Projet de Loi* entitled "The Larceny (Guernsey) Law, 1958",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace,

The 7th day of January, 1958.

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT

MR. SECRETARY SOAMES

MR. HARE

MR. GEOFFREY LLOYD

MR. CHANCELLOR OF THE EXCHEQUER

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 31st day of December, 1957, in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That, in pursuance of their Resolution of the 29th day of July, 1953, the States of Deliberation at a meeting held on the 3rd day of July, 1957, approved a Bill or “Projet de Loi” entitled “The Larceny (Guernsey) Law, 1958” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto.—2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or

Projet de Loi ” of the States of Guernsey entitled “The Larceny (Guernsey) Law, 1958 ” and to order that the same shall have the force of Law in the Bailiwick of Guernsey.’

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. AGNEW.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Larceny (Guernsey) Law, 1958

Arrangement of Sections

Section

1. Definition of stealing.
2. Simple larceny.
3. Killing animals with intent to steal.
4. Destruction, etc., of bonds, bills, notes, etc.
5. Destruction, etc., of wills or codicils.
6. Destruction, etc., of documents of title to lands.
7. Removing, obliterating, etc., records or other legal documents.
8. Larceny of wills.
9. Abstracting of electricity.
10. Larceny of postal packets, etc.
11. Larceny in dwelling-houses.
12. Larceny from ships, docks, etc.
13. Larceny and fraudulent conversion by clerks or servants.
14. Larceny and fraudulent conversion by officer of the Post Office.
15. Directors, etc., of any body corporate fraudulently keeping fraudulent accounts.
16. Directors, etc., of any body corporate wilfully destroying books, etc.
17. Directors, etc., of any body corporate publishing fraudulent statements.
18. Conversion.

Section

19. Conversion by trustee.
20. Robbery.
21. Larceny from the person.
22. Sacrilege.
23. Burglary.
24. Housebreaking and committing an offence.
25. Housebreaking with intent to commit an offence.
26. Being found by night armed or in possession of housebreaking implements.
27. Demanding money, etc., with menaces.
28. Demanding with menaces, with intent to steal.
29. Threatening to publish, with intent to extort.
30. False pretences.
31. Obtaining credit by fraud.
32. Receiving.
33. Corruptly taking a reward.
34. Use and possession of firearms or imitation firearms in certain cases.
35. Accessories and abettors.
36. Attempts.
37. Punishments.
38. Procedure.
39. Search warrants.
40. Evidence.
41. Verdict.
42. Restitution.
43. Interpretation.
44. Savings.
45. Repeals.
46. Citation.

SCHEDULES:

First Schedule—Offences to which subsection (1) of section thirty-four applies.

Second Schedule—Enactments repealed.

PROJET DE LOI

ENTITLED

The Larceny (Guernsey) Law, 1958

THE STATES, in pursuance of their Resolution of the twenty-ninth day of July, nineteen hundred and fifty-three, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

1. For the purposes of this Law—

Definition of stealing.

- (a) a person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof:

PROVIDED that a person may be guilty of stealing any such thing notwithstanding that he has lawful possession thereof, if, being a bailee or part owner thereof, he fraudulently converts the same to his own use or the use of any person other than the owner;

- (b) the following expressions have the meanings hereby assigned to them respectively, that is to say—

“takes” includes obtaining the possession—

- (i) by any trick;
- (ii) by intimidation;
- (iii) under a mistake on the part of the owner with knowledge on the part of the taker that possession had been so obtained;

(iv) by finding, where at the time of the finding the finder has reason to believe that the owner can be discovered by taking reasonable steps;

“carries away” includes any removal of anything from the place which it occupies, but in the case of a thing attached, only if it has been completely detached;

“owner” includes any part owner, or person having possession or control of, or a special property in, anything capable of being stolen;

(c) everything which has value and is the property of any person, and if adhering to the realty then after severance therefrom, shall be capable of being stolen.

Simple
larceny.

2. Stealing for which no special punishment is provided under this or any other Law for the time being in force shall be simple larceny and an offence punishable with imprisonment for a term not exceeding five years, and the offender, if a male under the age of eighteen years, shall be liable to be once privately whipped in addition to any other punishment to which he may by law be liable.

Killing
animals
with intent
to steal.

3. Every person who wilfully kills any animal with intent to steal the carcase, skin or any part of the animal killed shall be guilty of an offence and on conviction thereof liable to the same punishment as if he had stolen such animal.

Destruction,
etc., of
bonds, bills,
notes, etc.

4. Every person who, for any fraudulent purpose, destroys, cancels or obliterates the whole or any part of any valuable security, other than a document of title to lands, shall be guilty of an offence and punishable in the same manner as if he had stolen any chattel of like value with the share, interest or

deposit to which the security so stolen may relate, or with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned or referred to in or by the security.

5. Every person who, either during the life of the testator or after his death, for any fraudulent purpose or with intent to cause damage or injury to any person, destroys, cancels, obliterates or conceals 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 an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years and it shall not in any indictment for such offence be necessary to allege that such will, codicil or other testamentary instrument is the property of any person.

Destruction,
etc., of
wills or
codicils.

6. Every person who, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any document of title to lands shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding five years.

Destruction,
etc., of
documents
of title to
lands.

7. Every person who, for any fraudulent purpose, takes from its place of deposit for the time being or from any person having the lawful custody thereof or unlawfully and maliciously cancels, obliterates, injures or destroys the whole or any part of—

Removing,
obliterating,
etc., records
or other
legal
documents.

(a) any record, cause, process, deposition, affidavit, rule, order or any original document whatsoever of or belonging to the Royal Court or any Division thereof, the Magistrate's Court, the Ecclesiastical Court,

the Court of Alderney or the Court of the Seneschal of Sark, or relating to any matter, civil or criminal, begun, depending or terminated in any such Court; or

- (b) any original document in anywise relating to the business of any office or employment under Her Majesty, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark, and being or remaining in any office appertaining to any court of justice, or in any Crown or public office; or
- (c) any document forming part of the public records of the Islands of Guernsey, Alderney and Sark respectively;

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding five years; and it shall not in any indictment for such offence be necessary to allege that the article in respect of which the offence is committed is the property of any person.

Larceny of wills.

8. Every person who steals any will, codicil or other testamentary instrument, either of a dead or of a living person, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

Abstracting of electricity.

9. Every person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity shall be guilty of an offence, and on conviction thereof liable to be punished as in the case of simple larceny.

Larceny of postal packets, etc.

10. Every person who—

- (a) steals a mail bag; or
- (b) steals from a mail bag, post office, officer of the Post Office, or mail, any postal packet in course of transmission by post; or

(c) steals any chattel, money or valuable security out of a postal packet in course of transmission by post; or

(d) stops a mail with intent to rob the mail;

shall be guilty of an offence and on conviction thereof liable to imprisonment for life or for any shorter term.

11. Every person who steals in any dwelling-house any chattel, money or valuable security shall— Larceny in dwelling-houses.

(a) if the value of the property stolen amounts to five pounds or more; or

(b) if he, by any menace or threat, puts any person being in such dwelling-house in bodily fear;

be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

12. Every person who steals—

(a) any goods in any vessel, barge or boat of any description in any haven or any port; or Larceny from ships, docks, etc.

(b) any goods from any dock, wharf or quay adjacent to any such haven or port; or

(c) any part of any vessel in distress, wrecked, stranded or cast on shore, or any goods, merchandise or articles of any kind belonging to such vessel;

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

13. Every person who—

(a) being a clerk or servant or person employed in the capacity of a clerk or servant— Larceny and fraudulent conversation by clerks or servants.

- (i) steals any chattel, money or valuable security belonging to or in the possession or power of his master or employer; or
 - (ii) fraudulently converts to his own use or benefit, or the use or benefit of any other person the whole or any part of any chattel, money or valuable security delivered to or received or taken into possession by him for or in the name or on the account of his master or employer;
- (b) being employed in the public service of Her Majesty or other public service—
- (i) steals any chattel, money or valuable security belonging to or in the possession of Her Majesty or entrusted to or received or taken into possession by such person by virtue of his employment; or
 - (ii) fraudulently converts to his own use or benefit, or the use or benefit of any other person or in any manner fraudulently applies or disposes of for any purpose whatsoever except for the public service any chattel, money or valuable security entrusted to or received or taken into possession by him by virtue of his employment;

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years, and the offender, if a male under the age of eighteen years, shall be liable to be once privately whipped in addition to any other punishment to which he may by law be liable.

Larceny and
fraudulent
conversion
by officer of
the Post
Office.

14. Every person who, being an officer of the Post Office, steals or fraudulently converts to his own use

or benefit or the use or benefit of any other person a postal packet in course of transmission by post shall be guilty of an offence and on conviction thereof liable—

- (a) if the postal packet contains any chattel, money or valuable security, to imprisonment for life or for any shorter term;
- (b) in all other cases to imprisonment for a term not exceeding seven years.

15. Every person who, being a director, manager or officer of any body corporate, as such receives or possesses himself of any of the property of such body corporate otherwise than in payment of a just debt or demand, and with intent to defraud, omits 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, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

Directors,
etc., of
any body
corporate
fraudulently
keeping
fraudulent
accounts.

16. Every person who, being a director, manager, officer or member of any body corporate, with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate, or makes or concurs in the making of any false entry, or omits or concurs in omitting any material particular, in any book of account or other document belonging to the body corporate, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

Directors,
etc., of
any body
corporate
wilfully
destroying
books, etc.

17. (1) Every person who, being a director, manager or officer of any body corporate, makes, circulates or publishes, or concurs in making, circulating or publishing any written statement or account which he knows to be false in any material particular,

Directors,
etc., of
any body
corporate
publishing
fraudulent
statements.

with intent to deceive or defraud any member, shareholder or creditor of such body corporate, 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 to enter into any security for the benefit thereof, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

(2) Nothing in this section or in the last two preceding sections of this Law shall enable or entitle any person to refuse to answer any question in any civil proceeding in any court of law or upon the hearing of any matter in insolvency.

Conversion.

18. (1) Every person who—

- (a) being entrusted either solely or jointly with any other person with any power of attorney for the sale or transfer of any property fraudulently sells, transfers, or otherwise converts the property or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so entrusted; or
- (b) being a director, member or officer of any body corporate, fraudulently takes or applies for his own use or benefit, or for any use or purposes other than the use or purposes of such body corporate, any of the property of such body corporate; or
- (c) being entrusted either solely or jointly with any other person with any property in order that he may retain in safe custody or apply, pay or deliver, for any purpose or to any person, the property or any part thereof or any proceeds thereof, fraudulently converts to his own use or benefit,

or the use or benefit of any other person, the property or any part thereof or any proceeds thereof; or

- (d) having either solely or jointly with any other person received any property for or on account of any other person, fraudulently converts to his own use or benefit, or the use or benefit of any other person, the property or any part thereof or any proceeds thereof;

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

(2) Nothing in paragraph (c) or paragraph (d) of subsection (1) of this section shall apply to or affect any trustee under any express trust created by a will or instrument in writing of any property, real or personal, in respect of any act done by the trustee in relation to the property comprised in or affected by any such trust.

19. Every person who, being a trustee of any property for the use or benefit either wholly or partially of some other person, or for any public or charitable purpose, with intent to defraud converts or appropriates the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid or otherwise disposes of or destroys such property or any part thereof, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

Conversion
by trustee.

20. (1) Every person who—

Robbery.

- (a) being armed with any offensive weapon or instrument, or being together with one

other person or more, robs, or assaults with intent to rob, any person;

- (b) robs any person and, at the time of or immediately before or immediately after such robbery, uses any personal violence to any person;

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding fourteen years, and, in addition, if a male, to be once privately whipped.

(2) Every person who robs any person shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding ten years.

(3) Every person who assaults any person with intent to rob shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding five years.

Larceny
from the
person.

21. Every person who steals any chattel, money or valuable security from the person of another shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

Sacrilege.

22. Every person who—

- (a) breaks and enters any place of divine worship and commits therein any prescribed offence; or
(b) breaks out of any place of divine worship, having committed therein any such offence;

shall be guilty of an offence called sacrilege and on conviction thereof liable to imprisonment for a term not exceeding seven years.

Burglary.

23. Every person who in the night—

- (a) breaks and enters the dwelling-house of

another with intent to commit therein any prescribed offence; or

- (b) breaks out of the dwelling-house of another, having—
- (i) entered the said dwelling-house with intent to commit therein any such offence;
 - (ii) committed in the said dwelling-house any such offence;

shall be guilty of an offence called burglary and on conviction thereof liable to imprisonment for a term not exceeding ten years.

24. Every person who—

- (a) breaks and enters any dwelling-house or other building whatsoever and commits therein any prescribed offence; or
- (b) breaks out of the same, having committed therein any such offence;

House-breaking and committing an offence.

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding ten years.

25. Every person who, with intent to commit therein any prescribed offence—

- (a) enters any dwelling-house in the night; or
- (b) breaks and enters any dwelling-house or other building whatsoever;

House-breaking with intent to commit an offence.

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding five years.

26. Every person who shall be found by night—

- (a) armed with any dangerous or offensive weapon or instrument, with intent to break or enter into any building and to commit therein any prescribed offence; or

Being found by night armed or in possession of house-breaking implements.

- (b) having his face blackened or disguised with intent to commit any such offence; or
- (c) in any building with intent to commit therein any such offence; or
- (d) having in his possession without lawful excuse (the proof whereof shall lie on such person) any key, picklock, crow, jack, bit, or other implement of housebreaking;

shall be guilty of an offence and on conviction thereof liable—

- (i) if he has been previously convicted of an offence under this section or of any prescribed offence, to imprisonment for a term not exceeding ten years;
- (ii) in all other cases, to imprisonment for a term not exceeding five years.

Demanding
money, etc.,
with
menaces.

27. (1) Every person who—

- (a) utters, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property or valuable thing;
- (b) utters, knowing the contents thereof, any letter or writing accusing or threatening to accuse any other person (whether living or dead) of any crime to which this section applies, with intent to extort or gain thereby any property or valuable thing from any person;
- (c) with intent to extort or gain any property or valuable thing from any person accuses or threatens to accuse either that person or any other person (whether living or dead) of any such crime;

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding ten years, and the offender, if a male under the age of eighteen years, shall be liable to be once privately whipped in addition to any other punishment to which he may by law be liable.

(2) Every person who with intent to defraud or injure any other person—

(a) by any unlawful violence to or restraint of the person of another; or

(b) by accusing or threatening to accuse any person (whether living or dead) of any such crime or of any prescribed offence;

compels or induces any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix the name of any person, body corporate, firm or co-partnership, or the seal of any body corporate or society upon or to any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as a valuable security, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding ten years.

(3) This section applies to any crime punishable with death, or imprisonment for not less than seven years, or any assault with intent to commit any rape, or any attempt to commit any rape, or any solicitation, persuasion, promise or threat offered or made to any person, whereby to move or induce such person to commit or permit the abominable crime of buggery, either with mankind or with any animal.

(4) For the purposes of this Law it is immaterial whether any menaces or threats be of violence, injury or accusation to be caused or made by the offender or by any other person.

Demanding
with
menaces,
with intent
to steal.

28. Every person who with menaces or by force demands of any person anything capable of being stolen with intent to steal the same shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding five years.

Threatening
to publish,
with intent
to extort.

29. Every person who with intent—

- (a) to extort any valuable thing from any person; or
- (b) to induce any person to confer or procure for any person any appointment or office of profit or trust—
 - (i) publishes or threatens to publish any libel upon any other person (whether living or dead); or
 - (ii) directly or indirectly threatens to print or publish, or directly or indirectly proposes to abstain from or offers to prevent the printing or publishing of any matter or thing touching any other person (whether living or dead);

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding two years.

False
pretences.

30. Every person who by any false pretence—

- (a) with intent to defraud, obtains from any other person any chattel, money or valuable security, or causes or procures any money to be paid, or any chattel or valuable security to be delivered to himself or to any other person for the use or benefit or on account of himself or any other person; or
- (b) with intent to defraud or injure any other person, fraudulently causes or induces any other person—

- (i) to execute, make, accept, endorse or destroy the whole or any part of any valuable security; or
- (ii) to write, impress, or affix his name or the name of any other person, or the seal of any body corporate 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, a valuable security;

shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding five years.

31. (1) Every person who in incurring any debt or liability, with intent to defraud, obtains credit by any false pretence or by means of any other fraud, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding twelve months.

Obtaining
credit by
fraud.

(2) In this section the expression "liability" includes—

- (a) any compensation for work or labour done;
- (b) any express or implied engagement, agreement, or undertaking, to pay, or capable of resulting in the payment of, money or money's worth; whether the payment is, as respects amount, fixed or unliquidated; as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation, capable of being ascertained by fixed rules or as matter of opinion.

32. (1) Every person who receives any property knowing the same to have been stolen or obtained in any way whatsoever under circumstances which **Receiving.**

amount to an offence shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding ten years, and the offender, if a male under the age of eighteen years, shall be liable to be once privately whipped in addition to any punishment to which he may by law be liable.

(2) Every person who receives any mail bag, or any postal packet or any chattel or money or valuable security, the stealing, taking, fraudulent conversion, embezzling or secreting of which amounts to a felony under the Post Office Act, 1953, or to an offence under this Law punishable with imprisonment for a term of five years or more, knowing the same to have been so stolen, taken, fraudulently converted, embezzled or secreted, and to have been sent, or to have been intended to be sent, by post, shall be guilty of an offence and on conviction thereof liable to the same punishment as if he had himself stolen, taken, fraudulently converted, embezzled or secreted the same.

(3) Every such person may be indicted and convicted, whether the principal offender has or has not been previously convicted, or is or is not amenable to justice.

(4) Every person who, without lawful excuse, knowing the same to have been stolen or obtained in any way whatsoever under such circumstances that if the act had been committed in the Bailiwick of Guernsey the person committing it would have been guilty of an offence, receives or has in his possession any property so stolen or obtained outside that Bailiwick, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding seven years.

Corruptly
taking a
reward.

33. Every person who corruptly takes any money or reward, directly or indirectly, under pretence or

upon account of helping any person to recover any property which has, under circumstances which amount to an offence, been stolen or obtained in any way whatsoever, or received, shall, unless he has used all due diligence to cause the offender to be brought to trial for the same, be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding five years, and if a male under the age of eighteen years, to be once privately whipped in addition to any other punishment to which he may by law be liable.

34. (1) If any person, at the time of his committing, or at the time of his apprehension for, any offence specified in the First Schedule to this Law, has in his possession any firearm or imitation firearm, he shall, unless he shows that he had it in his possession for a lawful object, be guilty of an offence under this subsection, and on conviction thereof liable to imprisonment for a term not exceeding seven years in addition to any penalty to which he may be sentenced for the first-mentioned offence.

Use and possession of firearms or imitation firearms in certain cases.

(2) A firearm or imitation firearm shall, notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet or other missile, be deemed to be an offensive weapon or instrument for the purpose of paragraph (a) of subsection (1) of section twenty (which relates to robbery) and of paragraph (a) of section twenty-six (which relates to a person being found by night armed or in possession of housebreaking implements) of this Law.

(3) In this section—

(a) the expression “firearm” means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged, and includes any weapon of

whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing;

- (b) the expression "imitation firearm" means anything which has the appearance of being a firearm within the meaning of this section (other than any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas, or other thing) whether it is capable of discharging any shot, bullet or other missile or not.

Accessories
and abettors.

35. Every person who knowingly and wilfully aids, abets, counsels, procures or commands the commission of an offence punishable under this Law shall be liable to be dealt with, indicted, tried and punished as a principal offender.

Attempts.

36. (1) Every person who attempts to commit an offence punishable under this Law shall be guilty of an offence and shall be liable to such term of imprisonment or such fine or to such term of imprisonment and such fine as the Court may deem just:

PROVIDED that as respects any attempt to commit any such offence the Court may not impose any punishment exceeding that which the Court might have imposed if the offence had been completed.

(2) If, on the trial of any person charged with any offence under this Law, it appears to the Court upon the evidence that the person so charged did not complete the offence charged but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, and the Court may find that person not guilty of the offence charged but guilty of the attempt to commit the same and thereupon he shall be liable to be punished accordingly.

37. (1) Every person who commits the offence of simple larceny after having been previously convicted of any prescribed offence shall be liable to imprisonment for a term not exceeding ten years. Punish-
ments.

(2) Every person who commits the offence of simple larceny or any offence made punishable like simple larceny, after having been previously convicted of any offence punishable under this Law, not being a prescribed offence, shall be liable to imprisonment for a term not exceeding seven years.

(3) In every case in this section before mentioned the offender, if a male under the age of eighteen years, shall be liable to be once privately whipped in addition to any other punishment to which he may by law be liable.

(4) On conviction of an offence punishable under the provisions of this Law other than section thirty-six (which relates to attempts) thereof, the Court, instead of or in addition to any other punishment which may be lawfully imposed, may fine the offender.

(5) Where a sentence of whipping may be imposed under this Law—

- (a) in the case of an offender whose age does not exceed eighteen years, the number of strokes at such whipping shall not exceed twelve and the instrument used shall be a birch-rod;
- (b) in the case of any other offender, the number of strokes at such whipping shall not exceed twenty four and the instrument used shall be a cat-o'-nine tails or a birch-rod;
- (c) in each case the Court in its sentence shall specify the number of strokes to be inflicted and the instrument to be used;
- (d) such whipping shall not take place after the expiration of six months from the passing of the sentence.

Procedure.

38. (1) On the trial of an indictment for obtaining or attempting to obtain any chattel, money or valuable security by any false pretence, it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged with intent to defraud.

(2) An allegation in an indictment that money or banknotes have been fraudulently converted or obtained by false pretences can, so far as regards the description of the property, be sustained by proof that the offender fraudulently converted or obtained any piece of coin or any banknote or any portion of the value thereof, although such piece of coin or banknote may have been delivered to him in order that some part of the value thereof should be returned to any person and such part has been returned accordingly.

(3) In an indictment for receiving any property under this Law any number of persons who have at different times so received such property or any part thereof may be charged and tried together.

(4) If any person, who is a member of any co-partnership or is one of two or more beneficial owners of any property, steals or fraudulently converts to his own use or benefit or the use or benefit of any other person any such property of or belonging to such co-partnership or to such beneficial owners he shall be liable to be dealt with, tried and punished as if he had not been or was not a member of such co-partnership or one of such beneficial owners.

Search warrants.

39. (1) If the Bailiff is satisfied by information on oath given by an officer of police and in relation to Guernsey being of a rank not lower than that of inspector that there is reasonable cause to believe that any person has in his custody or possession or

on his premises any property whatsoever, with respect to which any offence against this Law has been committed, the Bailiff may grant a warrant to search for and seize the same.

(2) Any officer of police may, if authorised in writing by the Chief Officer of Police, enter any house, shop, warehouse, yard or other premises, and search for and seize any property he believes to have been stolen, and where any property is seized in pursuance of this section, the person on whose premises it was at the time of seizure or the person from whom it was taken shall, unless previously charged with receiving the same knowing it to have been stolen, be summoned before the appropriate Court to account for his possession of such property, and such Court shall make such order respecting the disposal of such property and may award such costs as the justice of the case may require.

(3) It shall be lawful for the Chief Officer of Police to give such authority as aforesaid—

(a) when the premises to be searched are, or within the preceding twelve months have been, in the occupation of any person who has been convicted of receiving stolen property or of harbouring thieves; or

(b) when the premises to be searched are in the occupation of any person who has been convicted of any offence involving fraud or dishonesty and punishable with imprisonment.

(4) It shall not be necessary for the Chief Officer of Police on giving such authority to specify any particular property, but he may give such authority if he has reason to believe generally that such premises are being made a receptacle for stolen goods.

40. (1) Whenever any person is being proceeded **Evidence.** against for receiving any property, knowing it to

have been stolen, or for having in his possession stolen property, for the purpose of proving guilty knowledge there may be given in evidence at any stage of the proceedings—

- (a) the fact that other property stolen within the period of twelve months preceding the date of the offence charged was found or had been in his possession;
- (b) the fact that within the five years preceding the date of the offence charged he was convicted of any offence involving fraud or dishonesty:

PROVIDED that the last-mentioned fact may not be proved unless—

- (i) seven days' notice in writing has been given to the offender that proof of such previous conviction is intended to be given;
- (ii) evidence has been given that the property in respect of which the offender is being tried was found or had been in his possession.

(2) No person shall be liable to be convicted of any offence against section five (which relates to destruction, etc., of wills or codicils) or section six (which relates to destruction, etc., of documents of title to lands) of this Law by any evidence whatever in respect of any act done by him, if he shall, at any time previously to his being charged with such offence, have first disclosed such act on oath, in consequence of any compulsory process of any court of law in any action, suit or proceeding which shall have been instituted in good faith 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.

(3) No person shall be liable to be convicted of any offence against section eight (which relates to larceny of wills), section fifteen (which relates to directors, etc., of any body corporate fraudulently keeping fraudulent accounts), section sixteen (which relates to directors, etc., of any body corporate wilfully destroying books, etc.), section seventeen (which relates to directors, etc., of any body corporate publishing fraudulent statements), section eighteen (which relates to conversion) and section nineteen (which relates to conversion by trustee) of this Law upon any evidence whatever in respect of any act done by him, if he shall, at any time previously to his being charged with such offence, have first disclosed such act on oath, in consequence of any compulsory process of any court of law in any action, suit or proceeding which shall have been instituted in good faith by any person aggrieved.

(4) In any proceedings in respect of any offence against section eight (which relates to larceny of wills), section fifteen (which relates to directors, etc., of any body corporate fraudulently keeping fraudulent accounts), section sixteen (which relates to directors, etc., of any body corporate wilfully destroying books, etc.), section seventeen (which relates to directors, etc., of any body corporate publishing fraudulent statements), section eighteen (which relates to conversion) and section nineteen (which relates to conversion by trustee) of this Law, a statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in insolvency shall not be admissible in evidence against that person.

41. (1) If on the trial of any indictment for robbery, it is proved that the defendant committed an assault with intent to rob, the Court may acquit Verdict.

the defendant of robbery and find him guilty of an assault with intent to rob, and thereupon he shall be liable to be punished accordingly.

(2) If on the trial of any indictment for any offence against section thirteen of this Law (which relates to larceny and fraudulent conversion by clerks or servants) it is proved that the defendant stole the property in question, the Court may find him guilty of stealing, and thereupon he shall be liable to be punished accordingly; and on the trial of any indictment for stealing the Court may in like manner find the defendant guilty of fraudulent conversion, application or disposition, as the case may be, and thereupon he shall be liable to be punished accordingly.

(3) If on the trial of any indictment for stealing it is proved that the defendant took any chattel, money or valuable security in question in any such manner as would amount in law to obtaining it by false pretences with intent to defraud, the Court may acquit the defendant of stealing and find him guilty of obtaining the chattel, money or valuable security by false pretences, and thereupon he shall be liable to be punished accordingly.

(4) If on the trial of any indictment for obtaining any chattel, money or valuable security by false pretences it is proved that the defendant stole the property in question, he shall not by reason thereof be entitled to be acquitted of obtaining such property by false pretences.

(5) If on the trial of any two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part of such property, the Court may convict upon such indictment such of the said persons as are proved to have received any part of such property.

42. (1) If any person is convicted of any such Restitution. offence as is mentioned in this Law, in stealing, taking, obtaining, extorting, converting, or disposing of, or in knowingly receiving, any property, the property shall be restored to the owner or his representative.

(2) In every case in this section referred to, the Court before whom such offender is convicted shall have power to order the restitution of the said property:

PROVIDED that where chattels have been obtained by fraud or other wrongful means not amounting to stealing, the property in such chattels shall not re-vest in the person who was the owner of the chattels or his personal representative, by reason only of the conviction of the offender:

PROVIDED also that nothing in this section shall apply in the case of—

- (i) any valuable security which has been in good faith paid or discharged by some person or body corporate liable to the payment thereof, or, being a negotiable instrument, has been in good faith taken or received by transfer or delivery by some person or body corporate for a just and valuable consideration without any notice or without any reasonable cause to suspect that the same had been stolen;
- (ii) any offence against section eighteen (which relates to conversion) and section nineteen (which relates to conversion by trustee) of this Law.

(3) On the restitution of any stolen property if it appears to the Court by the evidence that the offender has sold the stolen property to any person, and that such person has had no knowledge that

the same was stolen, and that any moneys have been taken from the offender on his apprehension, the Court may, on the application of such purchaser, order that out of such moneys a sum not exceeding the amount of the proceeds of such sale be delivered to the said purchaser.

Interpreta-
tion.

43. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“ the appropriate Court ” means—

- (a) in relation to Guernsey, Herm and Jethou, the Magistrate’s Court;
- (b) in relation to Alderney, the Court of Alderney; and
- (c) in relation to Sark, the Court of the Seneschal;

“ Bailiff ” means—

- (a) in relation to Guernsey, Herm and Jethou, the Bailiff, a Lieutenant-Bailiff or the Juge Délégué;
- (b) in relation to Alderney, the Chairman of the Court of Alderney; and
- (c) in relation to Sark, the Seneschal;

“ Chief Officer of Police ” means—

- (a) in relation to Guernsey, Herm and Jethou, the Chief Officer of the salaried police force of the Island of Guernsey;
- (b) in relation to Alderney, the said Chief Officer or the Clerk of the Court of Alderney; and
- (c) in relation to Sark, the Constable;

“ document of title to goods ” includes any bill of lading, dock warrant, warehouse-keeper’s certificate, warrant or order for the delivery

or transfer of any goods or valuable thing, bought or sold note or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to;

“document of title to lands” includes any instrument in writing, map, roll, register, paper or parchment, being or containing evidence of the title, or any part of the title, to any real estate or to any interest in or out of any real estate;

“dwelling-house” does not include a building although within the same curtilage with any dwelling-house and occupied therewith unless there is a communication between such building and dwelling-house, either immediate or by means of a covered and enclosed passage leading from one to the other;

“indicted” includes charged;

“indictment” includes charge;

“mail”, “mail bag”, “officer of the Post Office”, “postal packet”, “post office” and “in course of transmission by post” have the same meanings as in the Post Office Act, 1953;

“night” means the interval between nine o'clock in the evening and six o'clock in the morning of the next succeeding day;

“officer of police” means—

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limit of his jurisdiction, a member of the

special constabulary of the Island of Guernsey;

- (b) in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney; and
- (c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of Guernsey;

“prescribed offence” means any offence punishable with imprisonment for a term of two years or more;

“property” includes any description of real and personal property, money, debts, and legacies, and all instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and also includes not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise;

“trustee” means a trustee on some express trust created by some will or instrument in writing and includes the heir or personal representative of any such trustee, and any other person upon or to whom the duty of such trust shall have devolved or come, and also an executor and administrator and an assignee, liquidator or other like officer acting under the law for the time being relating to limited liability companies or insolvency;

“valuable security” includes any writing entitling or evidencing the title of any person to any

share or interest in any public stock, annuity, fund or debt of any part of Her Majesty's dominions or of any foreign state, or in any stock, annuity, fund or debt of any body corporate or society, whether within or without Her Majesty's dominions, or to any deposit in any bank, and also includes any script, debenture, bill, note, warrant, order, or other security for payment or money, or any receipt or other instrument evidencing the payment of money or the delivery of any chattel and any document of title to goods.

(2) Any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, extended or applied by or under any other enactment.

(3) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Law throughout the Bailiwick of Guernsey.

44. (1) Where, by virtue of some other Law, an offence against this Law subjects the offender to any forfeiture or disqualification or to any penalty other than imprisonment or fine, the liability of the offender to punishment under this Law shall be in addition to and not in substitution for his liability under such other Law. Savings.

(2) Notwithstanding anything in this Law contained, a sentence of whipping shall not be imposed under this Law on a male person under the age of twelve years.

45. The enactments set out in the Second Schedule to this Law are hereby repealed to the extent specified in the third column thereof. Repeals.

46. This Law may be cited as the Larceny (Guernsey) Law, 1958. Citation.

FIRST SCHEDULE

Section
thirty-four

*Offences to which subsection (1) of section thirty-four
of this Law applies*

Offences under the following provisions of this Law,
that is to say:—

Section two	(Simple larceny).
Section three	(Killing animals with intent to steal).
Section ten	(Larceny of postal packets, etc.).
Section eleven	(Larceny in dwelling-houses).
Section twelve	(Larceny from ships, docks, etc.).
Section twenty-one	(Larceny from the person).
Section twenty-two	(Sacrilege).
Section twenty-three	(Burglary).
Section twenty-four	(Housebreaking and committing an offence).
Section twenty-five	(Housebreaking with intent to commit an offence).
Paragraphs (b), (c) and (d) of section twenty-six	(Being found by night armed or in possession of housebreaking implements).
Section twenty-seven	(Demanding money, etc., with menaces).
Section twenty-eight	(Demanding with menaces, with intent to steal).

SECOND SCHEDULE

Section
forty-five*Enactments Repealed*

<i>Enactment</i>	<i>Date of Registration</i>	<i>Extent of Repeal</i>
The Law entitled "Loi relative à l'Application des Peines, tant au Criminel qu'en Police Correctionnelle" as amended by the Law entitled "Loi étendant les pouvoirs de la Cour Royale siégeant en Police Correctionnelle".	5th July, 1856. 1st December, 1888.	In Article five the words and figures "1° pour vol, 2° pour tentative de vol, 3° pour appropriation frauduleuse d'argent ou effets au moyen de faux prétextes,"; and in Article fourteen the words "Pour Vol, Pour Tentative de Vol,".
The Law entitled "Loi sur l'Appropriation Frauduleuse de Meubles et Effets".	5th August, 1876.	The whole Law.
The Law entitled "Loi relative à la Fourniture d'Electricité par les Etats, 1933".	25th November, 1933.	Subsection (1) of section sixteen.
The Blackmail Law, 1949.	22nd April, 1950.	The whole Law.
The Alderney Electricity Concession Law, 1953.	1st August, 1953.	Subsection (1) of section twenty-eight.

JAMES E. LE PAGE,
Her Majesty's Greffier.