

gaming or crime, or by the avails of prostitution. R.S.C., c. 157, s. 8.

Penalty for  
vagrancy.

**208.** Every loose, idle or disorderly person or vagrant is liable, on summary conviction before two justices of the peace, to a fine not exceeding fifty dollars or to imprisonment, with or without hard labour, for any term not exceeding six months, or to both. R.S.C., c. 157, s. 8.

## TITLE V.

### OFFENCES AGAINST THE PERSON AND REPUTATION.

#### PART XVI.

#### DUTIES TENDING TO THE PRESERVATION OF LIFE.

Duty to pro-  
vide the neces-  
saries of life.

**209.** Every one who has charge of any other person unable, by reason either of detention, age, sickness, insanity or any other cause, to withdraw himself from such charge, and unable to provide himself with the necessaries of life, is, whether such charge is undertaken by him under any contract, or is imposed upon him by law, or by reason of his unlawful act, under a legal duty to supply that person with the necessaries of life, and is criminally responsible for omitting, without lawful excuse, to perform such duty if the death of such person is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission.

Duty of head  
of family to  
provide neces-  
saries.

**210.** Every one who as parent, guardian or head of a family is under a legal duty to provide necessaries for any child under the age of sixteen years is criminally responsible for omitting, without lawful excuse, to do so while such child remains a member of his or her household, whether such child is helpless or not, if the death of such child is caused, or if his life is endangered or his health is or is likely to be permanently injured, by such omission.

2. Every one who is under a legal duty to provide necessaries for his wife, is criminally responsible for omitting, without lawful excuse so to do, if the death of his wife is caused, or if her life is endangered, or her health is or is likely to be permanently injured by such omission.

Duty of mas-  
ters to provide  
necessaries.

**211.** Every one who, as master or mistress, has contracted to provide necessary food, clothing or lodging for any servant or apprentice under the age of sixteen years is under a legal duty to provide the same, and is criminally responsible for omitting, without lawful excuse, to perform such duty, if  
the

the death of such servant or apprentice is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission.

**212.** Every one who undertakes (except in case of necessity) to administer surgical or medical treatment, or to do any other lawful act the doing of which is or may be dangerous to life, is under a legal duty to have and to use reasonable knowledge, skill and care in doing any such act, and is criminally responsible for omitting, without lawful excuse, to discharge that duty if death is caused by such omission.

Duty of persons doing dangerous acts.

**213.** Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes or maintains anything whatever which, in the absence of precaution or care, may endanger human life, is under a legal duty to take reasonable precautions against, and use reasonable care to avoid, such danger, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform such duty.

Duty of persons in charge of dangerous things.

**214.** Every one who undertakes to do any act, the omission to do which is or may be dangerous to life, is under a legal duty to do that act, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform that duty.

Duty to avoid omissions dangerous to life.

**215.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, being bound to perform any duty specified in sections two hundred and nine two hundred and ten and two hundred and eleven without lawful excuse neglects or refuses to do so.

Neglecting duty to provide necessities.

**216.** Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully abandons or exposes any child under the age of two years, whereby its life is endangered, or its health is permanently injured.

Abandoning children under two years of age.

2. The words "abandon" and "expose" include a wilful omission to take charge of the child on the part of a person legally bound to do so, and any mode of dealing with it calculated to leave it exposed to risk without protection. R.S.C., c. 162, s. 20.

**217.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, being legally liable as master or mistress to provide for any apprentice or servant, unlawfully does, or causes to be done, any bodily harm to any such apprentice or servant so that the life of such apprentice or servant is endangered or the health of such apprentice or servant has been, or is likely to be, permanently injured. R.S.C., c. 62, s. 19.

Causing bodily harm to apprentices or servants.

## PART XVII.

## HOMICIDE.

Homicide  
defined.

**218.** Homicide is the killing of a human being by another, directly or indirectly, by any means whatsoever.

When a child  
becomes a  
human being.

**219.** A child becomes a human being within the meaning of this Act when it has completely proceeded, in a living state, from the body of its mother, whether it has breathed or not, whether it has an independent circulation or not, and whether the navel string is severed or not. The killing of such child is homicide when it dies in consequence of injuries received before, during or after birth.

Culpable  
homicide.

**220.** Homicide may be either culpable or not culpable. Homicide is culpable when it consists in the killing of any person, either by an unlawful act or by an omission, without lawful excuse, to perform or observe any legal duty, or by both combined, or by causing a person, by threats or fear of violence, or by deception, to do an act which causes that person's death, or by wilfully frightening a child or sick person.

2. Culpable homicide is either murder or manslaughter.

3. Homicide which is not culpable is not an offence.

Procuring  
death by false  
evidence.

**221.** Procuring by false evidence the conviction and death of any person by the sentence of the law shall not be deemed to be homicide.

Death must be  
within a year  
and a day.

**222.** No one is criminally responsible for the killing of another unless the death take place within a year and a day of the cause of death. The period of a year and a day shall be reckoned inclusive of the day on which the last unlawful act contributing to the cause of death took place. Where the cause of death is an omission to fulfil a legal duty the period shall be reckoned inclusive of the day on which such omission ceased. Where death is in part caused by an unlawful act and in part by an omission, the period shall be reckoned inclusive of the day on which the last unlawful act took place or the omission ceased, whichever happened last.

Killing by  
influence on  
the mind.

**223.** No one is criminally responsible for the killing of another by any influence on the mind alone, nor for the killing of another by any disorder or disease arising from such influence, save in either case by wilfully frightening a child or sick person.

Acceleration  
of death.

**224.** Every one who, by any act or omission, causes the death of another kills that person, although the effect of  
the

the bodily injury caused to such other person be merely to accelerate his death while labouring under some disorder or disease arising from some other cause.

**225.** Every one who, by any act or omission, causes the death of another kills that person, although death from that cause might have been prevented by resorting to proper means. Causing death which might have been prevented.

**226.** Every one who causes a bodily injury, which is of itself of a dangerous nature to any person, from which death results kills that person, although the immediate cause of death be treatment proper or improper applied in good faith. Causing injury the treatment of which causes death.

#### PART XVIII.

#### MURDER, MANSLAUGHTER, &c.

**227.** Culpable homicide is murder in each of the following cases : Definition of murder.

(a.) If the offender means to cause the death of the person killed ;

(b.) If the offender means to cause to the person killed any bodily injury which is known to the offender to be likely to cause death, and is reckless whether death ensues or not ;

(c.) If the offender means to cause death or, being so reckless as aforesaid, means to cause such bodily injury as aforesaid to one person, and by accident or mistake kills another person, though he does not mean to hurt the person killed ;

(d.) If the offender, for any unlawful object, does an act which he knows or ought to have known to be likely to cause death, and thereby kills any person, though he may have desired that his object should be effected without hurting any one.

**228.** Culpable homicide is also murder in each of the following cases, whether the offender means or not death to ensue, or knows or not that death is likely to ensue : Further definition of murder.

(a.) If he means to inflict grievous bodily injury for the purpose of facilitating the commission of any of the offences in this section mentioned, or the flight of the offender upon the commission or attempted commission thereof, and death ensues from such injury ; or

(b.) If he administers any stupefying or overpowering thing for either of the purposes aforesaid, and death ensues from the effects thereof ; or

(c.)

(c.) If he by any means wilfully stops the breath of any person for either of the purposes aforesaid, and death ensues from such stopping of the breath.

2. The following are the offences in this section referred to:—Treason and the other offences mentioned in Part IV. of this Act, piracy and offences deemed to be piracy, escape or rescue from prison or lawful custody, resisting lawful apprehension, murder, rape, forcible abduction, robbery, burglary, arson.

Provocation.

**229.** Culpable homicide, which would otherwise be murder, may be reduced to manslaughter if the person who causes death does so in the heat of passion caused by sudden provocation.

2. Any wrongful act or insult, of such a nature as to be sufficient to deprive an ordinary person of the power of self-control, may be provocation if the offender acts upon it on the sudden, and before there has been time for his passion to cool.

3. Whether or not any particular wrongful act or insult amounts to provocation, and whether or not the person provoked was actually deprived of the power of self-control by the provocation which he received, shall be questions of fact. No one shall be held to give provocation to another by doing that which he had a legal right to do, or by doing anything which the offender incited him to do in order to provide the offender with an excuse for killing or doing bodily harm to any person.

4. An arrest shall not necessarily reduce the offence from murder to manslaughter because the arrest was illegal, but if the illegality was known to the offender it may be evidence of provocation.

Manslaughter.

**230.** Culpable homicide, not amounting to murder, is manslaughter.

Punishment of murder.

**231.** Every one who commits murder is guilty of an indictable offence and shall, on conviction thereof, be sentenced to death. R.S.C., c. 162, s. 2.

Attempts to commit murder.

**232.** Every one is guilty of an indictable offence and liable to imprisonment for life, who does any of the following things with intent to commit murder; that is to say—

(a.) administers any poison or other destructive thing to any person, or causes any such poison or destructive thing to be so administered or taken, or attempts to administer it, or attempts to cause it to be so administered or taken; or

(b.) by any means whatever wounds or causes any grievous bodily harm to any person; or

(c.) shoots at any person, or, by drawing a trigger or in any other manner, attempts to discharge at any person any kind of loaded arms; or

(d.)

- (d.) attempts to drown, suffocate, or strangle any person ;  
or  
(e.) destroys or damages any building by the explosion of any explosive substance ; or  
(f.) sets fire to any ship or vessel or any part thereof, or any part of the tackle, apparel or furniture thereof, or to any goods or chattels being therein ; or  
(g.) casts away or destroys any vessel ; or  
(h.) by any other means attempts to commit murder.  
R.S.C., c. 162, s. 12.

**233.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person. R.S.C., c. 173, s. 7. Threats to murder.

**234.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who— Conspiracy to murder.  
(a.) conspires or agrees with any person to murder or to cause to be murdered any other person, whether the person intended to be murdered is a subject of Her Majesty or not, or is within Her Majesty's dominions or not ; or  
(b.) counsels or attempts to procure any person to murder such other person anywhere, although such person is not murdered in consequence of such counselling or attempted procurement. R.S.C., c. 162, s. 3.

**235.** Every one is guilty of an indictable offence, and liable to imprisonment for life, who is an accessory after the fact to murder. R.S.C., c. 162, s. 4. Accessory after the fact to murder.

**236.** Every one who commits manslaughter is guilty of an indictable offence, and liable to imprisonment for life. R.S.C., c. 162, s. 5. Punishment of manslaughter.

**237.** Every one is guilty of an indictable offence and liable to imprisonment for life who counsels or procures any person to commit suicide, actually committed in consequence of such counselling or procurement, or who aids or abets any person in the commission of suicide Aiding and abetting suicide.

**238.** Every one who attempts to commit suicide is guilty of an indictable offence and liable to two years' imprisonment. Attempt to commit suicide.

**239.** Every woman is guilty of an indictable offence who, with either of the intents hereinafter mentioned, being with child and being about to be delivered, neglects to provide reasonable assistance in her delivery, if the child is permanently injured thereby, or dies, either just before, or during, or shortly after birth, unless she proves that such death or permanent injury was not caused by such neglect, Neglecting to obtain assistance in childbirth.  
or

or by any wrongful act to which she was a party, and is liable to the following punishment:

(a.) If the intent of such neglect be that the child shall not live, to imprisonment for life;

(b.) If the intent of such neglect be to conceal the fact of her having had a child, to imprisonment for seven years.

Concealing  
dead body  
of child.

**240.** Every one is guilty of an indictable offence, and liable to two years' imprisonment, who disposes of the dead body of any child in any manner, with intent to conceal the fact that its mother was delivered of it, whether the child died before, or during, or after birth. R.S.C., c. 162, s. 49.

#### PART XIX.

#### BODILY INJURIES, AND ACTS AND OMISSIONS CAUSING DANGER TO THE PERSON.

Wounding  
with intent.

**241.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, unlawfully by any means wounds or causes any grievous bodily harm to any person, or shoots at any person, or, by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person. R.S.C., c. 162, s. 13.

Wounding.

**242.** Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument. R.S.C., c. 162, s. 14.

Shooting at  
Her Majesty's  
vessels;  
wounding  
customs or  
inland revenue  
officers.

**243.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully—

(a.) shoots at any vessel belonging to Her Majesty or in the service of Canada; or

(b.) maims or wounds any public officer engaged in the execution of his duty or any person acting in aid of such officer. R.S.C., c. 32, s. 213; c. 34, s. 99.

Disabling or  
administering  
drugs with  
intent to com-  
mit an indict-  
able offence.

**244.** Every one is guilty of an indictable offence and liable to imprisonment for life and to be whipped, who with intent thereby to enable himself or any other person to commit, or with intent thereby to assist any other person in committing any indictable offence—

(a.) by any means whatsoever, attempts to choke, suffocate or strangle any other person, or by any means calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious or incapable of resistance; or

(b.)

(b.) unlawfully applies or administers to, or causes to be taken by, or attempts to apply or administer to, or attempts or causes to be administered to or taken by, any person, any chloroform, laudanum or other stupefying or overpowering drug, matter or thing. R.S.C., c. 162, ss. 15 and 16.

**245.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who unlawfully administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm. R.S.C., c. 162, s. 17.

Administering poison so as to endanger life.

**246.** Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve or annoy such person. R.S.C., c. 162, s. 18.

Administering poison with intent to injure.

**247.** Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully and by the explosion of any explosive substance burns, maims, disfigures, disables or does any grievous bodily harm to any person. R.S.C., c. 162, s. 21.

Causing bodily injuries by explosives.

**248.** Every one is guilty of an indictable offence and liable, in case (a.) to imprisonment for life and in case (b.) to fourteen years' imprisonment, who unlawfully—

Attempting to cause bodily injuries by explosives.

(a.) with intent to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, whether any bodily harm is effected or not—

(i.) causes any explosive substance to explode;

(ii.) sends or delivers to, or causes to be taken or received by, any person any explosive substance, or any other dangerous or noxious thing;

(iii.) puts or lays at any place, or casts or throws at or upon, or otherwise applies to, any person any corrosive fluid, or any destructive or explosive substance; or

(b.) places or throws in, into, upon, against or near any building, ship or vessel any explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place and whether or not any bodily injury is effected. R.S.C., c. 162, ss. 22 and 23.

**249.** Every one is guilty of an indictable offence and liable to five years' imprisonment who sets or places, or causes to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may

Setting spring-guns and man-traps.



may destroy, or inflict grievous bodily harm upon, any trespasser or other person coming in contact therewith.

2. Every one who knowingly and wilfully permits any such spring-gun, man-trap or other engine which has been set or placed by some other person, in any place which is in, or afterwards comes into, his possession or occupation, to continue so set or placed shall be deemed to have set or placed such gun, trap or engine with such intent as aforesaid.

3. This section does not extend to any gin or trap usually set or placed with the intent of destroying vermin or noxious animals. R.S.C., c. 162, s. 24.

Intentionally endangering the safety of persons on railways.

**250.** Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully --

(a.) with intent to injure or to endanger the safety of any person travelling or being upon any railway,

(i.) puts or throws upon or across such railway any wood, stone, or other matter or thing ;

(ii.) takes up, removes or displaces any rail, railway switch, sleeper or other matter or thing belonging to such railway, or injures or destroys any track, bridge or fence of such railway, or any portion thereof ;

(iii.) turns, moves or diverts any point or other machinery belonging to such railway ;

(iv.) makes or shows, hides or removes any signal or light upon or near to such railway ;

(v.) does or causes to be done any other matter or thing with such intent ; or

(b.) throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used and in motion upon any railway any wood, stone or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train of which such first mentioned engine, tender, carriage or truck forms part. R.S.C., c. 162, ss. 25 and 26.

Negligently endangering the safety of persons on railways.

**251.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any unlawful act, or by any wilful omission or neglect of duty, endangers or causes to be endangered the safety of any person conveyed or being in or upon a railway, or aids or assists therein. R.S.C., c. 162, s. 27.

Negligently causing bodily injury to any person.

**252.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any unlawful act, or by doing negligently or omitting to do any act which it is his duty to do, causes grievous bodily injury to any other person. R.S.C., c. 162, s. 33.

Injuring persons by furious driving.

**253.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, having the charge of

of any carriage or vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person. R.S.C., c. 162, s. 28.

**254.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who prevents or impedes, or endeavours to prevent or impede—

(a.) any shipwrecked person in his endeavour to save his life; or

(b.) who without reasonable cause prevents or impedes, or endeavours to prevent or impede, any person in his endeavour to save the life of any shipwrecked person. R.S.C., c. 81, s. 36.

Preventing the saving of the life of any person shipwrecked.

**255.** Every one is guilty of an offence and liable, on summary conviction, to a fine or imprisonment with or without hard labour (or both) who—

(a.) cuts or makes, or causes to be cut or made, any hole, opening, aperture or place, of sufficient size or area to endanger human life, through the ice on any navigable or other water open to or frequented by the public, and leaves such hole, opening, aperture or place, while it is in a state dangerous to human life, whether the same is frozen over or not, uninclosed by bushes or trees or unguarded by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking, skating or falling therein; or

(b.) being the owner, manager or superintendent of any abandoned or unused mine or quarry or property upon or in which any excavation has been or is hereafter made, of a sufficient area and depth to endanger human life, leaves the same unguarded and uninclosed by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking or falling thereinto; or

(c.) omits within five days after conviction of any such offence to make the inclosure aforesaid or to construct around or over such exposed opening or excavation a guard or fence of such height and strength.

2. Every one whose duty it is to guard such hole, opening, aperture or place is guilty of manslaughter if any person loses his life by accidentally falling therein while the same is unguarded. R.S.C., c. 162, ss. 29, 30, 31 and 32.

Leaving holes in the ice and excavations unguarded.

**256.** Every one is guilty of an indictable offence and liable to five years' imprisonment who—

(a.) sends, or attempts to send, or is a party to sending, a ship registered in Canada to sea, or on a voyage on any of the inland waters of Canada, or on a voyage from any port or place on the inland waters of Canada to any port or place on the inland waters of the United States, or on a voyage from any port or place on the inland waters of the United

Sending unseaworthy ships to sea.

States to any port or place on the inland waters of Canada in such unseaworthy state, by reason of overloading or underloading or improper loading, or by reason of being insufficiently manned, or from any other cause that the life of any person is likely to be endangered thereby, unless he proves that he used all reasonable means to insure her being sent to sea or on such voyage in a seaworthy state, or that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. 52 Vic., c. 22, s. 3.

Taking unseaworthy ships to sea.

**257.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, being the master of a ship registered in Canada knowingly takes such ship to sea, or on a voyage on any of the inland waters of Canada, or on a voyage from any port or place on the inland waters of Canada to any port or place on the inland waters of the United States, or on a voyage from any port or place in the United States to any port or place on the inland waters of Canada, in such unseaworthy state, by reason of overloading or underloading or improper loading, or by reason of being insufficiently manned, or from any other cause, that the life of any person is likely to be endangered thereby, unless he proves that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. 52 V., c. 22, s. 3.

## PART XX.

### ASSAULTS.

Assault defined.

**258.** An assault is the act of intentionally applying force to the person of another, directly or indirectly, or attempting or threatening, by any act or gesture, to apply force to the person of another, if the person making the threat has, or causes the other to believe, upon reasonable grounds, that he has, present ability to effect his purpose, and in either case, without the consent of the other or with such consent, if it is obtained by fraud.

Indecent assaults on females.

**259.** Every one is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped, who—

(a.) indecently assaults any female; or

(b.) does anything to any female by her consent which but for such consent would be an indecent assault, such consent being obtained by false and fraudulent representations as to the nature and quality of the act. 53 V., c. 37, s. 12.

Indecent assaults on males.

**260.** Every one is guilty of an indictable offence and liable to seven years' imprisonment and to be whipped who  
assaults

assaults any person with attempt to commit sodomy or who, being a male, indecently assaults any other male person. R.S.C., c. 157, s. 2.

**261.** It is no defence to a charge or indictment for any indecent assault on a young person under the age of fourteen years to prove that he or she consented to the act of indecency. 53 V., c. 37, s. 7. Consent of child under fourteen no defence.

**262.** Every one who commits any assault which occasions actual bodily harm is guilty of an indictable offence and liable to three years' imprisonment. R.S.C., c. 162, s. 35. Assaults causing actual bodily harm.

**263.** Every one is guilty of an indictable offence and liable to two years' imprisonment who— Aggravated assault.

(a.) assaults any person with intent to commit any indictable offence; or

(b.) assaults any public or peace officer engaged in the execution of his duty, or any person acting in aid of such officer; or

(c.) assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself, or of any other person, for any offence; or

(d.) assaults any person in the lawful execution of any process against any lands or goods, or in making any lawful distress or seizure, or with intent to rescue any goods taken under such process, distress or seizure; R.S.C., c. 162, s. 34.

(e.) on any day whereon any poll for any election, parliamentary or municipal, is being proceeded with, within the distance of two miles from the place where such poll is taken or held, assaults or beats any person.

**264.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, without lawful authority, forcibly seizes and confines or imprisons any other person within Canada, or kidnaps any other person with intent— Kidnapping.

(a.) to cause such other person to be secretly confined or imprisoned in Canada against his will; or

(b.) to cause such other person to be unlawfully sent or transported out of Canada against his will; or

(c.) to cause such other person to be sold or captured as a slave, or in any way held to service against his will.

2. Upon the trial of any offence under this section the non-resistance of the person so kidnapped or unlawfully confined thereto shall not be a defence, unless it appears that it was not caused by threats, duress or force or exhibition of force R.S.C., c. 162, s. 46.

**265.** Every one who commits a common assault is guilty of an indictable offence and liable, if convicted upon an indictment, to one year's imprisonment, or to a fine not exceeding Common assaults.

exceeding one hundred dollars, and on summary conviction to a fine not exceeding twenty dollars and costs, or to two months' imprisonment with or without hard labour. R.S.C., c. 162, s. 36.

## PART XXI.

## RAPE AND PROCURING ABORTION.

- Rape defined. **266.** Rape is the act of a man having carnal knowledge of a woman who is not his wife without her consent, or with consent which has been extorted by threats or fear of bodily harm, or obtained by personating the woman's husband, or by false and fraudulent representations as to the nature and quality of the act.
2. No one under the age of fourteen years can commit this offence.
- Carnal knowledge. 3. Carnal knowledge is complete upon penetration to any, even the slightest degree, and even without the emission of seed. R.S.C., c. 174, s. 226.
- Punishment for rape. **267.** Every one who commits rape is guilty of an indictable offence and liable to suffer death, or to imprisonment for life. R.S.C., c. 162, s. 37.
- Attempt to commit rape. **268.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who attempts to commit rape.
- Defiling children under fourteen. **269.** Every one is guilty of an indictable offence and liable to imprisonment for life, and to be whipped, who carnally knows any girl under the age of fourteen years, not being his wife, whether he believes her to be of or above that age or not. 53 V., c. 37, s. 12.
- Attempt to commit such offence. **270.** Every one who attempts to have unlawful carnal knowledge of any girl under the age of fourteen years is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped. 53 V., c. 37, s. 12.
- Killing unborn child. **271.** Every one is guilty of an indictable offence and liable to imprisonment for life who causes the death of any child which has not become a human being, in such a manner that he would have been guilty of murder if such child had been born.
2. No one is guilty of any offence who, by means which he in good faith considers necessary for the preservation of the life of the mother of the child, causes the death of any such child before or during its birth.
- Procuring abortion. **272.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to procure the

the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any drug or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent. R.S.C., c. 162, s. 47.

**273.** Every woman is guilty of an indictable offence and liable to seven years' imprisonment who, whether with child or not, unlawfully administers to herself or permits to be administered to her any drug or other noxious thing, or unlawfully uses on herself or permits to be used on her any instrument or other means whatsoever with intent to procure miscarriage. R.S.C., c. 162, s. 47. Woman procuring her own miscarriage.

**274.** Every one is guilty of an indictable offence and liable to two years' imprisonment who unlawfully supplies or procures any drug or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child. R.S.C., c. 162, s. 48. Supplying means of procuring abortion.

## PART XXII.

### OFFENCES AGAINST CONJUGAL AND PARENTAL RIGHTS—BIGAMY—ABDUCTION.

**275.** Bigamy is—

(a.) the act of a person who, being married, goes through a form of marriage with any other person in any part of the world : or Bigamy defined.

(b.) the act of a person who goes through a form of marriage in any part of the world with any person whom he or she knows to be married ; or

(c.) the act of a person who goes through a form of marriage with more than one person simultaneously or on the same day. R.S.C., c. 37, s. 10.

2. A "form of marriage" is any form either recognized as a valid form by the law of the place where it is gone through, or, though not so recognized, is such that a marriage celebrated there in that form is recognized as binding by the law of the place where the offender is tried. Every form shall for the purpose of this section be valid, notwithstanding any act or default of the person charged with bigamy, if it is otherwise a valid form. The fact that the parties would, if unmarried, have been incompetent to contract marriage shall be no defence upon a prosecution for bigamy.

3. No one commits bigamy by going through a form of marriage--

(a.)

(a.) if he or she in good faith and on reasonable grounds believes his wife or her husband to be dead ; or

(b.) if his wife or her husband has been continually absent for seven years then last past and he or she is not proved to have known that his wife or her husband was alive at any time during those seven years ; or

(c.) if he or she has been divorced from the bond of the first marriage ; or

(d.) if the former marriage has been declared void by court of competent jurisdiction. R.S.C., c. 161, s. 4.

4. No person shall be liable to be convicted of bigamy in respect of having gone through a form of marriage in a place not in Canada, unless such person, being a British subject resident in Canada, leaves Canada with intent to go through such form of marriage.

Punishment  
of bigamy.

**276.** Every one who commits bigamy is guilty of an indictable offence and liable to seven years' imprisonment.

2. Every one who commits this offence after a previous conviction for a like offence shall be liable to fourteen years' imprisonment. R.S.C., c. 161, s. 4.

Feigned marriages.

**277.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who procures a feigned or pretended marriage between himself and any woman, or who knowingly aids and assists in procuring such feigned or pretended marriage. R.S.C., c. 161, s. 2.

Punishment  
of polygamy.

**278.** Every one is guilty of an indictable offence and liable to imprisonment for five years, and to a fine of five hundred dollars, who—

(a.) practises, or, by the rites, ceremonies, forms, rules or customs of any denomination, sect or society, religious or secular, or by any form of contract, or by mere mutual consent, or by any other method whatsoever, and whether in a manner recognized by law as a binding form of marriage or not, agrees or consents to practise or enter into

(i.) any form of polygamy ;

(ii.) any kind of conjugal union with more than one person at the same time ;

(iii.) what among the persons commonly called Mormons is known as spiritual or plural marriage ;

(iv.) who lives, cohabits, or agrees or consents to live or cohabit, in any kind of conjugal union with a person who is married to another, or with a person who lives or cohabits with another or others in any kind of conjugal union ;  
or

(b.) celebrates, is a party to, or assists in any such rite or ceremony which purports to make binding or to sanction any of the sexual relationships mentioned in paragraph (a) of this section ; or

(c.)

(c.) procures, enforces, enables, is a party to, or assists in the compliance with, or carrying out of, any such form, rule or custom which so purports; or

(d.) procures, enforces, enables, is a party to, or assists in the execution of, any such form of contract which so purports, or the giving of any such consent which so purports. 53 V., c. 37, s. 11.

**279.** Every one is guilty of an indictable offence and liable to a fine, or to two years' imprisonment, or to both, who—  
 (a.) without lawful authority, the proof of which shall lie on him, solemnizes or pretends to solemnize any marriage; or

Solemnization of marriage without lawful authority.

(b.) procures any person to solemnize any marriage knowing that such person is not lawfully authorized to solemnize such marriage, or knowingly aids or abets such person in performing such ceremony. R.S.C., c. 161, s. 1.

**280.** Every one is guilty of an indictable offence and liable to a fine, or to one year's imprisonment, who, being lawfully authorized, knowingly and wilfully solemnizes any marriage in violation of the laws of the province in which the marriage is solemnized. R.S.C., c. 161, s. 3.

Solemnization of marriage contrary to law.

**281.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to marry or carnally know any woman, whether married or not, or with intent to cause any woman to be married to or carnally known by any other person, takes away or detains any woman of any age against her will. R.S.C., c. 162, s. 43.

Abduction of a woman.

**282.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to marry or carnally know any woman, or with intent to cause any woman to be married or carnally known by any person—

Abduction of an heiress.

(a.) from motives of lucre takes away or detains against her will any such woman of any age who has any interest, whether legal or equitable, present or future, absolute, conditional or contingent, in any real or personal estate, or who is a presumptive heiress or co-heiress or presumptive next of kin to any one having such interest; or

(b.) fraudulently allures, takes away or detains any such woman, being under the age of twenty-one years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her.

2. Every one convicted of any offence defined in this section is incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any interest, or which comes to her as such heiress, co-heiress or next of kin; and if any such marriage takes place such property shall, upon such conviction,



viction, be settled in such manner as any court of competent jurisdiction, upon any information at the instance of the Attorney-General appoints. R.S.C., c. 162, s. 42.

Abduction of  
girl under six-  
teen.

**283.** Every one is guilty of an indictable offence and liable to five years' imprisonment who unlawfully takes or causes to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her.

2. It is immaterial whether the girl is taken with her own consent or at her own suggestion or not.

3. It is immaterial whether or not the offender believed the girl to be of or above the age of sixteen. R.S.C., c. 162, s. 44.

Stealing chil-  
dren under  
fourteen.

**284.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, with intent to deprive any parent or guardian, or other person having the lawful charge, of any child under the age of fourteen years, of the possession of such child, or with intent to steal any article about or on the person of such child, unlawfully—

(a.) takes or entices away or detains any such child; or

(b.) receives or harbours any such child knowing it to have been dealt with as aforesaid.

2. Nothing in this section shall extend to any one who gets possession of any child, claiming in good faith a right to the possession of the child. R.S.C., c. 162, s. 45.

#### PART XXIII.

#### DEFAMATORY LIBEL.

Defamatory  
libel defined.

**285.** A defamatory libel is matter published, without legal justification or excuse, likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or designed to insult the person to whom it is published.

2. Such matter may be expressed either in words legibly marked upon any substance whatever, or by any object signifying such matter otherwise than by words, and may be expressed either directly or by insinuation or irony.

Publishing  
defined.

**286.** Publishing a libel is exhibiting it in public, or causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by the person defamed or by any other person.

Publishing  
upon invita-  
tion.

**287.** No one commits an offence by publishing defamatory matter on the invitation or challenge of the person defamed thereby, nor if it is necessary to publish such defamatory matter in order to refute some other defamatory statement published by that person concerning the alleged offender,

offender, if such defamatory matter is believed to be true, and is relevant to the invitation, challenge or the required refutation, and the publishing does not in manner or extent exceed what is reasonably sufficient for the occasion.

**288.** No one commits an offence by publishing any defamatory matter, in any proceeding held before or under the authority of any court exercising judicial authority, or in any inquiry made under the authority of any statute or by order of Her Majesty, or of any of the departments of Government, Dominion or provincial.

Publishing in courts of justice.

**289.** No one commits an offence by publishing to either the Senate, or House of Commons, or to any Legislative Council, Legislative Assembly or House of Assembly, defamatory matter contained in a petition to the Senate, or House of Commons, or to any such Council or Assembly, or by publishing by order or under the authority of the Senate or House of Commons, or of any such Council or Assembly, any paper containing defamatory matter or by publishing, in good faith and without ill-will to the person defamed, any extract from or abstract of any such paper.

Publishing parliamentary papers.

**290.** No one commits an offence by publishing in good faith, for the information of the public, a fair report of the proceedings of the Senate or House of Commons, or any committee thereof, or of any such Council or Assembly, or any committee thereof, or of the public proceedings preliminary or final heard before any court exercising judicial authority, nor by publishing, in good faith, any fair comment upon any such proceedings.

Fair reports of proceedings of parliament and courts.

**291.** No one commits an offence by publishing in good faith, in a newspaper, a fair report of the proceedings of any public meeting if the meeting is lawfully convened for a lawful purpose and open to the public, and if such report is fair and accurate, and if the publication of the matter complained of is for the public benefit, and if the defendant does not refuse to insert in a conspicuous place in the newspaper in which the report appeared a reasonable letter or document of explanation or contradiction by or on behalf of the prosecutor.

Fair reports of proceedings of public meetings.

**292.** No one commits an offence by publishing any defamatory matter which he, on reasonable grounds, believes to be true, and which is relevant to any subject of public interest, the public discussion of which is for the public benefit.

Fair discussion.

**293.** No one commits an offence by publishing fair comments upon the public conduct of a person who takes part in public affairs.

Fair comment.

2. No one commits an offence by publishing fair comments on any published book or other literary production, or any composition or work of art or performance publicly exhibited, or any other communication made to the public on any subject, if such comments are confined to criticism on such book or literary production, composition, work of art, performance or communication.

Seeking remedy for grievance.

**294.** No one commits an offence by publishing defamatory matter for the purpose, in good faith, of seeking remedy or redress for any private or public wrong or grievance from a person who has, or is reasonably believed by the person publishing to have, the right or be under obligation to remedy or redress such wrong or grievance, if the defamatory matter is believed by him to be true, and is relevant to the remedy or redress sought, and such publishing does not in manner or extent exceed what is reasonably sufficient for the occasion.

Answer to inquiries.

**295.** No one commits an offence by publishing, in answer to inquiries made of him, defamatory matter relating to some subject as to which the person by whom, or on whose behalf, the inquiry is made has, or on reasonable grounds is believed by the person publishing to have, an interest in knowing the truth, if such matter is published for the purpose, in good faith, of giving information in respect thereof to that person, and if such defamatory matter is believed to be true, and is relevant to the inquiries made, and also if such publishing does not in manner or extent exceed what is reasonably sufficient for the occasion.

Giving information.

**296.** No one commits an offence by publishing to another person defamatory matter for the purpose of giving information to that person with respect to some subject as to which he has, or is, on reasonable grounds, believed to have, such an interest in knowing the truth as to make the conduct of the person giving the information reasonable under the circumstances: Provided, that such defamatory matter is relevant to such subject, and that it is either true, or is made without ill-will to the person defamed, and in the belief, on reasonable grounds, that it is true.

Selling periodicals containing defamatory libel.

**297.** Every proprietor of any newspaper is presumed to be criminally responsible for defamatory matter inserted and published therein, but such presumption may be rebutted by proof that the particular defamatory matter was inserted in such newspaper without such proprietor's cognizance, and without negligence on his part.

2. General authority given to the person actually inserting such defamatory matter to manage or conduct, as editor or otherwise, such newspaper, and to insert therein what he in his discretion thinks fit, shall not be negligence within this section unless it be proved that the proprietor, when originally

originally giving such general authority, meant that it should extend to inserting and publishing defamatory matter, or continued such general authority knowing that it had been exercised by inserting defamatory matter in any number or part of such newspaper.

3. No one is guilty of an offence by selling any number or part of such newspaper, unless he knew either that such number or part contained defamatory matter, or that defamatory matter was habitually contained in such newspaper.

**298.** No one commits an offence by selling any book, magazine, pamphlet or other thing whether forming part of any periodical or not, although the same contains defamatory matter, if, at the time of such sale, he did not know that such defamatory matter was contained in such book, magazine, pamphlet or other thing. Selling books containing defamatory matter.

2. The sale by a servant of any book, magazine, pamphlet or other thing, whether periodical or not, shall not make his employer criminally responsible in respect of defamatory matter contained therein unless it be proved that such employer authorized such sale knowing that such book, magazine, pamphlet or other thing contained defamatory matter, or, in case of a number or part of a periodical, that defamatory matter was habitually contained in such periodical.

**299.** It shall be a defence to an indictment or information for a defamatory libel that the publishing of the defamatory matter in the manner in which it was published was for the public benefit at the time when it was published, and that the matter itself was true When truth is a defence. R.S.C., c. 163, s. 4.

**300.** Every one is guilty of an indictable offence and liable to two years' imprisonment, or to a fine not exceeding six hundred dollars, or to both, who publishes or threatens to publish, or offers to abstain from publishing, or offers to prevent the publishing of, a defamatory libel with intent to extort any money, or to induce any person to confer upon or procure for any person any appointment or office of profit or trust, or in consequence of any person having been refused any such money, appointment or office. R.S.C., c. 163, s. 1. Extortion by defamatory libel.

**301.** Every one is guilty of an indictable offence and liable to two years' imprisonment or to a fine not exceeding four hundred dollars, or to both, who publishes any defamatory libel knowing the same to be false. R.S.C., 163, s. 2. Punishment of defamatory libel known to be false.

**302.** Every one is guilty of an indictable offence and liable to one year's imprisonment, or to a fine not exceeding two hundred dollars, or to both, who publishes any defamatory libel. R.S.C., c. 163, s. 3. Punishment of defamatory libel.

**TITLE VI.****OFFENCES AGAINST RIGHTS OF PROPERTY AND  
RIGHTS ARISING OUT OF CONTRACTS, AND  
OFFENCES CONNECTED WITH TRADE.****PART XXIV.****THEFT DEFINED.**

Things capa-  
ble of being  
stolen.

**303.** Every inanimate thing whatever which is the property of any person, and which either is or may be made movable, shall henceforth be capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it: Provided, that nothing growing out of the earth of a value not exceeding twenty-five cents shall (except in the cases hereinafter provided) be deemed capable of being stolen.

Animals capa-  
ble of being  
stolen

**304.** All tame living creatures, whether tame by nature or wild by nature and tamed, shall be capable of being stolen; but tame pigeons shall be capable of being stolen so long only as they are in a dovecote or on their owner's land.

2. All living creatures wild by nature, such as are not commonly found in a condition of natural liberty in Canada, shall, if kept in a state of confinement, be capable of being stolen, not only while they are so confined but after they have escaped from confinement.

3. All other living creatures wild by nature shall, if kept in a state of confinement, be capable of being stolen so long as they remain in confinement or are being actually pursued after escaping therefrom, but no longer.

4. A wild living creature shall be deemed to be in a state of confinement so long as it is in a den, cage or small inclosure, sty or tank, or is otherwise so situated that it cannot escape and that its owner can take possession of it at pleasure.

5. Oysters and oyster brood shall be capable of being stolen when in oyster beds, layings, and fisheries which are the property of any person, and sufficiently marked out or known as such property.

6. Wild creatures in the enjoyment of their natural liberty shall not be capable of being stolen, nor shall the taking of their dead bodies by, or by the orders of, the person who killed them before they are reduced into actual possession by the owner of the land on which they died, be deemed to be theft.

7. Every thing produced by or forming part of any living creature capable of being stolen, shall be capable of being stolen.

**305.** Theft or stealing is the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person, anything capable of being stolen, with intent— Theft defined.

(a.) to deprive the owner, or any person having any special property or interest therein, temporarily or absolutely of such thing or of such property or interest; or

(b.) to pledge the same or deposit it as security; or

(c.) to part with it under a condition as to its return which the person parting with it may be unable to perform; or

(d.) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time of such taking and conversion.

2. The taking or conversion may be fraudulent, although effected without secrecy or attempt at concealment.

3. It is immaterial whether the thing converted was taken for the purpose of conversion, or whether it was, at the time of the conversion, in the lawful possession of the person converting.

4. Theft is committed when the offender moves the thing or causes it to move or to be moved, or begins to cause it to become movable, with intent to steal it.

5. Provided, that no factor or agent shall be guilty of theft by pledging or giving a lien on any goods or document of title to goods intrusted to him for the purpose of sale or otherwise, for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving a lien on the same, together with the amount of any bill of exchange accepted by him for or on account of his principal.

6. Provided, that if any servant, contrary to the orders of his master, takes from his possession any food for the purpose of giving the same or having the same given to any horse or other animal belonging to or in the possession of his master, the servant so offending shall not, by reason thereof, be guilty of theft. R.S.C., c. 164, s. 63.

**306.** Every one commits theft and steals the thing taken or carried away who, whether pretending to be the owner or not, secretly or openly, takes or carries away, or causes to be taken or carried away, without lawful authority, any property under lawful seizure and detention. R.S.C., c. 164, s. 50. Theft of things under seizure.

**307.** Every one commits theft and steals the creature killed who kills any living creature capable of being stolen with intent to steal the carcase, skin, plumage or any part of such creature. Theft of animals.

**308.** Every one commits theft who, having received any money or valuable security or other thing whatsoever, on terms requiring him to account for or pay the same, or Theft by agent.  
the

the proceeds thereof, or any part of such proceeds, to any other person, though not requiring him to deliver over in specie the identical money, valuable security or other thing received, fraudulently converts the same to his own use, or fraudulently omits to account for or pay the same or any part thereof, or to account for or pay such proceeds or any part thereof, which he was required to account for or pay as aforesaid.

2. Provided, that if it be part of the said terms that the money or other thing received, or the proceeds thereof, shall form an item in a debtor and creditor account between the person receiving the same and the person to whom he is to account for or pay the same, and that such last mentioned person shall rely only on the personal liability of the other as his debtor in respect thereof, the proper entry of such money or proceeds, or any part thereof, in such account, shall be a sufficient accounting for the money, or proceeds, or part thereof so entered, and in such case no fraudulent conversion of the amount accounted for shall be deemed to have taken place.

Theft by person holding a power of attorney.

**309.** Every one commits theft who, being intrusted, either solely or jointly with any other person, with any power of attorney for the sale, mortgage, pledge or other disposition of any property, real or personal, whether capable of being stolen or not, fraudulently sells, mortgages, pledges or otherwise disposes of the same or any part thereof, or fraudulently converts the proceeds of any sale, mortgage, pledge or other disposition of such property, or any part of such proceeds, to some purpose other than that for which he was intrusted with such power of attorney. R.S.C., c. 164, s. 62.

Theft by misappropriating proceeds held under direction.

**310.** Every one commits theft who, having received, either solely or jointly with any other person, any money or valuable security or any power of attorney for the sale of any property, real or personal, with a direction that such money, or any part thereof, or the proceeds, or any part of the proceeds of such security, or such property, shall be applied to any purpose or paid to any person specified in such direction, in violation of good faith and contrary to such direction, fraudulently applies to any other purpose or pays to any other person such money or proceeds, or any part thereof.

2. Provided, that where the person receiving such money, security or power of attorney, and the person from whom he receives it, deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, this section shall not apply unless such direction is in writing.

**311.**

**311.** Theft may be committed by the owner of anything capable of being stolen against a person having a special property or interest therein, or by a person having a special property or interest therein against the owner thereof, or by a lessee against his reversioner, or by one of several joint owners, tenants in common, or partners of or in any such thing against the other persons interested therein, or by the directors, public officers or members of a public company, or body corporate, or of an unincorporated body or society associated together for any lawful purpose, against such public company or body corporate or unincorporated body or society. R.S.C., c. 164, s. 58.

Theft by co-owner.

**312.** Every one commits theft who, with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any mining claim, or in any share or interest in any such claim, secretly keeps back or conceals any gold or silver found in or upon or taken from such claim. R.S.C., c. 164, s. 31.

Concealing gold or silver with intent to defraud partner in claim.

**313.** No husband shall be convicted of stealing, during cohabitation, the property of his wife, and no wife shall be convicted of stealing, during cohabitation, the property of her husband; but while they are living apart from each other either shall be guilty of theft if he or she fraudulently takes or converts anything which is, by law, the property of the other in a manner which, in any other person, would amount to theft.

Husband and wife.

2. Every one commits theft who, while a husband and wife are living together, knowingly—

(a.) assists either of them in dealing with anything which is the property of the other in a manner which would amount to theft if they were not married; or

(b.) receives from either of them anything, the property of the other, obtained from that other by such dealing as aforesaid.

#### PART XXV.

#### RECEIVING STOLEN GOODS.

**314.** Every one is guilty of an indictable offence, and liable to fourteen years' imprisonment, who receives or retains in his possession anything obtained by any offence punishable on indictment, or by any acts wheresoever committed, which, if committed in Canada after the commencement of this Act, would have constituted an offence punishable upon indictment, knowing such thing to have been so obtained. R.S.C., c. 164, s. 82.

Receiving property dishonestly obtained.

**315.** Every one is guilty of an indictable offence and liable to five years' imprisonment who receives or retains in his possession, letter bag

Receiving stolen post letter or post letter bag



possession, any post letter, post letter bag, or any chattel, money or valuable security, parcel or other thing, the stealing whereof is hereby declared to be an indictable offence, knowing the same to have been stolen. R.S.C., c. 35, s. 84.

Receiving property obtained by offence punishable on summary conviction.

**316.** Every one who receives or retains in his possession anything, knowing the same to be unlawfully obtained, the stealing of which is punishable, on summary conviction, either for every offence, or for the first and second offence only, is guilty of an offence and liable, on summary conviction, for every first, second or subsequent offence of receiving, to the same punishment as if he were guilty of a first, second or subsequent offence of stealing the same. R.S.C., c. 164, s. 84.

When receiving is complete.

**317.** The act of receiving anything unlawfully obtained is complete as soon as the offender has, either exclusively or jointly with the thief or any other person, possession of or control over such thing, or aids in concealing or disposing of it.

Receiving after restoration to owner.

**318.** When the thing unlawfully obtained has been restored to the owner, or when a legal title to the thing so obtained has been acquired by any person, a subsequent receiving thereof shall not be an offence although the receiver may know that the thing had previously been dishonestly obtained.

#### PART XXVI.

#### PUNISHMENT OF THEFT AND OFFENCES RESEMBLING THEFT COMMITTED BY PARTICULAR PERSONS IN RESPECT OF PARTICULAR THINGS IN PARTICULAR PLACES.

Clerks and servants.

**319.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who—

(a) being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, steals anything belonging to or in the possession of his master or employer; or

(b.) being a cashier, assistant cashier, manager, officer, clerk or servant of any bank, or savings bank, steals any bond, obligation, bill obligatory or of credit, or other bill or note, or any security for money, or any money or effects of such bank or lodged or deposited with any such bank;

(c.) being employed in the service of Her Majesty, or of the Government of Canada or the Government of any province of Canada, or of any municipality, steals anything in his possession by virtue of his employment. R.S.C., c. 164, ss. 51, 52, 53, 54 and 59.

**320.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals anything by any act or omission amounting to theft under the provisions of sections three hundred and eight, three hundred and nine and three hundred and ten. Agents and attorneys.

**321.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, being employed in the service of Her Majesty or of the Government of Canada or the Government of any province of Canada, or of any municipality, and intrusted by virtue of such employment with the keeping, receipt, custody, management or control of any chattel, money, valuable security, book, paper, account or document, refuses or fails to deliver up the same to any one authorized to demand it. Public servants refusing to deliver up chattels, moneys, or books, &c., lawfully demanded of them. R.S.C., c. 164, s. 55.

**322.** Every one who steals any chattel or fixture let to be used by him or her in or with any house or lodging is guilty of an indictable offence and liable to two years' imprisonment, and if the value of such chattel or fixture exceeds the sum of twenty-five dollars to four years' imprisonment. Tenants and lodgers R.S.C., c. 164, s. 57.

**323.** Every one is guilty of an indictable offence and liable to imprisonment for life who, either during the life of the testator or after his death, steals the whole or any part of a testamentary instrument, whether the same relates to real or personal property, or to both. Testamentary instruments. R.S.C., c. 164, s. 14.

**324.** Every one is guilty of an indictable offence and liable to three years' imprisonment who steals the whole or any part of any document of title to lands or goods. Document of title to lands. R.S.C., c. 164, s. 13.

**325.** Every one is guilty of an indictable offence and liable to three years' imprisonment who steals the whole or any part of any record, writ, return, affirmation, recognition, *cognovit actionem*, bill, petition, answer, decree, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney, or of any original document whatsoever of or belonging to any court of justice, or relating to any cause or matter begun, depending or terminated in any such court, or of any original document in any wise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in any government or public office. Judicial or official documents. R.S.C., c. 164, s. 15.

**326.** Every one is guilty of an indictable offence and liable to imprisonment for life, or for any term not less than three years, who steals— Stealing post letter bags, &c.

(a.) a post letter bag ; or

(b.) a post letter from a post letter bag, or from any post office, or from any officer or person employed in any business of the post office of Canada, or from a mail ; or

(c.) a post letter containing any chattel, money or valuable security ; or

(d.) any chattel, money or valuable security from or out of a post letter. R.S.C., c. 35, ss. 79, 80 and 81.

Stealing post letters, packets and keys.

**327.** Every one is guilty of an indictable offence and liable to imprisonment for any term not exceeding seven years, and not less than three years, who steals—

(a.) any post letter, except as mentioned in paragraph (b) of section three hundred and twenty-six ;

(b.) any parcel sent by parcel post, or any article contained in any such parcel ; or

(c.) any key suited to any lock adopted for use by the Post Office Department, and in use on any Canada mail or mail bag. R.S.C., c. 35, ss. 79, 83 and 88.

Stealing mail-able matter other than post letters.

**328.** Every one is guilty of an indictable offence and liable to five years' imprisonment who steals any printed vote or proceeding, newspaper, printed paper or book, packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, or any post card or other mailable matter (not being a post letter) sent by mail. R.S.C., c. 35, s. 90.

Election documents.

**329.** Every one is guilty of an indictable offence and liable to a fine in the discretion of the court, or to seven years' imprisonment, or to both fine and imprisonment who steals, or unlawfully takes from any person having the lawful custody thereof, or from its lawful place of deposit for the time being, any writ of election, or any return to a writ of election, or any indenture, poll-book, voters' list, certificate, affidavit or report, ballot or any document or paper made, prepared or drawn out according to or for the requirements of any law in regard to Dominion, provincial, municipal or civic elections. R.S.C., c. 8, s. 102 ; c. 164, s. 56.

Railway tickets.

**330.** Every one is guilty of an indictable offence and liable to two years' imprisonment who steals any tramway, railway or steamboat ticket, or any order or receipt for a passage on any railway or in any steamboat or other vessel. R.S.C., c. 164, s. 16.

Cattle.

**331.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals any cattle R.S.C., c. 164, ss. 7 and 8.

Dogs, birds, beasts and other animals.

**332.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the property stolen, or to

to one month's imprisonment with hard labour, who steals any dog, or any bird, beast or other animal ordinarily kept in a state of confinement or for any domestic purpose, or for any lawful purpose of profit or advantage.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable to three months' imprisonment with hard labour. R.S.C., c. 16, s. 9.

**333.** Every one who unlawfully and wilfully kills, wounds or takes any house-dove or pigeon, under such circumstances as do not amount to theft, is guilty of an offence and liable, upon complaint of the owner thereof, on summary conviction, to a penalty not exceeding ten dollars over and above the value of the bird. Pigeons. R.S.C., c. 164, s. 10.

**334.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals oysters or oyster brood. Oysters.

2. Every one is guilty of an indictable offence and liable to three months' imprisonment who unlawfully and wilfully uses any dredge or 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 are actually taken, or unlawfully and wilfully with any net, instrument or engine, drags upon the ground of any such fishery.

3. Nothing herein applies to any person fishing for or catching any swimming fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking swimming fish only. R.S.C., c. 164, s. 11.

**335.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals 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. Things fixed to buildings or in land. R.S.C., c. 164, s. 17.

**336.** Every one is guilty of an indictable offence and liable to two years' imprisonment who steals the whole or any part of any tree, sapling or shrub, or any underwood, the thing stolen being of the value of twenty-five dollars, or of the value of five dollars if the thing stolen grows in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house. Trees in pleasure grounds, &c., of five dollars value; trees elsewhere of twenty-five dollars' value. R.S.C., c. 164, s. 18.

Trees of the  
value of  
twenty-five  
cents.

**337.** Every one who steals the whole or any part of any tree, sapling or shrub, or any underwood, the value of the article stolen, or the amount of the damage done, being twenty-five cents at the least, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars over and above the value of the article stolen or the amount of the injury done.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour.

3. Every one who, having been twice convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence and liable to five years' imprisonment. R.S.C., c. 164, s. 19.

Timber found  
adrift.

**338.** Every one is guilty of an indictable offence and liable to three years' imprisonment who—

(a.) without the consent of the owner thereof:

(i.) fraudulently takes, holds, keeps in his possession, collects, conceals, receives, appropriates, purchases, sells or causes or procures or assists to be taken possession of, collected, concealed, received, appropriated, purchased or sold, any timber, mast, spar, saw-log or other description of lumber which is found adrift in, or cast ashore on the bank or beach of, any river, stream or lake ;

(ii.) wholly or partially defaces or adds, or causes or procures to be defaced or added, any mark or number on any such timber, mast, spar, saw-log or other description of lumber, or makes or causes or procures to be made any false or counterfeit mark on any such timber, mast, spar, saw-log or other description of lumber ; or

(b.) refuses to deliver up to the proper owner thereof, or to the person in charge thereof, on behalf of such owner, or authorized by such owner to receive the same, any such timber, mast, spar, saw-log or other description of lumber. R.S.C., c. 164, s. 87.

Fences, stiles  
and gates.

**339.** Every one who steals any part of 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, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the article or articles so stolen or the amount of the injury done.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. R.S.C., c. 164, s. 21.

Failing to  
satisfy justice  
that posses-

**340.** Every one who, having in his possession, or on his premises with his knowledge, the whole or any part of any tree,

tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile or gate, or any part thereof, of the value of twenty-five cents at the least, is taken or summoned before a justice of the peace, and does not satisfy such justice that he came lawfully by the same, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding ten dollars, over and above the value of the article so in his possession or on his premises. R.S.C., c. 164, s. 22.

**341.** Every one who steals any plant, root, fruit or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house or conservatory is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment with or without hard labour.

Roots, plants, &c., growing in gardens, &c.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence and liable to three years' imprisonment. R.S.C., c. 164, s. 23

**342.** Every one who steals any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, pleasure ground, or nursery ground, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five dollars over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment with hard labour.

Roots, plants, &c., growing elsewhere than in gardens, &c.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable to three months' imprisonment with hard labour. R.S.C., c. 164, s. 24.

**343.** Every one is guilty of an indictable offence and liable to two years' imprisonment who steals the ore of any metal, or any quartz, lapis calaminaris, manganese, or mundic, or any piece of gold, silver or other metal, or any wad, black cawk, or black lead, or any coal, or cannel coal, or any marble, stone or other mineral, from any mine, bed or vein thereof respectively.

Ores of metals.

2. It is not an offence to take, for the purposes of exploration or scientific investigation, any specimen or specimens of any ore or mineral from any piece of ground uninclosed and not occupied or worked as a mine, quarry or digging. R.S.C., c. 164, s. 25.

**344.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals any chattel, money

Stealing from the person.

money or valuable security from the person of another. R.S.C., c. 164, s. 32.

Stealing in dwelling-houses.

**345.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a.) steals in any dwelling-house any chattel, money or valuable security to the value in the whole of twenty-five dollars or more ; or,

(b.) steals any chattel, money or valuable security in any dwelling-house, and by any menace or threat puts any one therein in bodily fear. R.S.C., c. 164, ss. 45 and 46.

Stealing by picklocks, &c.

**346.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, by means of any picklock, false key or other instrument steals anything from any receptacle for property locked or otherwise secured.

Stealing in manufactories, &c.

**347.** Every one is guilty of an indictable offence and liable to five years' imprisonment who steals, to the value of two dollars, any woollen, linen, hempen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of such materials mixed with each other or mixed with any other material, while laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place. R.S.C., c. 164, s. 47.

Fraudulently disposing of goods intrusted for manufacture.

**348.** Every one is guilty of an indictable offence and liable to two years' imprisonment, when the offence is not within the next preceding section, who, having been intrusted with, for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make, any felt or hat, or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax or silk, or any such materials mixed with one another, or having been so intrusted, as aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, fraudulently disposes of the same or any part thereof. R.S.C., c. 164, s. 48.

Stealing from ships, wharfs, &c.

**349.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a.) steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal ; or

(b.) steals any goods or merchandise from any dock, wharf or quay adjacent to any such haven, port, river, canal, creek or basin. R.S.C., c. 164, s. 49.

**350.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals any wreck. Stealing wreck.  
R.S.C., c. 81, s. 36 (c).

**351.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals anything in or from any railway station or building, or from any engine, tender or vehicle of any kind on any railway. Stealing on railways.

**352.** Every one who steals, or unlawfully injures or removes, any image, bones, article or thing deposited in or near any Indian grave is guilty of an offence and liable, on summary conviction, for a first offence to a penalty not exceeding one hundred dollars or to three months' imprisonment, and for a subsequent offence to the same penalty and to six months' imprisonment with hard labour. R.S.C., c. 164, s. 98 Stealing things deposited in Indian graves.

**353.** Every one who destroys, cancels, conceals or obliterated any document of title to goods or lands, or any valuable security, testamentary instrument, or judicial, official or other document, for any fraudulent purpose, is guilty of an indictable offence and liable to the same punishment as if he had stolen such document, security or instrument. Destroying, &c., documents.  
R.S.C., c. 164, s. 12.

**354.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, for any fraudulent purpose, takes, obtains, removes or conceals anything capable of being stolen. Concealing.

**355.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, having obtained elsewhere than in Canada any property by any act which if done in Canada would have amounted to theft, brings such property into or has the same in Canada. Bringing stolen property into Canada.  
R.S.C., c. 164, s. 88.

**356.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals anything for the stealing of which no punishment is otherwise provided or commits in respect thereof any offence for which he is liable to the same punishment as if he had stolen the same. Stealing things not otherwise provided for.

2. The offender is liable to ten years' imprisonment if he has been previously convicted of theft. R.S.C., c. 164, ss. 5, 6 and 85.

**357.** If the value of anything stolen, or in respect of which any offence is committed for which the offender is liable to the same punishment as if he had stolen it, exceeds the sum of two hundred dollars the offender is liable to Additional punishment when value of property exceeds two hundred dollars.  
two



two years' imprisonment, in addition to any punishment to which he is otherwise liable for such offence. R.S.C., c. 164, s. 86.

## PART XXVII.

OBTAINING PROPERTY BY FALSE PRETENSES AND  
OTHER CRIMINAL FRAUDS AND DEALINGS  
WITH PROPERTY.

Definition of  
false pretense.

**358.** A false pretense is a representation, either by words or otherwise, of a matter of fact either present or past, which representation is known to the person making it to be false, and which is made with a fraudulent intent to induce the person to whom it is made to act upon such representation.

2. Exaggerated commendation or depreciation of the quality of anything is not a false pretense, unless it is carried to such an extent as to amount to a fraudulent misrepresentation of fact.

3. It is a question of fact whether such commendation or depreciation does or does not amount to a fraudulent misrepresentation of fact.

Punishment  
of false pre-  
tense.

**359.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud, by any false pretense, either directly or through the medium of any contract obtained by such false pretense, obtains anything capable of being stolen, or procures anything capable of being stolen to be delivered to any other person than himself. R.S.C., c. 164, s. 77.

Obtaining  
execution of  
valuable secu-  
rity by false  
pretense.

**360.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud or injure any person by any false pretense, causes or induces any person to execute, make, accept, endorse or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal on any paper or parchment in order that it may afterwards be made or converted into or used or dealt with as a valuable security. R.S.C., c. 164, s. 78.

Falsely pre-  
tending to  
inclose mo-  
ney, &c., in a  
letter.

**361.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, wrongfully and with wilful falsehood, pretends or alleges that he inclosed and sent, or caused to be inclosed and sent, in any post letter any money, valuable security or chattel, which in fact he did not so inclose and send or cause to be inclosed and sent therein. R.S.C., c. 164, s. 79.

Obtaining  
passage by  
false tickets.

**362.** Every one is guilty of an indictable offence and liable to six months' imprisonment who, by means of any false

false ticket or order, or of any other ticket or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any carriage, tramway or railway, or in any steam or other vessel. R.S.C., c. 164, s. 81.

**363.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being a trustee of any property for the use or benefit, either in whole or in part, of some other person, or for any public or charitable purpose, with intent to defraud, and in violation of his trust, converts anything of which he is trustee to any use not authorized by the trust. Criminal breach of trust.

#### PART XXVIII.

#### FRAUD.

**364.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being a director, manager, public officer or member of any body corporate or public company, with intent to defraud— False accounting by official.

(a.) destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or public company; or

(b.) makes, or concurs in making, any false entry, or omits or concurs in omitting to enter any material particular, in any book of account or other document. R.S.C., c. 164, s. 68.

**365.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, being a promoter, director, public officer or manager of any body corporate or public company, either existing or intended to be formed, makes, circulates or publishes, or concurs in making, circulating or publishing, any prospectus, statement or account which he knows to be false in any material particular, with intent to induce persons (whether ascertained or not) to become shareholders or partners, or with intent to deceive or defraud the members, shareholders or creditors, or any of them (whether ascertained or not), of such body corporate or public company, or with intent to induce any person to intrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof. R.S.C., c. 164, s. 69. False statement by official.

**366.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being or acting in the capacity of an officer, clerk or servant, with intent to defraud— False accounting by clerk.

(a.) destroys, alters, mutilates or falsifies any book, paper writing, valuable security or document which belongs to or is in the possession of his employer, or has been received by

by him for or on behalf of his employer, or concurs in so doing; or

(b.) makes, or concurs in making, any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from, any such book, paper writing, valuable security or document.

False statement by public officer.

**367.** Every one is guilty of an indictable offence and liable to five years' imprisonment, and to a fine not exceeding five hundred dollars, who, being an officer, collector or receiver, intrusted with the receipt, custody or management of any part of the public revenues, knowingly furnishes any false statement or return of any sum of money collected by him or intrusted to his care, or of any balance of money in his hands or under his control.

Assigning property with intent to defraud creditors.

**368.** Every one is guilty of an indictable offence and liable to a fine of eight hundred dollars and to one year's imprisonment who—

(a.) with intent to defraud his creditors, or any of them,

(i.) makes, or causes to be made, any gift, conveyance, assignment, sale, transfer or delivery of his property;

(ii.) removes, conceals or disposes of any of his property;

or

(b.) with the intent that any one shall so defraud his creditors, or any one of them, receives any such property. R.S.C., c. 173, s. 28.

Destroying or falsifying books with intent to defraud creditors.

**369.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who, with intent to defraud his creditors or any of them, destroys, alters, mutilates or falsifies any of his books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any book of account or other document. R.S.C., c. 173, s. 27.

Concealing deeds or encumbrances or falsifying pedigrees.

**370.** Every one is guilty of an indictable offence and liable to a fine, or to two years' imprisonment, or to both, who, being a seller or mortgagor of land, or of any chattel, real or personal, or chose in action, or the solicitor or agent of any such seller or mortgagor (and having been served with a written demand of an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage) conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from such purchaser or mortgagee, or falsifies any pedigree upon which the title depends, with intent to defraud and in order to induce such purchaser or mortgagee to accept the title offered or produced to him. R.S.C., c. 164, s. 91.

Frauds in respect to the registration of titles to land.

**371.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, acting either as principal

principal or agent, in any proceeding to obtain the registration of any title to land or otherwise, or in any transaction relating to land which is, or is proposed to be, put on the register, knowingly and with intent to deceive makes or assists or joins in, or is privy to the making of, any material false statement or representation, or suppresses, conceals, assists or joins in, or is privy to the suppression, withholding or concealing from, any judge or registrar, or any person employed by or assisting the registrar, any material document, fact or matter of information. R.S.C., c. 164, ss. 96 and 97.

**372.** Every one is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding two thousand dollars, who, knowing the existence of any unregistered prior sale, grant, mortgage, hypothec, privilege or encumbrance of or upon any real property, fraudulently makes any subsequent sale of the same, or of any part thereof. R.S.C., c. 164, ss. 92 and 93.

Fraudulent  
sales of pro-  
perty.

**373.** Every one who pretends to hypothecate, mortgage, or otherwise charge any real property to which he knows he has no legal or equitable title is guilty of an indictable offence and liable to one year's imprisonment; and to a fine not exceeding one hundred dollars.

Fraudulent  
hypothecation  
of real pro-  
perty.

2. The proof of the ownership of the real estate rests with the person so pretending to deal with the same. R.S.C., c. 164, ss. 92 and 94.

**374.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, in the province of Quebec, wilfully causes or procures to be seized and taken in execution any lands and tenements, or other real property, not being, at the time of such seizure, to the knowledge of the person causing the same to be taken in execution, the *bona fide* property of the person or persons against whom, or whose estate, the execution is issued. R.S.C., c. 164, ss. 92 and 95.

Fraudulent  
seizures of  
land.

**375.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who—

Unlawful  
dealings with  
gold and  
silver.

(a.) being the holder of any lease or license issued under the provisions of any Act relating to gold or silver mining, or by any persons owning land supposed to contain any gold or silver, by fraudulent device or contrivance defrauds or attempts to defraud Her Majesty, or any person, of any gold, silver or money payable or reserved by such lease, or, with such intent as aforesaid, conceals or makes a false statement as to the amount of gold or silver procured by him; or

(b.) not being the owner or agent of the owners of mining claims then being worked, and not being thereunto authorized in writing by the proper officer in that behalf named in any

any Act relating to mines in force in any province of Canada, sells or purchases (except to or from such owner or authorized person) any quartz containing gold, or any smelted gold or silver, at or within three miles of any gold district or mining district, or gold mining division ; or

(c.) purchases any gold in quartz, or any unsmelted or smelted gold or silver, or otherwise unmanufactured gold or silver, of the value of one dollar or upwards (except from such owner or authorized person), and does not, at the same time, execute in triplicate an instrument in writing, stating the place and time of purchase, and the quantity, quality and value of gold or silver so purchased, and the name or names of the person or persons from whom the same was purchased, and file the same with such proper officer within twenty days next after the date of such purchase. R.S.C., c. 164, ss. 27, 28 and 29.

Warehousemen, &c., giving false receipts ; knowingly using the same.

**376.** Every one is guilty of an indictable offence and liable to three years' imprisonment, who—

(a.) being the keeper of any warehouse, or a forwarder, miller, master of a vessel, wharfinger, keeper of a cove, yard, harbour or other place for storing timber, deals, staves, boards, or lumber, curer or packer of pork, or dealer in wool, carrier, factor, agent or other person, or a clerk or other person in his employ, knowingly and wilfully gives to any person a writing purporting to be a receipt for, or an acknowledgment of, any goods or other property as having been received into his warehouse, vessel, cove, wharf, or other place, or in any such place about which he is employed, or in any other manner received by him, or by the person in or about whose business he is employed, before the goods or other property named in such receipt, acknowledgment or writing have been actually delivered to or received by him as aforesaid, with intent to mislead, deceive, injure or defraud any person, although such person is then unknown to him ; or

(b.) knowingly and wilfully accepts, transmits or uses any such false receipt or acknowledgment or writing. R.S.C., c. 164, s. 73.

Owners of merchandise disposing thereof contrary to agreements with consignees who have made advances thereon.

**377.** Every one is guilty of an indictable offence and liable to three years' imprisonment, who—

(a.) having, in his name, shipped or delivered to the keeper of any warehouse, or to any other factor, agent or carrier, to be shipped or carried, any merchandise upon which the consignee has advanced any money or given any valuable security afterwards, with intent to deceive, defraud or injure such consignee, in violation of good faith, and without the consent of such consignee, makes any disposition of such merchandise different from and inconsistent with the agreement made in that behalf between him and such consignee at the time of or before such money was so advanced or such negotiable security so given ; or

(b.)

(b.) knowingly and wilfully aids and assists in making such disposition for the purpose of deceiving, defrauding or injuring such consignee

2. No person commits an offence under this section who, before making such disposition of such merchandise, pays or tenders to the consignee the full amount of any advance made thereon. R.S.C., c. 164, s. 74.

**378.** Every person is guilty of an indictable offence and liable to three years' imprisonment who—

(a.) wilfully makes any false statement in any receipt, certificate or acknowledgment for grain, timber or other goods or property which can be used for any of the purposes mentioned in *The Bank Act*; or

(b.) having given, or after any clerk or person in his employ has, to his knowledge, given, as having been received by him in any mill, warehouse, vessel, cove or other place, any such receipt, certificate or acknowledgment for any such grain, timber or other goods or property,—or having obtained any such receipt, certificate or acknowledgment, and after having endorsed or assigned it to any bank or person, afterwards, and without the consent of the holder or endorsee in writing, or the production and delivery of the receipt, certificate or acknowledgment, wilfully alienates or parts with, or does not deliver to such holder or owner of such receipt, certificate or acknowledgment, the grain, timber, goods or other property therein mentioned. R.S.C., c. 164, s. 75.

Making false statements in receipts for property that can be used under "The Bank Act;" fraudulently dealing with property to which such receipts refer.

**379.** If any offence mentioned in any of the three sections next preceding is committed by the doing of anything in the name of any firm, company or copartnership of persons the person by whom such thing is actually done, or who connives at the doing thereof, is guilty of the offence, and not any other person. R.S.C., c. 164, s. 76.

Innocent partners.

**380.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, not having lawful title thereto, sells any vessel or wreck found within the limits of Canada. R.S.C., c. 81, s. 36 (d).

Selling vessel or wreck not having title thereto.

**381.** Every one is guilty of an indictable offence and liable, on conviction on indictment to two years' imprisonment, and on summary conviction before two justices of the peace to a penalty of four hundred dollars or six months' imprisonment, with or without hard labour, who—

(a.) secretes any wreck, or defaces or obliterates the marks thereon, or uses means to disguise the fact that it is wreck, or in any manner conceals the character thereof, or the fact that the same is such wreck, from any person entitled to inquire into the same; or

Other offences respecting wrecks.

(b.)

(b.) receives any wreck, knowing the same to be wreck, from any person, other than the owner thereof or the receiver of wrecks, and does not within forty-eight hours inform the receiver thereof ;

(c.) offers for sale or otherwise deals with any wreck, knowing it to be wreck, not having a lawful title to sell or deal with the same ; or

(d.) keeps in his possession any wreck, knowing it to be wreck, without a lawful title so to keep the same, for any time longer than the time reasonably necessary for the delivery of the same to the receiver ; or

(e.) boards any vessel which is wrecked, stranded or in distress against the will of the master, unless the person so boarding is, or acts by command of, the receiver. R.S.C., c. 81, s. 37.

Offences re-  
specting old  
marine stores.

**382.** Every person who deals in the purchase of old marine stores of any description, including anchors, cables, sails, junk, iron, copper, brass, lead and other marine stores, and who, by himself or his agent, purchases any old marine stores from any person under the age of sixteen years, is guilty of an offence and liable, on summary conviction, to a penalty of four dollars for the first offence and of six dollars for every subsequent offence.

2. Every such person who, by himself or his agent, purchases or receives any old marine stores into his shop, premises or places of deposit, except in the daytime between sunrise and sunset, is guilty of an offence and liable, on summary conviction, to a penalty of five dollars for the first offence and of seven dollars for every subsequent offence.

3. Every person, purporting to be a dealer in old marine stores, on whose premises any such stores which were stolen are found secreted is guilty of an indictable offence and liable to five years' imprisonment. R.S.C., c. 81, s. 35.

Definitions.

**383.** In the next six sections, the following expressions have the meaning assigned to them herein :

(a.) The expression "public department" includes the Admiralty and the War Department, and also any public department or office of the Government of Canada, or of the public or civil service thereof, or any branch of such department or office ;

(b.) The expression "public stores" includes all stores under the care, superintendence or control of any public department as herein defined, or of any person in the service of such department ;

(c.) The expression "stores" includes all goods and chattels, and any single store or article. 50-51 V., c. 45, s. 2.

Marks to be  
used on public  
stores.

**384.** The following marks may be applied in or on any public stores to denote Her Majesty's property in such stores, and it shall be lawful for any public department, and the contractors,

contractors, officers and workmen of such department, to apply such marks, or any of them, in or on any such stores:—

*Marks appropriated for Her Majesty's use in or on Naval, Military, Ordnance, Barrack, Hospital and Victualling Stores.*

STORES.	MARKS.
Hempen cordage and wire rope.	White, black or coloured threads laid up with the yarns and the wire, respectively.
Canvas, fearnought, hammocks and seamen's bags.	A blue line in a serpentine form.
Bunting.	A double tape in the warp.
Candles.	Blue or red cotton threads in each wick, or wicks of red cotton.
Timber, metal and other stores not before enumerated.	The broad arrow, with or without the letters W.D.

*Marks appropriated for use on stores, the property of Her Majesty in the right of her Government of Canada.*

STORES.	MARKS.
Public stores.	The name of any public department, or the word "Canada," either alone or in combination with a Crown or the Royal Arms.

50-51 V., c. 45, s. 3; 53 V., c. 38.

**385.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority the proof of which shall lie on him, applies any of the said marks in or on any public stores. 50-51 V., c. 45, s. 4.

Unlawfully applying marks to public stores.

**386.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, with intent to conceal Her Majesty's property in any public stores, takes out, destroys or obliterates, wholly or in part, any of the said marks. 50-51 V., c. 45, s. 5.

Taking marks from public stores.

**387.** Every one who, without lawful authority the proof of which lies on him, receives, possesses, keeps, sells or delivers any public stores bearing any such mark as aforesaid, knowing them to bear such mark, is guilty of an indictable offence and liable on conviction on indictment to one year's imprisonment and, if the value thereof does not exceed twenty-five dollars, on summary conviction, before two justices of the peace, to a fine of one hundred dollars or to six months' imprisonment with or without hard labour. 50-51 V., c. 45, ss. 6 and 8.

Unlawful possession, sale, &c., of public stores.

**388.** Every one, not being in Her Majesty's service, or a dealer in marine stores or a dealer in old metals, in whose possession any public stores bearing any such mark are found who, when taken or summoned before two justices of the peace, does not satisfy such justices that he came lawfully

Not satisfying justices that possession of public stores is lawful.



fully by such stores so found, is guilty of an offence and liable, on summary conviction, to a fine of twenty-five dollars; and

2. If any such person satisfies such justices that he came lawfully by the stores so found, the justices, in their discretion, as the evidence given or the circumstances of the case require, may summon before them every person through whose hands such stores appear to have passed; and

3. Every one who has had possession thereof, who does not satisfy such justices that he came lawfully by the same, is liable, on summary conviction of having had possession thereof, to a fine of twenty-five dollars, and in default of payment to three months' imprisonment with or without hard labour. 50-51 V., c. 45, s. 9.

Searching for  
stores near  
Her Majesty's  
vessels.

**389.** Every one who, without permission in writing from the Admiralty, or from some person authorized by the Admiralty in that behalf, creeps, sweeps, dredges, or otherwise searches for stores in the sea, or any tidal or inland water, within one hundred yards from any vessel belonging to Her Majesty, or in Her Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any mooring belonging to Her Majesty, or from any of Her Majesty's wharfs or docks, victualling or steam factory yards, is guilty of an offence and liable, on summary conviction before two justices of the peace, to a fine of twenty-five dollars, or to three months' imprisonment, with or without hard labour. 50-51 V., c. 45, ss. 11 and 12.

Receiving re-  
gimental ne-  
cessaries, &c.,  
from soldiers  
or deserters.

**390.** Every one is guilty of an indictable offence and liable on conviction on indictment to five years' imprisonment and on summary conviction before two justices of the peace to a penalty not exceeding forty dollars, and not less than twenty dollars and costs, and, in default of payment, to six months' imprisonment with or without hard labour who—

(a.) buys, exchanges or detains, or otherwise receives from any soldier, militiaman or deserter any arms, clothing or furniture belonging to Her Majesty, or any such articles belonging to any soldier, militiaman or deserter as are generally deemed regimental necessities according to the custom of the army; or

(b.) causes the colour of such clothing or articles to be changed; or

(c.) exchanges, buys or receives from any soldier or militiaman any provisions, without leave in writing from the officer commanding the regiment or detachment to which such soldier belongs. R.S.C., c. 169, ss. 2 and 4.

Receiving,  
&c., necessa-  
ries from ma-  
riners or de-  
serters.

**391.** Every one is guilty of an indictable offence, and liable, on conviction on indictment to five years' imprisonment, and on summary conviction before two justices of the peace

peace to a penalty not exceeding one hundred and twenty dollars, and not less than twenty dollars and costs, and in default of payment to six months' imprisonment, who buys, exchanges or detains, or otherwise receives, from any seaman or marine, upon any account whatsoever, or has in his possession, any arms or clothing, or any such articles, belonging to any seaman, marine or deserter, as are generally deemed necessities according to the custom of the navy. R.S.C., c. 169, ss. 3 and 4.

**392.** Every one is guilty of an indictable offence who detains, buys, exchanges, takes on pawn or receives, from any seaman or any person acting for a seaman, any seaman's property, or solicits or entices any seaman, or is employed by any seaman to sell, exchange or pawn any seaman's property, unless he acts in ignorance of the same being seaman's property, or of the person with whom he deals being or acting for a seaman, or unless the same was sold by the order of the Admiralty or Commander-in-Chief. Receiving, &c., a seaman's property.

2. The offender is liable, on conviction on indictment to five years' imprisonment, and on summary conviction to a penalty not exceeding one hundred dollars; and for a second offence, to the same penalty, or, in the discretion of the justice, to six months' imprisonment, with or without hard labour.

3. The expression "seaman" means every person, not being a commissioned, warrant or subordinate officer, who is in or belongs to Her Majesty's Navy, and is borne on the books of any one of Her Majesty's ships in commission, and every person, not being an officer as aforesaid, who, being borne on the books of any hired vessel in Her Majesty's service, is, by virtue of any Act of Parliament of the United Kingdom for the time being in force for the discipline of the Navy, subject to the provisions of such Act.

4. The expression "seaman's property" means any clothes, slops, medals, necessities or articles usually deemed to be necessities for sailors on board ship, which belong to any seaman.

5. The expression "Admiralty," means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral. R.S.C., c. 171, ss. 1 and 2.

**393.** Every one in whose possession any seaman's property is found who does not satisfy the justice of the peace before whom he is taken or summoned that he came by such property lawfully is liable, on summary conviction, to a fine of twenty-five dollars. R.S.C., c. 171, s. 3. Not satisfying justice that possession of seaman's property is lawful.

**394.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who conspires with any other person, by deceit or falsehood or other fraudulent means, Conspiracy to defraud.

means, to defraud the public or any person, ascertained or unascertained, or to affect the public market price of stocks, shares, merchandise or anything else publicly sold, whether such deceit or falsehood or other fraudulent means would or would not amount to a false pretense as hereinbefore defined.

Cheating at play.

**395.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud any person, cheats in playing at any game, or in holding the stakes, or in betting on any event. R.S.C., c. 164, s. 80.

Pretending to practise witchcraft.

**396.** Every one is guilty of an indictable offence and liable to one year's imprisonment who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from his 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.

#### PART XXIX.

#### ROBBERY AND EXTORTION.

Robbery defined.

**397.** Robbery is theft accompanied with violence or threats of violence to any person or property used to extort the property stolen, or to prevent or overcome resistance to its being stolen.

Punishment of aggravated robbery.

**398.** Every one is guilty of an indictable offence and liable to imprisonment for life and to be whipped who—  
 (a.) robs any person and at the time of, or immediately before or immediately after, such robbery wounds, beats, strikes, or uses any personal violence to, such person; or  
 (b.) being together with any other person or persons robs, or assaults with intent to rob, any person; or  
 (c.) being armed with an offensive weapon or instrument robs, or assaults with intent to rob, any person. R.S.C., c. 164, s. 34.

Punishment of robbery.

**399.** Every one who commits robbery is guilty of an indictable offence and liable to fourteen years' imprisonment. R.S.C., c. 164, s. 32.

Assault with intent to rob.

**400.** Every one who assaults any person with intent to rob him is guilty of an indictable offence and liable to three years' imprisonment. R.S.C., c. 164, s. 33.

Stopping the mail

**401.** Every one is guilty of an indictable offence and liable to imprisonment for life, or for any term not less than five

five years, who stops a mail with intent to rob or search the same. R.S.C., c. 35, s. 81.

**402.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to defraud, or injure, by unlawful violence to, or restraint of the person of another, or by the threat that either the offender or any other person will employ such violence or restraint, unlawfully compels 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 any name or seal upon any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security. R.S.C., c. 173, s. 5.

Compelling execution of documents by force.

**403.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security or other valuable thing. R.S.C., c. 173, s. 1.

Sending letter demanding property with menaces.

**404.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, with menaces, demands from any person, either for himself or for any other person, anything capable of being stolen with intent to steal it.

Demanding with intent to steal.

**405.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to extort or gain anything from any person—

Extortion by certain threats.

(a.) accuses or threatens to accuse either that person or any other person, whether the person accused or threatened with accusation is guilty or not, of

(i.) any offence punishable by law with death or imprisonment for seven years or more;

(ii.) any assault with intent to commit a rape, or any attempt or endeavour to commit a rape, or any indecent assault;

(iii.) carnally knowing or attempting to know any child so as to be punishable under this Act;

(iv.) any infamous offence, that is to say, buggery, an attempt or assault with intent to commit buggery, or any unnatural practice, or incest;

(v.) counselling or procuring any person to commit any such infamous offence; or

(b.) threatens that any person shall be so accused by any other person; or

(c.) causes any person to receive a document containing such accusation or threat, knowing the contents thereof;

(d.) by any of the means aforesaid compels or attempts to compel 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 any name or seal 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. R.S.C., c. 173, ss. 3, 4, 1 and 5.

Extortion by  
other threats.

**406.** Every one is guilty of an indictable offence, and liable to imprisonment for seven years who—

(a.) with intent to extort or gain anything from any person accuses or threatens to accuse either that person or any other person of any offence other than those specified in the last section, whether the person accused or threatened with accusation is guilty or not of that offence ; or

(b.) with such intent as aforesaid, threatens that any person shall be so accused by any person ; or

(c.) causes any person to receive a document containing such accusation or threat knowing the contents thereof ; or

(d.) by any of the means aforesaid, compels or attempts to compel 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 any name or seal 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.

#### PART XXX.

#### BURGLARY AND HOUSEBREAKING.

Definition of  
dwelling-  
house, &c.

**407.** In this part the following words are used in the following senses :

(a.) " Dwelling-house " means a permanent building the whole or any part of which is kept by the owner or occupier for the residence therein of himself, his family or servants, or any of them, although it may at intervals be unoccupied ;

(i.) A building occupied with, and within the same curtilage with, any dwelling-house shall be deemed to be part of the said dwelling-house if there is between such building and dwelling-house a communication, either immediate or by means of a covered and inclosed passage, leading from the one to the other, but not otherwise ;

(b.) To " break " means to break any part, internal or external, of a building, or to open by any means whatever (including lifting, in the case of things kept in their places by their own weight), any door, window, shutter, cellar-flap or other thing intended to cover openings to the building, or to give passage from one part of it to another ;

(i.) An entrance into a building is made as soon as any part of the body of the person making the entrance, or any part of any instrument used by him, is within the building ;

(ii.)