

CHAPTER XXXIX.

¹ OBTAINING PROPERTY BY FALSE PRETENCES AND OTHER CRIMINAL FRAUDS AND DEALINGS WITH PROPERTY.² ARTICLE 435.

OBTAINING GOODS, ETC., BY FALSE PRETENCES.

EVERY one is guilty of a misdemeanor and liable to three years' imprisonment who

(a.) ³ by any false pretence obtains from any other person any chattel, money, or valuable security with intent to defraud; or

(b.) ⁴ with intent to defraud or injure any other person by any false pretence, fraudulently causes or induces any other person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security, or to write, impress, or affix his name, or the name of any other person, or of any company, firm or co-partnership, or the seal of any body corporate, company or society, upon any paper or parchment, so that the same may afterwards be made or converted into, or used or dealt with as, a valuable security.

[It is not offence to obtain by false pretences any chattel which is not the subject of larceny at common law, but it is immaterial whether such a chattel so obtained is or is not in existence at the time when the false

¹ [3 Hist. C. Law 160-2.]

² S. D. Art. 329.

³ R. S. C. c. 164, s. 77; 24 & 25 Vict. c. 96, s. 88. A member of an unincorporated company cannot be convicted of obtaining by false pretences the money of the company; *R. v. St. Louis*, 10 L. C. R. 84.

⁴ R. S. C. c. 164, s. 78; [24 & 25 Vict. c. 96, s. 90. This section was meant to cover such cases as *R. v. Danger*, D. & B. 307, and greatly extends the old law on the subject. See Mr. Greaves's note to the section in his edition of the Acts.]

[pretence is made if the thing when made is obtained by the false pretence.

It is not an offence to obtain credit in a partnership account by false pretences as to the amount which a partner is entitled to charge against the partnership funds.

Illustrations.

- (1.) ¹ A obtains two pointers worth £5 each by a false pretence. This is not an offence within this Article.
- (2.) ² A orders a van from B, and gets it made and delivered by falsely pretending to be agent to a company. This is an offence, although the van was not in existence when the pretence was made.
- (3.) ³ A travels as agent for his partners, and obtains commission from them by falsely pretending he has received orders. His commission would form a charge on the partnership funds. This is not an offence within this Article.]

Illustrations founded on Canadian Cases.

- (4.) ⁴ A obtains a loan upon the security of a lot of land by falsely representing that there is a brick house on the lot. This is a false pretence.
- (5.) ⁵ A takes B's note in part payment for a horse. After maturity A threatens to sue B, who gets C to pay the money, A promising to get the note from a solicitor's office where he said it was and give it up the next morning. A has in fact sold the note to another person. A obtains the money by a false pretence.
- (6.) ⁶ A, on a precept that his clerk by his direction forges, obtains from the Accountant in Chancery a check payable to B, who is entitled to the money. There is no intent to defraud B. A obtains the check by a false pretence.
- (7.) ⁷ A, who has been discharged from B's service, falsely representing herself to be in B's employ, purchases from C a parcel of goods, which C sends to B's residence, where they are handed to B's servant. A having preceded the clerk who delivers the parcel, snatches it from the servant, saying "This is for me, I am going in to see B," and makes off. A obtains the goods by a false pretence.

¹ *R. v. Robinson*, Bell, 34.

² *R. v. Martin*, L. R. 1 C. C. R. 56.

³ *R. v. Evans*, L. & C. 256. I am unable to follow the reasoning of this judgment.]

⁴ *R. v. Huppel*, 21 U. C. Q. B. 281.

⁵ *R. v. Lee*, 23 U. C. Q. B. 340.

⁶ *R. v. Parkinson*, 41 U. C. Q. B. 545.

⁷ *R. v. Robinson*, 9 L. C. R. 278.

(8.) ¹ A falsely representing that it is valid sells to B a railway pass good only to carry a particular person, and which B cannot use without committing a fraud on the railway. B does not at the time know that the pass is not transferable. A obtains by a false pretence the money paid for the pass.

(9.) ² A to whom an order for 15 bushels of grain, that the municipal authorities are distributing to the poor, has been given, obtains a second order by falsely pretending to have lost the first, and striking out part of the first order presents both and has them filled. A obtains the second order, and the grain which he receives thereon, by a false pretence.

(10.) ³ A gives B C's note for \$100.00 in exchange for a horse, knowing at the time that the note has been paid except as to a few dollars. This is a false pretence by conduct.

(11.) ⁴ A presents post office orders, knowing that they have been issued by a post-master fraudulently, and without any money having been paid therefor, and receives the amount thereof. This is a false pretence by conduct.

(12.) ⁵ A is being supplied by B with goods under an arrangement with C to pay therefor on the amount thereof being endorsed on his (C's) note which A holds. A obtains goods from B on the promise in a day or two to bring the note to B to have the amount so endorsed thereon. A does not keep his promise. This is not a false pretence.

(13.) ⁶ A obtains B's note on the promise, which he fails to keep, to give B \$6,000.00 on what he then owed him, out of the proceeds of the note. This not a false pretence.

(14.) ⁷ B intending to pay A 75 cents takes out of his purse a \$2.00 bill saying that he will get it changed. A says "I'll change it." Whereupon B hands the bill to A who makes off with it. A does not obtain it by a false pretence.

(15.) ⁸ A by a false pretence obtains from B a promissory note for \$1,200.00, which B pays in four or five days and before maturity. A does not obtain the money by a false pretence.

(16.) ⁹ A solicits B to purchase a package of counterfeit bank notes. B intending to bring A to justice, pretends to buy and gives A \$50.00 and a watch as security for the balance that he agrees to pay for the package.

¹ *R. v. Abrahamson*, 24 L. C. J. 325.

² *R. v. Campbell*, 18 U. C. Q. B. 413. With respect to the grain it is a false pretence by conduct.

³ *R. v. Davis*, 18 U. C. Q. B. 180.

⁴ *R. v. Desauer*, 21 U. C. Q. B. 231.

⁵ *R. v. Bertles*, 13 U. C. C. P. 607.

⁶ *R. v. Pickup*, 10 L. C. J. 310.

⁷ *R. v. Gemmett*, 26 U. C. Q. B. 312.

⁸ *R. v. Brady*, 26 U. C. Q. B. 13.

⁹ *R. v. Corey*, 22 N. B. R. 543. The false pretence must be that by which the complainant is induced to part with his property; *R. v. Brien*, 12 R. L. 697.

A does not give B the package of counterfeit notes that B in parting with his property expects to receive, but a package of waste paper. A obtains the money and watch by a false pretence.

(17.) ¹ A representing himself to be the agent of B by false representations induces C to sign a contract to pay \$240.00 for seed wheat. B afterwards calls upon C and procures him to sign and deliver to him a promissory note in his (B's) favor for \$240.00. The contract does not provide for the giving of a note, and when the false representations are made a note is not mentioned, but C gives the note because he has entered into the contract. A by a false pretence has induced C to write his name upon a paper so that the same may afterwards be dealt with as a valuable security.

² ARTICLE 436.

DEFINITION OF "FALSE PRETENCE."

[The expression, "false pretence," in Article 435, means a false representation made either by words, by writing, or by conduct, that some fact exists or existed, and such a representation may amount to a false pretence, although a person of common prudence might easily have detected its falsehood by enquiry, and although the existence of the alleged fact was in itself impossible.

But the expression "false pretence" does not include

(a.) a promise as to future conduct not intended to be kept, unless such promise is based upon or implies an existing fact falsely alleged to exist; or

(b.) such untrue commendation or untrue depreciation of an article which is to be sold as is usual between sellers and buyers, unless such untrue commendation or untrue depreciation is made by means of a definite false assertion as to some matter of fact capable of being positively determined.

³ Illustrations.

(1.) ⁴ A, not being a member of the University of Oxford, represents

¹ *R. v. Rymal*, 17 O. R. 227.

² S. D. Art. 350.

³ See also illustrations founded on Canadian cases Art. 435.

⁴ [*R. v. Barnard*, 7 C. & P. 784. The defendant said he was a member of Magdalen College, but Bolland, B., said he would have left the case to the jury on the more wearing of the dress if nothing had been said.]

[himself to be such by wearing a student's cap and gown, and thereby obtaining a pair of straps from a tradesman in Oxford. This is a false pretence by conduct.

(2.) ¹ A presents a note for £5 as a good note for that amount, knowing that the bank by which it was issued had stopped. This is a false pretence by conduct.

(3.) ² A gives a cheque in discharge of a debt. This is a representation that A has authority to draw upon the bank for the amount of the cheque, and that the cheque is a good and valid order for the payment of money. If these representations are untrue to the knowledge of A, and if he intends to defraud and obtain goods by making them, he commits the offence of obtaining goods by false pretences, but the mere giving of a cheque is not necessarily a representation that the drawer has funds at the bank to meet it.

(4.) ³ The secretary of an Odd Fellows' lodge tells a member that he owes the lodge 13s. 6d., and thereby obtains that sum from him, whereas in fact he owed only 2s. 2d. This is a false pretence, though an enquiry might easily have been made.

(5.) ⁴ A represents to B that A has power to bring back B's husband (who had run away) over hedges and ditches, and that a certain stuff which A has is sufficient and effectual for that purpose, and thereby obtains from B a dress and two six pences. This is a false pretence, although the alleged fact is impossible.

(6.) ⁵ A tells B that A is going to pay his rent on the 1st of March, and wants £10 to make up his rent, whereby he obtains £10 from B. This statement, though false, is not a false pretence, as it relates to something intended to be done at a future time.

(7.) ⁶ A falsely tells B that A has bought skins, and wants £4 10s. to fetch them by the railway, and that he will sell them to B if B will let A have the £4 10s. on account, which B does, partly because B believes that A has bought the skins, and partly because B believes that A will sell the skins to B. This is a false pretence, as part of it alleges falsely an existing fact.

¹ [Per Crompton, J., in *Evans's Case*, Bell, C. C. 192. The rest of the Court seemed to be of the same opinion.

² *R. v. Hazelton*, L. R. 2 C. C. R. 134. See, too, *R. v. Jackson*, 3 Camp. 370; *R. v. Parker*, 2 Moo. 1. There was some slight difference of opinion (or rather of expression) amongst the judges in this case. The judges were anxious to point out that to give a cheque on a bank where the drawer has no balance is not necessarily an offence, as he may have a right to overdraw, or a reasonable expectation that if he does, his drafts will be honored. These considerations would seem to affect not the falseness of the pretence, but the defendant's knowledge of its falsehood and his intent to defraud.

³ *Woolley's Case*, 1 Den. 539. See, too, *R. v. Jessop*, D. & B. 442.

⁴ *R. v. Giles*, L. & C. 502.

⁵ *Lee's Case*, L. & C. 309.

⁶ *R. v. West*, D. & B. 575.]

[(8.) ¹ A obtains money from B by promising to marry her, and to furnish a house with the money, representing himself to be an unmarried man. A in fact is married. The representation that A was unmarried is a false pretence, though the promises based upon it would not have been false pretences without it.

(9.) ² A induces B to lend him money by saying that certain spoons are of the best quality, that they are equal to Elkington's A (a description known in the trade), that the foundation is of the best material, and that they have as much silver in them as Elkington's A. These words being construed as mere exaggeration of the quality of the spoons, and not as containing a statement of a definite fact as to the quality of silver in the spoons, are not a false pretence.

(10.) ³ A induces B to buy a chain by saying, "It is 15-carat gold, and you will see it stamped fine on every link. It was made for me, and I paid nine guineas for it. The maker told me it was worth £5 to sell as old gold." The chain had on every link the mark 15-ct. The chain in fact was 6-carat gold, worth in all £3 0s. 3d. This is a false pretence.]

(11.) ⁴ A obtains from B a promissory note by the false representation that he is at the time prepared to advance him £100 thereon. This is a false pretence.

⁵ ARTICLE 437.

OF "OBTAINING."

"[The word "obtains," in Article 435, means an obtaining by the offender from the owner, with an intent on the part of the offender to deprive the owner permanently and entirely of the thing obtained, and it includes cases in which things are obtained by a contract which is

¹ [*R. v. Jennison*, L. & C. 157.

² *R. v. Bryan*, D. & B. 275. This, I think, is the true view of the case. Willes, J., and Bramwell, B., thought the conviction should be sustained on the ground that the representation that the spoons had as much silver on them as Elkington's A was a specific false pretence as to an existing fact. Ten other judges (Campbell, C.J., Cockburn, C.J. Pollock, C.B., Coleridge, Crosswell, Erie, Grompton, Crowder, J.J., and Watson and Channell, BB.), all said in different words that the language used was mere puffery. The principle does not appear to have been doubted. The case is often, but I think wrongly, supposed to decide that a misrepresentation as to quality cannot be a false pretence. This depends on a further question whether the representation is made by means of alleging the existence of a fact which does not exist. *R. v. Foster*, 46 L. J. (M. C.) 128, is a later illustration of the principle of *R. v. Bryan*.

³ *R. v. Arlley*, L. R. 1 C. C. R. 301.

⁴ *R. v. Gordon*, L. R. 23 Q. B. D. 354.]

⁵ S. D. Art. 331.

⁶ [Illustrations (1)-(6).] *R. v. Rymal*, 17 O. R. 227.

[obtained by a false pretence, unless the obtaining under the contract is remotely connected with the false pretence.

¹ Every one who, by any false pretence, causes or procures any money to be paid, or any chattel or valuable security to be delivered to any other person for the use or benefit, or on account, of the person making such false pretence, or of any other person, with intent to defraud, is deemed to have obtained such money, chattel, or valuable security within the meaning of Article 435.

² If the person from whom anything is obtained by a person making a false pretence is not deceived by such false pretence, but delivers the thing intended to be obtained by it, knowing the pretence to be false, such thing is not deemed to have been obtained by such pretence.

³ If a thing is obtained by the joint effect of several false pretences, any one of which is a false pretence within the meaning of the last Article, and if the thing would not have been obtained without that false pretence, it is deemed to have been obtained by such false pretence.

⁴ *Illustrations.*

(1.) ⁵ A draws a bill upon B in London and gets it discounted by C in Russia by falsely pretending, by means of a forged authority, that he is authorized to draw upon B for the amount of the bill. A does not attempt to obtain money by false pretences from B, though he meant that C should forward the draft to B, and should obtain payment of the amount and though his act if done in England would have been an obtaining by false pretences from C.

(2.) ⁶ A by a false pretence obtains from B, a livery stable keeper, the use of a horse for the day, for which he would have been charged 7s. This is not obtaining goods by false pretences, as the horse was returned.

¹ R. S. C. c. 164, s. 77; 24 & 25 Vict. c. 96, s. 86.

² [Illustration (7).]

³ [Illustration (8).]

⁴ See illustrations founded in Canadian cases, Art. 435.

⁵ [*R. v. Garrett*, Dear. 232.

⁶ [*R. v. Kilham*, L. R. 1 C. C. R. 261.]

[(3.) ¹ A, by false pretences, induces B to enter into partnership with him, and to advance £500 as part of the capital of the concern. B treats the partnership as an existing one, and endeavors to dispose of his interest in it. A has not obtained £500 by false pretences, as B, as partner, retained his interest in it.

(4.) ² A induces B to buy a cheese at a higher price than it is worth, by inserting in it a taster of superior quality to the rest of the cheese, and so making B believe that the whole cheese was of the same quality as the taster. This is obtaining money by a false pretence.

(5.) ³ A induces B to lend him £100 on a deposit of title deeds to land by falsely pretending that a house had been built upon it worth £300. This is obtaining £100 by a false pretence.

(6.) ⁴ A, by falsely pretending to be a naval officer, induces B to enter into a contract to board and lodge him at a guinea a week, and under this contract is supplied with food for a week. This is not obtaining food by false pretences, as the supply of food in consequence of the contract is too remotely the result of the false pretence to become the subject of an indictment.

(7.) ⁵ A makes a false pretence to B to obtain money, which pretence is false to B's knowledge. B pays A the money and prosecutes him for obtaining it by a false pretence. This is not obtaining money by a false pretence.

(8.) A falsely pretends to B, (1), that he is an unmarried man; (2), that he will marry B; (3), that if B will give him £8 he will furnish a house for himself and her to live in after marriage. By these false pretences he obtains the £8. He is deemed to have obtained the £8 by the false pretence that he is an unmarried man, which is a false representation as to an existing fact.]

(9.) ⁶ A publishes an advertisement intended and fitted to convey the impression that there is a person named A. Brient living at Holt Trowbridge, in the County of Wilts, who is a minister of religion, and that he has instituted a *bond fide* competition, and made arrangements to present prizes to the successful competitors and to give the proceeds derived from

¹ [*R. v. Watson*, D. & B. 348. The judges guarded in their judgment against the notion that fraudulently inducing a man to enter into a partnership could in no case be within the statute, as, for instance, of the alleged existence of any trade which was a false pretence.]

² *R. v. Abbott*, 1 Den. 273.

³ *R. v. Burgon*, D. & B. 11.

⁴ *R. v. Gardner*, D. & B. 49.] See also *R. v. McQuarrie* 22 U. C. Q. B. 600.

⁵ [*R. v. Mills*, D. & B. 205. It was, however, an attempt to obtain money by a false pretence.]

⁶ *R. v. Randell*, 16 Cox, C. C. 335.

[the entrance fees of competitors, after deducting the prizes, to a charitable institution. There is no such person as the Rev. A. Brient at the address given, and A receives and appropriates the entrance fees. This is an obtaining by false pretences.

¹ ARTICLE 438.

INTENT TO DEFRAUD.

[An intent to defraud, in the case of offences against Article 435, is consistent with an intent to undo the effect of the fraud if the offender should be able to do so.

Illustration.

² A, by false pretences, induces B to let him have some carpets, intending to pay for them if he should be able to do so. This is an intent to defraud.]

³ ARTICLE 439.

CHEATING AT PLAY.

⁴ Every one who, by any fraud or unlawful device or ill practice in playing any game of cards or dice, or of any other kind, or at any race, or in betting on any event, wins or obtains any money or property from any other person, is held to have unlawfully obtained the same by false pretences.

ARTICLE 440.

OBTAINING PASSAGE ON RAILWAYS, ETC., BY FALSE TICKETS.

⁵ Every one is guilty of a misdemeanor, and liable to

¹ S. D. Art. 332.

² [*R. v. Naylor*, L. R. 1 C. C. R. 4.]

³ S. D. Art. 333.

⁴ R. S. C. c. 164, s. 80; [8 & 9 Vict. c. 109, s. 17. See *R. v. Hudson*, Bell, C. C. 263, for an illustration of what does not amount to a "game." As to "winning," it has been doubted whether the money, &c., must be actually obtained, or whether winning the game by a false pretence would be within the section if the loser refused to pay the money: *R. v. Moss*, D. & B. 104.] The obtaining of any chattel, money or valuable security by gaming in railway cars, &c., is an obtaining of the same by a false pretence: Art. 240 (a).

⁵ R. S. C. c. 164, s. 81.

six months' imprisonment, who, by means of any false ticket or order, or of any other ticket or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any railway or in any steam or other vessel.

ARTICLE 441.

¹ PRETENDING TO ENCLOSE MONEY, ETC., IN A POST LETTER, AND OTHER FRAUDS IN RESPECT TO POST LETTERS, AND THE POSTAL SERVICE.

² Every one is guilty of a misdemeanor, and liable in case (a) to three years' imprisonment, and in cases (b), (c), (d), (e) and (f) to five years' imprisonment,³ who

⁴ (a.) for any purpose or with any intent, wrongfully and with wilful falsehood, pretends or alleges that he enclosed and sent or caused to be enclosed and sent in any post letter, any money, valuable security or chattel, which, in fact, he did not so enclose and send, or cause to be enclosed and sent therein; or

(b.) ⁵ unlawfully opens, or wilfully keeps, secretes, delays or detains, or procures, or suffers to be unlawfully opened, kept, secreted or detained, any post letter bag or any post letter, whether the same came into the possession of the offender by finding or otherwise; or

(c.) ⁶ after payment or tender of the postage thereon, if payable to the person having possession of the same, neglects or refuses to deliver up any post letter to the person to whom it is addressed or who is legally entitled to receive the same; or

(d.) ⁷ with fraudulent intent, removes from any letter,

¹ As to other offences under the Post Office Act, see Articles 403, 404, 535 and 499 note. As to enclosing letter in other mailable matter, see R. S. C. c. 35, s. 93; and s. 108 as to using postage stamps, &c., that have been previously used.

² R. S. C. c. 164, ss. 77, 79.

³ Art. 17.

⁴ R. S. C. c. 164, s. 79.

⁵ R. S. C. c. 35, s. 89.

⁶ Id.

⁷ Id. s. 94.

newspaper or other mailable matter sent by post, any postage stamp which has been affixed thereon, or wilfully, with intent aforesaid, removes from any postage stamp or post card, post band or wrapper which has been previously used, any mark which has been made thereon at any post office; or

(e.)¹ being a postmaster or other person authorized to issue money orders, issues any money order, unless he has previously received the purchase money or sum payable therefor; or

(f.)² being a postmaster or other officer, agent or employee of the Post Office Department, hypothecates, pledges or subjects to any lien in any shape or way, any postage stamps, stamped envelopes, post cards, post bands or wrappers entrusted to him for safe keeping, sale or issue to the public, or for any other purpose, or attempts to commit such offence.

ARTICLE 442.

FRAUDS BY OFFICERS AND MEN OF MILITIA FORCE.

³ Every one is guilty of a misdemeanor and liable to five years' imprisonment⁴ who

(a.) being an officer commanding a corps of militia

(i.) knowingly claims pay on account of any drills performed with his corps, for any man belonging to any other corps of militia; or

(ii.) includes in any parade state or other return any man not duly enrolled and attested as a militiaman; or

(b.) being a non-commissioned officer or man of the militia claims or receives pay on account of any drill performed in the ranks of any other than his own

¹ R. S. C. c. 55, s. 100.

² *Id.* s. 102.

³ R. S. C. c. 41, ss. 94, 95. The offender is also liable to be tried by court martial in cases (a), (b) and (c) (ii) and in (c) (i) to be dismissed the service. The time within which an offender may be prosecuted is limited to six months; s. 112

⁴ Art. 17.

proper corps, or in more than one corps during the annual drill in any year ;

(c.) 'being an officer or non-commissioned officer of the militia

(i.) obtains, under false pretences, or retains or keeps in his own possession, with intent to apply to his own use or benefit, any of the pay or moneys belonging to any officer or man of any corps ; or

(ii.) signs a false parade state, roll or pay-list, or any false return whatsoever.

ARTICLE 443.

CONSTABLES OF THE NORTH-WEST MOUNTED POLICE FORCE FRAUDULENTLY OBTAINING PENSIONS.

² Every constable of the North-West Mounted Police Force who obtains any pension by any false representation or false evidence, or by personation, or by malingering or feigning disease or infirmity, or by maiming or injuring himself, or causing himself to be maimed or injured, or otherwise producing disease or infirmity, or by any other fraudulent conduct, is liable, on summary conviction, to imprisonment, with or without hard labor, for a period not exceeding twelve months, or to a fine not exceeding one hundred dollars, and shall forfeit the pension obtained.

ARTICLE 444.

SELLING VESSEL OR WRECK, NOT HAVING TITLE THERETO.

³ Every one is guilty of felony, and liable to seven years' imprisonment, who sells any vessel or wreck found within the limits of Canada, not having lawful title thereto.

¹ R. S. C. c. 41, s. 95.

² 52 Vict. c. 26 s. 11.

³ R. S. C. c. 81, s. 36 (d.) For definition of "wreck" see *ante* Art. 427 note.

ARTICLE 445.

OTHER OFFENCES RESPECTING WRECKS AND
MARINE STORES.

¹ Every one is guilty of a misdemeanor, 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, 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 ;

(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 ;

(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.

² Every one taking possession of wreck within the limits of Canada, who

(a.) fails to deliver the same to the receiver of wrecks ;
or

(b.) whenever the Minister of Marine and Fisheries has dispensed with such delivery upon any conditions, does

¹ R. S. C. c. 81, s. 37 (a.), (d.), (e.), (f.), (g.)

² R. S. C. c. 81, s. 27.

not either comply with such conditions or deliver the wreck to such receiver as soon as possible,

forfeits any claim to salvage, and is liable to pay as a penalty double the value of such wreck, and a further sum not exceeding four hundred dollars.

¹ 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 liable, on summary conviction, to a penalty of four dollars for the first offence and of six dollars for every subsequent offence.

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 day time, between sunrise and sunset, is liable, on summary conviction, to a penalty of five dollars for the first offence and of seven dollars for every subsequent offence.

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 a misdemeanor, and liable to five years' imprisonment.²

ARTICLE 446.

CONCEALING GOLD OR SILVER WITH INTENT TO DEFRAUD PARTNER IN CLAIM.

³ Every one is guilty of felony and liable to seven years' imprisonment who, with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any claim, or in any share or interest in any claim, secretly keeps back or conceals any gold or silver found in or upon or taken from such claim.

¹ R. S. C. c. 81, s. 35. See s. 34 as to the regulations to be observed by marine store dealers and the penalty for violation thereof.

² Art. 17.

³ R. S. C. c. 164, ss. 31, 5.

¹ ARTICLE 447.

REMOVING OR CONCEALING ORES, ETC., WITH INTENT TO DEFRAUD, ETC.

² Every one is guilty of felony, and liable to imprisonment for any term less than two years, who, being employed in or about any mine, quarry or digging, takes, removes or conceals any ore of any metal, or any quartz, lapis calaminaris, manganese, mundie, or any piece of gold, silver or other metal, or any mineral found or being in such mine, quarry or digging, with intent to defraud any proprietor of, or any adventurer in the same, or any workman or miner employed therein.

ARTICLE 448.

OTHER UNLAWFUL DEALINGS WITH GOLD AND SILVER.

Every one is guilty of a misdemeanor and liable to imprisonment for any term less than two years, who

(a.) ³ 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 any 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 ;

(b) ⁴ not being the owner or agent of mining claims then being worked, and not being thereunto authorized in writing by the proper officer in that behalf, named in

¹ S. D. Art. 340.

² R. S. C. c. 164, s. 26 ; [24 & 25 Vict. c. 96, s. 39 re-enacting earlier provisions. Passed in consequence of decision in *R. v. Webb*, 1 Moo. 431.]

³ R. S. C. c. 164, s. 27.

⁴ *Id.* s. 28.

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) ¹ 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.

ARTICLE 449.

WAREHOUSEMEN, ETC., GIVING FALSE RECEIPTS—KNOWINGLY USING THE SAME.

² Every one is guilty of a misdemeanor 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, harbor 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

¹ R. S. C. c. 164, s. 20. The offender is also liable to a penalty not exceeding in amount double the value of the gold or silver purchased.

² R. S. C. c. 164, s. 73.

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 whomsoever, 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.

ARTICLE 450.

OWNERS OF MERCHANDISE DISPOSING THEREOF CONTRARY TO AGREEMENTS WITH CONSIGNEES WHO HAVE MADE ADVANCES THEREON.

¹ Every one is guilty of a misdemeanor, 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.) knowingly and wilfully acts and assists in making such disposition for the purpose of deceiving, defrauding or injuring such consignee.

No person commits an offence under this Article who, before making such disposition of such merchandise,

¹R. S. C., c. 104, s. 71.

pays or tenders to the consignee the full amount of any advance made thereon.

ARTICLE 451.

MAKING FALSE STATEMENTS IN RECEIPTS FOR PROPERTY
THAT CAN BE USED UNDER "THE BANK ACT"—
FRAUDULENTLY DEALING WITH PROP-
ERTY TO WHICH SUCH RE-
CEIPTS REFER.

¹ Every person is guilty of a misdemeanor, 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 indorsed 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.

ARTICLE 452.

INNOCENT PARTNERS

² If any misdemeanor mentioned in any of the three Articles next preceding is committed by the doing of any-

¹ R. S. C., c. 164, s. 75. See R. S. C., c. 120, s. 53 (7), where the imprisonment for the offence defined in clause (a) is limited to two years.

² R. S. C., c. 164, s. 75.

thing in the name of any firm, company or co-partnership of persons, the person by whom such thing is actually done, or who connives at the doing thereof, is guilty of the misdemeanor, and not any other person.

ARTICLE 453.

ASSIGNING PROPERTY WITH INTENT TO DEFRAUD CREDITORS.

¹ Every one is guilty of a misdemeanor, 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 ;² or

(ii.) removes, conceals or disposes of any of his property ;³ or

(b.) with the intent that anyone shall so defraud his creditors, or any of them, receives any such property.

ARTICLE 454.

DESTROYING OR FALSIFYING BOOKS WITH INTENT TO DEFRAUD CREDITORS.

⁴ Every one is guilty of a misdemeanor, and liable to six months' imprisonment, who 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, with intent to defraud his creditors, or any of them.

¹ R. S. C., c. 173, s. 28; 32 and 33 Vict., c. 62, s. 13. R. v. Rowland L. R., 8 Q. B. D., 53.

² "Lands, hereditaments, goods or chattels."

³ "Goods, chattels, property or effects of any description."

⁴ R. S. C., c. 173, s. 27.

ARTICLE 455.

CONCEALING DEEDS OR INCUMBRANCES OR FALSIFYING
PEDIGREES.

² Every one is guilty of a misdemeanor, 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 incumbrance, from such purchaser or mortgagee, or falsifies any pedigree upon which the title depends, with intent to defraud and in order to induce him to accept the title offered or produced to him.

No prosecution for any such offence shall be commenced without the consent of the Attorney-General of the Province within which the offence is committed, given after previous notice to the person intended to be prosecuted of the application to the Attorney-General for leave to prosecute.

ARTICLE 456.

FRAUDS IN RESPECT TO THE REGISTRATION OF TITLES TO
LAND IN BRITISH COLUMBIA.

³ Every one is guilty of a misdemeanor, and liable to three years' imprisonment, who, in British Columbia, in any proceeding to obtain the registration of any title to land or otherwise, or in any transaction relating to land,

¹ S. D. Art., 335.

² R. S. C., c. 164, s. 91; 22 and 23 Vict., c. 35, s. 24. The words in parentheses are not in the English Act.

³ R. S. C., c. 164, ss. 96 and 97.

which is or is proposed to be put on the register, acting either as principal or agent, 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.

ARTICLE 457.

FRAUDS IN RESPECT TO THE REGISTRATION OF TITLES TO LAND IN THE TERRITORIES.

¹ Every one is guilty of a misdemeanor, and liable to a penalty not exceeding five hundred dollars, or to imprisonment, with or without hard labor, for any term less than two years, who

(a.) wilfully makes any false statement or declaration in any dealing in land under *The Territories Real Property Act*; or

(b.) suppresses or conceals, or assists or joins in, or is privy to the suppressing, withholding or concealing, from the registrar, court or judge, or either of them, any material document, fact or matter of information; or

(c.) wilfully makes any false statement in any declaration required under the authority of or made in pursuance of the said Act; or

(d.) fraudulently procures or is privy to the fraudulent procurement of any certificate of title or instrument, or of any entry in the register; or

(e.) knowingly misleads or deceives the court, the judge, the registrar, or any person by the said Act authorized to require explanation or information in

¹ R. S. C. c. 51, s. 139. The offence is triable before a judge of the Supreme Court of the North-West Territories, or a stipendiary magistrate, without a jury.

respect to any land or the title to any land under the said Act, or in respect to which any dealing or transmission is proposed to be registered ; or

(*f.*) is a party to or privy to any fraudulent act whatever in any matter connected with the working of the said Act.

ARTICLE 458.

FRAUDULENT SALES OF PROPERTY IN QUEBEC.

¹ Every one is guilty of a misdemeanor, and liable to a fine not exceeding two thousand dollars, and to one year's imprisonment, who, in the Province of Quebec, knowing the existence of any unregistered prior sale, grant, mortgage, hypothec, privilege or incumbrance, of or upon any real property, fraudulently makes any subsequent sale of the same, or of any part thereof.

ARTICLE 459.

FRAUDULENT HYPOTHECATION OF REAL PROPERTY IN QUEBEC.

² Every one who, in the Province of Quebec, pretends to hypothecate any real property to which he has no legal title, is guilty of a misdemeanor, and liable to a fine not exceeding one hundred dollars and to one year's imprisonment.

The proof of the ownership of the real estate rests with the person so pretending to hypothecate the same.

ARTICLE 460.

FRAUDULENT SEIZURES OF LANDS IN QUEBEC.

³ Every one is guilty of a misdemeanor, and liable to one year's imprisonment, who, in the Province of Quebec, knowingly, wilfully and maliciously causes or procures

¹ R. S. C. c. 164, ss. 92, 93.

² R. S. C. c. 164, ss. 92, 94.

³ R. S. C. c. 164, ss. 92, 95.

to be seized and taken in execution, any lands and tenements, or other real property, situate within any township in the Province of Quebec, not being, at the time of such seizure, the *bonâ fide* property of the person or persons against whom, or whose estate, the execution is issued, knowing the same not to be the property of the person or persons against whom the execution is issued.

ARTICLE 461.

UNLAWFULLY APPLYING MARKS TO PUBLIC STORES.

¹ Every one is guilty of a misdemeanor, and liable to imprisonment for any term less than two years, who, without lawful authority, the proof of which shall lie on him, applies any of the ² marks mentioned in the note hereto in or on any public stores.³

¹ 50 and 51 Vict. (D.) c. 45, s. 4; 38 and 39 Vict. c. 25, s. 4.

² The marks described by the following schedule may be applied by any public department, and the contractors, officers and workmen of such department in or on any public stores to denote Her Majesty's property in such stores.

SCHEDULE.

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 colored worsted 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.

³ In this and the five Articles next following, the expression "stores" includes all goods and chattels and any single store or article; and the expression "public stores" includes all stores under the care, superintendence or control of the Admiralty, of the

¹ ARTICLE 462.

TAKING MARKS FROM PUBLIC STORES.

² Every one is guilty of felony, and liable to imprisonment for any term less than two years, 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 marks mentioned in note (c) to the Article next preceding.

ARTICLE 463.

UNLAWFUL POSSESSION, SALE, ETC., OF PUBLIC STORES.

³ 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 a misdemeanor 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 labor.

ARTICLE 464.

PRESUMPTION WHERE OFFENDER IS IN HER MAJESTY'S
SERVICE, OR A DEALER IN MARINE STORES,
OR OLD METALS.

⁴ If the person charged with such a misdemeanor as last aforesaid was, at the time at which the offence is

War Department, or of any public department or office of the Government of Canada, or of the public or civil service thereof, or of any branch of such department or office; 50 and 51 Viet. (D.), c. 45, s. 2 (c), (d).

¹ S. D. Arr., 341.

² 50 and 51 Viet. (D.) c. 45, s. 5; 38 and 39 Viet. c. 25, s. 5.

³ 50 & 51 Viet. (D.) c. 45, ss. 6, 8; 30 & 31 Viet. c. 119, ss. 7, 9.

⁴ 50 & 51 Viet. (D.) c. 45, s. 7; 30 & 31 Viet. c. 119, s. 8.

charged to have been committed, in Her Majesty's service or employment, or a dealer in marine stores, or a dealer in old metals, knowledge on his part that the stores to which the charge relates bore such mark as aforesaid, shall be presumed until the contrary is shown.

ARTICLE 465.

NOT SATISFYING JUSTICES THAT POSSESSION OF PUBLIC STORES IS LAWFUL.

¹ 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 by such stores so found, is liable, on summary conviction, to a fine of twenty-five dollars; and

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

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 imprisonment for any term not exceeding three months, with or without hard labor.

ARTICLE 466.

SEARCHING FOR STORES NEAR HER MAJESTY'S VESSELS.

² Every one who, without permission in writing from

¹ 50 & 51 Vict. (D.) c. 45, s. 9; 30 & 31 Vict. c. 128, s. 12.

² 50 & 51 Vict. (D.) c. 45, ss. 11, 12; 33 & 39 Vict. c. 25, s. 8.

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 wharves or docks, victualling or steam factory yards, is 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 labor.

ARTICLE 467.

RECEIVING REGIMENTAL NECESSARIES, ETC., FROM
SOLDIERS OR DESERTERS.

¹ Every one is guilty of a misdemeanor, and liable, on conviction on indictment, to five years' imprisonment², 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 imprisonment for any term not exceeding six months, who,

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

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

(c.) exchanges, buys or receives from any soldier any provisions, without leave in writing from the officer

¹ R.S.C. c. 169, ss. 2, 4; 44 and 45 Vict. c. 58, s. 156.

² Art. 17.

commanding the regiment or detachment to which such soldier belongs.

ARTICLE 468.

RECEIVING, ETC., NECESSARIES FROM MARINES OR
DESERTERS.

¹ Every one is guilty of a misdemeanor, and liable, on conviction on indictment, to five years' imprisonment,² and, on summary conviction before two justices of the peace to a penalty not exceeding one hundred and twenty dollars, and not less than sixty dollars and costs, and, in default of payment, to imprisonment for a term not exceeding six months, 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 necessaries, according to the custom of the navy.

ARTICLE 469.

RECEIVING, ETC., A SEAMAN'S PROPERTY.

³ Every one is guilty of a misdemeanor who detains, buys, exchanges, takes on pawn or receives, from any seaman,⁴ or any person acting for a seaman, any seaman's property,⁵ or solicits or entices any seaman, or is employed by any seaman to sell, exchange or pawn any seaman's

¹ R. S. C. c. 169, ss. 3, 4.

² Art. 17.

³ R. S. C. c. 171, s. 2; 32 and 33 Vict. c. 57, s. 4.

⁴ 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 the Parliament of the United Kingdom for the time being in force for the discipline of the Navy, subject to the provisions of such Act; R. S. C. c. 171, s. 1 (b.)

⁵ The expression "seaman's property" means any clothes, slops, medals, necessaries or articles usually deemed to be necessaries for sailors on board ship, which belong to any seaman; R. S. C. c. 171, s. 1 (c.)

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 Admiralty¹ or Commander-in-Chief.

The offender is liable, on conviction on indictment to five years' imprisonment,² 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 labor.

ARTICLE 470.

NOT SATISFYING JUSTICE THAT POSSESSION OF SEAMAN'S PROPERTY IS LAWFUL.

³ 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.

ARTICLE 471.

UNLAWFUL DISPOSITION OF ARMS, ETC., OF THE MILITIA FORCE.

'Every one who unlawfully disposes of or removes any arms, accoutrements or other articles belonging to the crown or a militia corps, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, the proof of which shall lie upon him, is liable on summary conviction to a fine of twenty dollars.

¹ 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, s. 1 (a.); 32 and 33 Viet. c. 57, s. 3.

² Art. 17.

³ R. S. C. c. 171, s. 3; 32 & 33 Viet. c. 57 s. 5.

⁴ R. S. C. c. 41 s. 106.

ARTICLE 472.

UNLAWFUL DISPOSITION OF ARMS, ETC., OF THE NORTH-
WEST MOUNTED POLICE FORCE.

¹ Every one who unlawfully disposes of, receives, buys or sells, or has in his possession without lawful cause, or refuses to deliver up when thereunto lawfully required, any horse, vehicle, harness, arms, accoutrements, clothing or other thing used for the purposes of the North-West Mounted Police Force, is liable to a penalty of double the value thereof and to a further penalty not exceeding twenty-five dollars, and, in default of payment forthwith, to imprisonment for any term not exceeding three months.

² ARTICLE 473.

CONSPIRACY TO DEFRAUD OR EXTORT.

[Every one commits the misdemeanor of conspiracy] and is liable to seven years' imprisonment ³ [who agrees with any other person or persons to do any act with intent to defraud the public, or any particular person, or class of persons, or to extort from any person any money or goods. Such a conspiracy may be criminal, although the act agreed upon is not in itself a crime.

Illustrations.

The following are instances of conspiracies with intent to defraud :—

⁴ A conspiracy to defraud the public by a mock auction.

⁵ A conspiracy to raise the price of the funds by false rumors.

⁶ A conspiracy to defraud the public by issuing bills in the name of a fictitious bank.

¹ R. S. C. c. 45 s. 23.

² S. D. Art. 335. The offence is completed by the combination and agreement, although no step is taken in execution of the conspiracy; *Thayer v. R.* 5 L. N. 162.

³ Art. 17.

⁴ [*R. v. Lewis*, 11 Cox. C. C. 404.

⁵ *R. v. DeBerenger*, 3 M. & S. 67.

⁶ *R. v. Heven*, 2 East P. C. 558.]

¹ [A conspiracy to induce a person to buy horses by falsely alleging that they were the property of a private person and not of a horse dealer.

² A conspiracy to induce a man to take a lower price than that for which he had sold a horse, by representing that it had been discovered to be unsound and re-sold for less than had been given for it.

³ A conspiracy to defraud a partner by false accounts, the fraud not being in itself criminal when it was committed.

⁴ A conspiracy to defraud generally by getting a settling day for shares of a new company.

⁵ ARTICLE 474.

PRETENDING TO EXERCISE WITCHCRAFT.

⁶ Every one commits a misdemeanor 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.

⁷ ARTICLE 475.

CHEATING.

⁸ Every one commits the misdemeanor called cheating, who fraudulently obtains the property of another by any deceitful practice not amounting to felony, with practice is of such a nature that it directly affects, or may directly affect, the public at large. But it is not cheating within

¹ [*R. v. Kearick*, 5 Q. B. 49.

² *Carlisle's Case*, Deur. 337.

³ *R. v. Warburton*, L. R. 1 C. C. R. 274.

⁴ *R. v. Aspinall*, L. R. 1 Q. B. D. 730.]

⁵ S. D. Art. 337.

⁶ [9 Geo. 2, c. 5, s. 4. Would it be a good defence to an indictment for this offence to prove that the defendant not only "pretended," but actually practised witchcraft? As to witchcraft, see 2 Hist. Cr. Law, 430-3.] I have left this Article in the text although it is doubtful whether or not the Act on which it is founded would be held to apply to Canada.

⁷ S. D. Art. 338.

⁸ By R. S. C. c. 173, s. 26 (Art. 17) every one who is convicted of fraud, cheating or conspiracy is liable, if no special punishment is provided by statute, to seven years' imprisonment. See Tasch. Cr. Stat. Law, (2nd ed.) 632-638.

[the meaning of this Article to deceive any person in any contract or private dealing by lies unaccompanied by such practices as aforesaid.

Illustrations.

- (1.) The following are instances of cheating :—
- ¹ Selling by a false weight or measure even to a single person.
 - ² Selling clothing with the alnager's seal forged upon it.
 - ³ Selling a picture by means of an imitation of the name of a well-known artist inscribed upon it.
 - ⁴ Maiming oneself in order to have a pretext for begging.
 - ⁵ Selling unwholesome bread as if it were wholesome.
- (2.) The following cases are instances of frauds not amounting to cheating :—
- ⁶ Delivering short weight of bread, no false weights or tokens being used.
 - ⁷ Receiving barley to grind and delivering a mixture of oat and barley meal.
 - ⁸ Selling as a Winchester bushel a sack of corn which is not a Winchester bushel, but greatly deficient.

⁹ ARTICLE 476.

CONCEALING TREASURE TROVE.

¹⁰ Every one commits a misdemeanor who conceals from the knowledge of our Lady the Queen the finding of any treasure, that is to say, of any gold or silver in coin, plate or bullion, hidden in ancient times, and in which no person can shew any property. It is immaterial whether the offender found such treasure himself or received it from a person who found it, but was ignorant of its nature.]

¹ *H. v. Young*, 3 T. R. 104.

² *Russ. Cr.* 516.

³ *H. v. Closs*, D. & B. 460.

⁴ *Hawk. P. C.* c. 15; 2 *Russ. Cr.* 515.

⁵ 2 *East. P. C.* 622; *R. v. Decon*, 3 M. & S. 11.

⁶ *R. v. Eagleton*, *Dear.* 376.

⁷ *H. v. Haynes*, 4 M. & S. 214.

⁸ *Pickney's Case*, 2 *East, P. C.* 818.]

⁹ S. D. Art. 342.

¹⁰ [3rd Inst. 132, and see *R. v. Thomas*, L. & C. 373.]

CHAPTER XL.

FRAUDS BY AGENTS, TRUSTEES, AND OFFICERS OF COMPANIES—FALSE ACCOUNTING.

ARTICLE 477.

MISAPPROPRIATION BY BANKERS, MERCHANTS, ETC.

EVERY banker, merchant, broker, attorney or other agent¹ is guilty of a misdemeanor and liable to seven years' imprisonment, who

(a.)² having been entrusted, either solely or jointly with any other person, with any money or security for the payment of money, with any direction in writing³ to apply, pay or deliver such money or security, or any part thereof respectively, or the proceeds or any part of the proceeds of such security, for any purpose, or to any person specified in such direction, in violation of good faith and contrary to the terms of such direction, in anywise converts to his own use or benefit, or the use or benefit of any person other than the person by whom he has been so entrusted, such money, security or proceeds, or any part thereof respectively; or

(b.) having been entrusted, either solely or jointly with

¹ § Hist. C. Law 150-160.

² S. D. Art. 345.

³ [i.e., other agent like a banker, merchant, broker, or attorney. The section is aimed at those classes who carry on the occupations or similar occupations to those mentioned in the section, and not at those who carry on no such occupation, but who may happen from time to time to undertake some fiduciary position whether for money or otherwise; *R. v. Portugal*, L. R. 16 Q. B. D. 487, 491.] *R. v. Hynes*, 13 U. C. Q. B., 194; *R. v. Armstrong*, 20 U. C. Q. B., 245.

⁴ R. S. C. c. 164, s. 60; 24 & 25 Vict., c. 96, s. 75.

Every president or other officer of a bank is guilty of a misdemeanor and liable to two years' imprisonment who wilfully gives or concurs in giving any creditor of the bank any fraudulent, undue or unfair preference over other creditors. See as to false statements in accounts, Art. 519, schedule, R. S. C. c. 120, s. 81.

⁵ [As to what amounts to a direction in writing, see *R. v. Christian*, L. R. 2 C. C. R. 94.] See, also, *R. v. Cronmire*, 16 Cox C. C. 42.

any other person, with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of the United Kingdom or any part thereof, or of Canada, or of any Province thereof, or of any British colony or possession, or of any foreign state, or in any stock or fund of any body corporate, company or society, for safe custody or for any special purpose, without any authority to sell, negotiate, transfer or pledge, in violation of good faith, and contrary to the object or purpose for which such chattel, security or power of attorney has been entrusted to him, sells, negotiates, transfers, pledges, or in any manner converts to his own use or benefit, or the use or benefit of any person other than the person by whom he has been so entrusted, such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney relates, or any part thereof ; or

(c.)¹ having been entrusted, either solely or jointly with any other person, with the property of any other person for safe custody,—with intent to defraud, sells, negotiates, transfers, pledges or in any other method converts or appropriates the same, or part thereof, to or for his own use or benefit, or the use or benefit of any person other than the person by whom he was so entrusted.

² Nothing in this Article affects any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or personal, in respect to any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage ; nor restrains any banker, merchant, broker, attorney or other agent from receiving any money due or to become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof ; nor from selling, transferring, or otherwise disposing of any securities or

¹ R. S. C. c. 164, s. 61 ; 24 & 25 Vict. c. 96, s. 76.

² R. S. C. c. 164, s. 60 (2) ; 24 & 25 Vict. c. 96, s. 75.

effects in his possession, upon which he has any lien, claim or demand, entitling him by law so to do, unless such sale, transfer or other disposal extends to a greater number or part of such securities or effects than are requisite for satisfying such lien, claim or demand.

¹ [Clause (b.) does not extend

to an agent who disposes of a chattel, valuable security, or power of attorney according to unwritten instructions given to him, and subsequently misappropriates the proceeds thereof, unless (possibly) he is proved to have had an intention to misappropriate the proceeds at the time when he disposed of the chattel, valuable security, or power of attorney ; nor

² to an attorney who being entrusted with money to lay out on mortgage for his client misappropriates it, unless it appears specifically that he was to keep it with him for safe custody until it could be so invested.]

³ ARTICLE 478.

MISAPPROPRIATION UNDER POWER OF ATTORNEY.

⁴ Every one is guilty of a misdemeanor, and liable to seven years' imprisonment, who, being entrusted, either solely or jointly with any other person, with any power of attorney ⁵ for the sale or transfer of any property, fraudulently sells or transfers, or otherwise converts the same or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted.

¹ [This seems to be the effect of *R. v. Tatlock*, L. R. 2 Q. B. D. 157, and *R. v. Cooper*, L. R. 2 C. C. R. 123. In *R. v. Tatlock* the judges were not altogether unanimous.

² *R. v. Newman*, L. R. 8 Q. B. D. 706 ; *R. v. Cooper*, L. R. 2 C. C. R. 123.]

³ S. D. Art. 845.

⁴ R. S. C. c. 164, s. 62 ; 24 & 25 Vic. c. 93, s. 77.

⁵ Power of attorney means a written power of attorney ; *R. v. Chominard*, 4 Q. L. R. 220.

¹ ARTICLE 479.

MISAPPROPRIATION BY FACTORS OR AGENTS.

² Every factor, or agent entrusted, either solely or jointly with any other person, for the purpose of sale or otherwise, with the possession ³ of any goods, or of any document of title to goods, is guilty of a misdemeanor and liable to seven years' imprisonment who, contrary to or without the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so entrusted, and in violation of good faith,

(a.) makes any consignment, deposit, transfer or delivery of any goods or document of title so entrusted to him as in this Article before mentioned, as and by way of a pledge,⁴ lien or security for any money or valuable security borrowed or received by such factor or agent at or before the time of making such consignment, deposit, transfer or delivery, or intended to be thereafter borrowed or received;

(b.) accepts any advance ⁵ of any money or valuable

¹ S. D. Art. 347.

² R. S. C. c. 164, s. 63; 24 & 25 Vict. c. 96, s. 78.

³ Any factor or agent intrusted, as mentioned in the text, and possessed of any such document of title, whether derived immediately from the owner of such goods or obtained by reason of such factor or agent having been entrusted with the possession of the goods, or of any other document of title thereto, is deemed to have been entrusted with the possession of the goods represented by such document of title.

A factor or agent is deemed to be possessed of such goods or document, whether the same are in his actual custody or held by any other person subject to his control, or for him, or on his behalf.

A factor or agent in possession of such goods or document is taken to have been entrusted therewith by the owner thereof unless the contrary is shown in evidence: R. S. C. c. 164, s. 64; 24 & 25 Vict. c. 96, s. 79.

For definition of agent and what is deemed possession under the Bank Act, see R. S. C. c. 120, s. 53.

⁴ Every contract pledging or giving a lien upon such document of title is deemed to be a pledge of and lien upon the goods to which the same relates.

⁵ Any payment made, whether by money or bill of exchange, or other negotiable security, is deemed to be an advance: R. S. C. c. 164, s. 64; 24 & 25 Vict. c. 96, s. 79.

[Where any loan or advance is *bonâ fide* made to any such factor or agent on the faith of any contract or agreement in writing, to consign, deposit, transfer, or deliver such goods or documents of title, and such goods or documents of title are actually received

security on the faith of any contract or agreement¹ to consign, deposit, transfer or deliver any such goods or document of title.

No such factor or agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or documents of title, if the same are not made a security for or subject to the payment of any greater sum of money than the amount which, at the time of such consignment, deposit, transfer or delivery, was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal and accepted by such factor or agent.

² ARTICLE 480.

ASSISTING IN SUCH MISAPPROPRIATION.

³ Every one is guilty of a misdemeanor, and liable to seven years' imprisonment, who, knowingly and wilfully, acts and assists in making any such consignment, deposit, transfer or delivery, or in accepting or procuring such advance as aforesaid.

⁴ ARTICLE 481.

FRAUDULENT TRUSTEES.

⁵ Every trustee⁶ of any property for the use or benefit,

[by the person making the loan or advance without notice of the factor's or agent's want of authority, the loan or advance is deemed to be made on the security of the goods or document of title, though the goods or documents of title are not actually received by the person making the advance till "the period subsequent thereto"; s. 79] R. S. C. c. 164, s. 64. [The necessity for this explanation, which is taken from part of s. 79] R. S. C. c. 164, s. 64 [is not very obvious, nor do I understand what particular period is referred to by the concluding words.]

¹ Any contract or agreement, whether made direct with such factor or agent, or with any clerk or other person on his behalf, is deemed to be a contract or agreement with such factor or agent; s. 79 (R. S. C. c. 164, s. 64). Of course it is.]

² S. D. Art. 348.

³ R. S. C. c. 164, s. 63 (2); 24 & 25 Vict. c. 96, s. 78.

⁴ S. D. Art. 349.

⁵ R. S. C. c. 164, s. 65; 24 & 25 Vict. c. 96, s. 80; *H. v. Barnett*, 25 C. L. J. 410.

⁶ For definition of "trustee" see ante page 6.

either in whole or in part, of some other person, or for any public or charitable purpose, is guilty of a misdemeanor, and liable to seven years' imprisonment, who, with intent to defraud, converts or appropriates the same, or any part thereof, to or for his own use or benefit, or the use or benefit of any person other than such other person, or for any purpose other than such public or charitable purpose, or otherwise disposes of or destroys such property, or any part thereof.

[A public purpose is such a purpose as would be recognized as public in a court of law, and not a purpose the execution of which is a matter of public importance.]

No proceeding or prosecution for any offence mentioned in this Article shall be commenced without the sanction of the Attorney-General or Solicitor-General for the Province in which the same is to be instituted.

When any civil proceeding has been taken against any person to whom the provisions of this Article apply, no person who has taken such civil proceeding shall commence any prosecution under this Article without the sanction of the court or judge before whom such civil proceeding has been had or is pending.

Illustrations.

(1.) ¹ The trustees of a savings bank, which has printed rules one of which directs the manner in which the funds are to be invested, are trustees on an express trust created by an instrument in writing, but not for a public purpose.

(2.) ¹ The purposes of an institution exempted from liability to the poor-rate would be public.

² ARTICLE 482.

FRAUDS BY DIRECTORS, MEMBERS AND OFFICERS OF INCORPORATED COMPANIES.

³ Every director, member, manager or officer of any

¹ [*R. v. Fletcher*, L. & C. 189.]

² S. D. Art. 350.

³ In the Act of the United Kingdom the word "public" occurs before the words "officer" and "company;" the word "manager" does not occur in section 81 (a.); nor the word "member" in sections 82 and 84 (b.) and (d.)

body corporate or company is guilty of a misdemeanor, and liable to seven years' imprisonment, who,

(a.) ¹ fraudulently takes or applies, for his own use or benefit, or for any use or purpose other than the use or purpose of such body corporate or company, any of the property of such body corporate or company ;

(b.) ² receives or possesses himself of any of the property of such body corporate or company, otherwise than in payment of a just debt or demand, and, with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or company ;

(c.) ³ with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or company, or makes or concurs in the making of any false entry, or omits or concurs in omitting any material particular in any book of account or document ; or

(d.) ⁴ makes, circulates or publishes, or concurs in making, circulating or publishing any written statement or account which he knows to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor of such body corporate or company, or with intent to induce any person to become a shareholder or partner therein, or to entrust or advance any property to such body corporate or company, or to enter into any security for the benefit thereof.

ARTICLE 483.

FRAUDS BY OFFICERS AND MEMBERS OF UNINCORPORATED BODIES.

⁵ Every officer or member of any unincorporated body or

¹ R. S. C. c. 164, s. 66; 24 & 25 Vict. c. 96, s. 81.

² R. S. C. c. 164, s. 67; 24 & 25 Vict. c. 96, s. 82; "as such director, etc."

³ R. S. C. c. 164, s. 68; 24 & 25 Vict. c. 96, s. 83.

⁴ R. S. C. c. 164, s. 69; 24 & 25 Vict. c. 96, s. 84.

⁵ R. S. C. c. 164, s. 70. As to officers or members fraudulently obtaining possession of property or books of a trade union see R. S. C. c. 131, s. 12.

society, associated together for any lawful purpose, is guilty of a misdemeanor and liable to three years' imprisonment, who fraudulently takes or applies to his own use or benefit, or for any use or purpose other than the use or purpose of such body or society, the whole or any portion of the funds, moneys or other property of the society, and continues to withhold such property after due demand has been made for the restoration and payment of the same by some one or more of the members or officers duly appointed by and on behalf of the body or society.

¹ ARTICLE 484.

DEFENCE IN CERTAIN CASES.

² No one is liable to be convicted of any of the misdemeanors mentioned in Articles 477-483 (both inclusive) by any evidence whatsoever, in respect of any act done by him, if, at any time previously to his being charged with such offence, he has first ³ disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit or proceeding *bonâ fide* instituted by any party aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any court, upon the hearing of any matter in bankruptcy or insolvency.

¹ S. D. Art. 251.

² R. S. C. c. 164, s. 71; 24 & 25 Vict. c. 96, s. 85.

³ [On this word, which was not in the earlier Act, 5 & 6 Vict. c. 33, s. 6, see *R. v. Skeen Bell*, C. C. 97.]

CHAPTER XLI.

RECEIVING.

¹ ARTICLE 485.

RECEIVING DEFINED.

² [A PERSON is said to receive goods improperly obtained as soon as he obtains control over them from the person from whom he receives them.

Where goods are received by a wife or servant, in the husband's or master's absence, with a guilty knowledge on the part of such wife or servant, the husband or master does not become a receiver only by acquiring a guilty knowledge of the receipt of the goods by such wife or servant, and passively acquiescing therein, but he does become a receiver with a guilty knowledge if, having such knowledge, he does any act approving of the receipt of the goods.

Property ceases to be stolen or otherwise improperly obtained within the meaning of this Article as soon as it comes into the possession of the general or special owner, and if such general or special owner delivers it to some one who delivers it to a person who receives it knowing of the previous theft or other obtaining, such receiving is not an offence within this Article.

¹ S. D. Art. 353.

² [*R. v. Wilton*, 2 Den. 37. In this case the thieves carried stolen fowls into a stable belonging to the receiver's father. The receiver lighted them in, and was taken in the act of bargaining for them as they lay on the ground between the three men. Eight judges to four held that the conviction must be quashed; substantially they all agreed in the proposition given in the text, but they differed on the question whether, under the circumstances, the receiver had the control of the fowls or not. There was also some difference as to the effect of the terms in which the question had been left to the jury by the chairman of sessions who stated the case. For these reasons I have not attempted to turn the case into an illustration. The case of *R. v. J. Smith*, Dear. 494, is somewhat similar. See, too, *R. v. Hill*, 1 Den. 453. In *R. v. Miller*, 6 Cox, C. C. 353, a person was found guilty of receiving who had never had possession of the goods except by a servant.]

Illustrations.

(1.) ¹ A's wife in A's absence receives stolen potatoes knowing them to be stolen. The jury find that A "afterwards adopted his wife's receipt." This finding is not sufficient to sustain a verdict of guilty, as it is consistent with A's having passively consented to what his wife had done without taking any active part in the matter.

(2.) ² A's wife in A's absence receives stolen goods and pays the thief 6d. on account. The thief then tells A, who strikes a bargain with the thief, and pays him the balance. A has received stolen goods knowing them to be stolen.

(3.) ³ B steals C's property. C finds it in B's pocket, restores it to B, and tells B to sell it at the same place where he has sold other property of C's. B sells it to A, who knows that it has been stolen. A commits no offence, as the property after being stolen has got into the owner's hands.

(4.) ⁴ B steals goods from a railway to which they have been bailed. B then sends the goods to A by the same railway. A receives them, knowing them to have been stolen, from the railway porter. A policeman employed by the railway discovers, whilst the goods are in transit, that they have been stolen, and causes them to be delivered to A in order to detect them. A has committed no offence under this article.]

⁵ ARTICLE 486.

RECEIVING PROPERTY FELONIOUSLY OBTAINED.

⁶ Every one is guilty of felony and liable to fourteen years' imprisonment who receives any chattel, money,

¹ *R. v. Dring*, D. & B. 329.

² *R. v. Woodward*, L. & C. 122. A husband can receive from a wife who steals on her own account in his absence; *R. v. McAthey*, L. & C. 250.

³ *R. v. Dolan*, Dear. 436.

⁴ *R. v. Schmidt*, L. R. 1 C. C. R. 15. Erie, C. J., and Meller, J., dissented, on the ground that the company were the innocent agent of the thieves, and that the policeman merely looked at the goods, and took no possession of them.]

⁵ S. D. Art. 364.

⁶ On an indictment for receiving it is necessary to prove possession and guilty knowledge; *R. v. Fournier*, 10 Q.L. R. 35; and there must be evidence that the goods were stolen, &c.; *R. v. Perry*, 26 L. C. J. p. 24, R. S. C. c. 164, s. 52; 24 & 25 Vict. c. 96, s. 91. The enactment which makes stealing by a partner a felony (R. S. C. c. 154, s. 56) is not contained in the Act of the United Kingdom 24 & 25 Vict. c. 96, but in 31 & 32 Vict. c. 116, and it was held that it was not an offence under s. 91 of 24 & 25 Vict. c. 96 to receive stolen goods, the stealing not being a felony either at common law or under that Act, although it was a felony under 31 & 32 Vict. c. 116, s. 1; *R. v. Smith*, L. R. 1 C. C. R. 266. As to 31 & 32 Vict. c. 116 [which makes stealing by a partner, &c., felony, see *supra*, Art. 375:]

valuable security or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling and otherwise disposing whereof amounts to felony, either at common law or by virtue of *The Larceny Act*, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled or disposed of.

¹ ARTICLE 487.

RECEIVING PROPERTY OBTAINED BY THE COMMISSION OF
A MISDEMEANOR.

² Every one is guilty of a misdemeanor and liable to seven years' imprisonment who receives any ³ chattel, money, valuable security or other property whatsoever, the stealing, taking, obtaining, converting or disposing whereof is made a misdemeanor by *The Larceny Act*, knowing the same to have been unlawfully stolen, taken, obtained, converted or disposed of.

ARTICLE 488.

RECEIVING PROPERTY OBTAINED BY OFFENCE PUNISHABLE
ON SUMMARY CONVICTION.

⁴ Every one who receives any property whatsoever, knowing the same to be unlawfully come by, the stealing or taking of which property is, by *The Larceny Act*, punishable, on summary conviction, either for every

[*R. v. Smith*, L. R. 1 C. C. R. 266, an instructive, but I think a most unfortunate, decision. It is exactly in the same spirit as *R. v. Sault*, 1 Lea. 468, in which it was held that to receive a bank note knowing it to be stolen was not felony, because bank notes are not the subject of larceny at common law. See, too, *R. v. Robinson*, Bell, C. C. 84, Art. 435, Illustration (1).] It is unnecessary to add that as the provisions against stealing by partners and against receiving stolen property occur, in Canada, in the same Act, the case of *R. v. Smith* would not represent the law here.

¹ S. D. Art. 254.

² R. S. C. c. 161, s. 83; 24 & 25 Vict. c. 96, s. 95.

³ As to receiving stolen post letters see Art. 403 (*h.*); and stolen timber, Art. 414.

⁴ R. S. C. c. 161, s. 84; 24 & 25 Vict. c. 96, s. 97.

offence, or for the first and second offence only, shall, on summary conviction, be liable, for every first, second or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence of stealing or taking such property is by such Act liable.

CHAPTER XLII.

¹ FORGERY IN GENERAL.² ARTICLE 489.

DEFINITION OF FORGERY—INTENT TO DEFRAUD.

³ [FORGERY is making a false document, as defined in Article 490, with intent to defraud.]

An intent to defraud is presumed to exist if it appears that at the time when the false document was made there was in existence a specific person, ascertained or unascertained, capable of being defrauded thereby, and this presumption is not rebutted by proof that the offender took or intended to take measures to prevent such person from being defrauded in fact; nor by the fact that he had, or thought he had, a right to the thing to be obtained by the false document.

The presumption may be rebutted by proof that at the time when the false document was made there was no person who could be reasonably supposed by the offender to be capable of being defrauded thereby; but it is not necessarily rebutted by proof that there was no person who could in fact be defrauded thereby.

It is uncertain whether, in the absence of any evidence as to the existence of any person who can be defrauded by a false document, an intent to defraud will or will not be presumed from the mere making of the document.

An intent to deceive the public or particular persons, but not to commit a particular fraud or specific wrong

¹ [§ Hist. Cr. Law, 180-188.]

² S. D. Art. 355.

³ The wilful alteration, for any purpose of fraud or deceit, of any document or thing written, printed or otherwise made capable of being read, or of any document or thing the forging of which is made punishable by R. S. C. c. 166, shall be held to be a forging thereof; R. S. C. c. 165, s. 8.

upon any particular person, is not an intent to defraud within the meaning of this Article.

¹ *Illustrations.*

(1.) ² A makes a false receipt, the effect of which, if the receipt were genuine, would be to render B accountable to C for a larger sum than B has in fact received on C's account. A is presumed to have intended to defraud, although the receipt was not used in fact, and was probably not intended to be used in fact for the purpose of increasing B's liability.

(2.) ³ A imitates a Bank of England note with intent to defraud any person to whom it may be passed, but without specially intending to defraud the Bank of England. This is an intent to defraud.

(3.) ⁴ A makes a false acceptance to a bill of exchange, and puts it in circulation, intending to take it up, and actually taking it up before the bill is presented to the acceptor for payment. This is forgery with intent to defraud.

(4.) ⁵ A being directed by his master to fill up a blank cheque with an amount to be ascertained, and to take up a bill with the proceeds, fills it up for a larger amount and keeps the difference on a claim that it was due to him for salary. Here there is an intent to defraud.

(5.) ⁶ A pays to his credit at a bank a false promissory note. The bank hold guarantees for a much larger amount. Notwithstanding this, the inevitable conclusion is that he meant to defraud.

(6.) ⁷ A signs B's name without his authority to two deeds of transfer of railway shares, by one of which the shares purport to be transferred by C to B, and by the other to be transferred from B to D. The circumstances are such that no one can be defrauded by these deeds. ⁸ This rebuts the presumption of an intent to defraud raised by the writing of B's name.

(7.) ⁹ A imitates a cheque in B's handwriting and name on a bank at

¹ See also Illustrations, Art. 490.

² [*R. v. Boardman*, 2 Moo. & Rob. 147.

³ 24 & 25 Vict. c. 98, s. 44, would now apply in some cases. In *R. v. Masagora*, R. & R. 291, the judges held that the jury ought in such a case to have found an intent to defraud the Bank of England.

⁴ *R. v. Geach*, 9 C. & P. 499; and in the case stated by Coleridge, J., in *R. v. Todd*, 1 Cox, C. C. 57.

⁵ *R. v. Wilson*, 1 Den. 284.

⁶ Compare *R. v. James*, 7 C. & P. 553, with *R. v. Cooke*, 8 C. & P. 582-5. I have taken the very words of Patteson, J. "Inevitable conclusion" is a little less strong and distinct than "conclusive presumption of law," an expression which the judge seems to have shrank from.

⁷ This is a barely possible supposition, though Cresswell, J., held that it was so in *R. v. Marcus*, 2 C. & K. 356. Rolfe, B., held otherwise in *R. v. Hoatson*, 2 C. & K. 777, see note.

⁸ *R. v. Marcus*, 2 C. & K. 356.

⁹ *R. v. Nash*, 2 Den. C. C. 490.]

[which, to A's knowledge, B had long ceased to keep an account. The jury may infer from this an absence of intent to defraud.

(8.)¹ A imitates a cheque in B's name on a bank from which B had, without A's knowledge, withdrawn his balance the day before. Here the fact that no one could be defrauded by the false cheque does not rebut the presumption of an intent to defraud.

(9.)² A makes a false will. It does not appear whether there was or was not any person who could be defrauded by it. It is uncertain whether an intent to defraud is or is not to be presumed.

(10.)³ A forges a diploma of the College of Surgeons, intending to induce a belief that the document is genuine, and that he is a member of the College of Surgeons, and shews it to two persons with intent to induce that belief in them. This is not an intent to defraud within the meaning of this Article, though it is an intent to deceive.

⁴ ARTICLE 490.

MAKING A FALSE DOCUMENT DEFINED.

To make a false document is

(a.)⁵ to make a document purporting to be what in fact it is not ;

(b.)⁶ to alter a document without authority in such a manner that if the alteration had been authorized it would have altered the effect of the document ;

(c.)⁷ to introduce into a document without authority, whilst it is being drawn up, matter which, if it had been authorized, would have altered the effect of the document ;

(d.) to sign a document

⁸ (i.) in the name of any person without his authority,

¹ [This and Illustration (7) are founded on the dictum of Maule, J., in *R. v. Nash*, 2 Den. C. C. 499.

² *Tuff's Case*, 1 Den. C. C. 819. The Court were equally divided on a question which I submit was substantially the one stated.

³ *R. v. Hodgson*, D. & B. 3. It would, however, be an offence under the Medical Act, 21 & 22 Vict. c. 90, s. 40. This Act was passed in 1858, two years after the decision of *R. v. Hodgson*. The offence is "falsely pretending to be, &c., a surgeon, &c.," and the penalty is £20. The forgery of a diploma would seem to deserve more severe punishment.]

⁴ S. D. Art. 356.

⁵ [Illustration (1).] 23.

⁶ [Illustrations (2) and (3).] (22), (24), (29), (29), (31), (32).

⁷ [Illustrations (4) and (5).] (25).

⁸ Illustration. (27).

[whether such name is or is not the same as that of the person signing ;

¹ (ii) in the name of any fictitious person alleged to exist, whether the fictitious person is or is not alleged to be of the same name as the person signing ;

² (iii.) in a name represented as being the name of a different person from that of the person signing it, and intended to be mistaken for the name of that person ;

³ (iv.) in a name of a person personated by the person signing the document, provided that the effect of the instrument depends upon the identity between the person signing the document and the person whom he professes to be.

But it is not making a false document,

⁴ to procure the execution of a document by fraud ;

⁵ to omit from a document being drawn up matter which would have altered its effect if introduced, and which might have been introduced, ⁶ unless the matter omitted qualifies the matter inserted ;

⁷ to sign a document in the name of a person personated by the person who signs it, or in a fictitious name, provided that the effect of the instrument does not depend upon the maker's identity with the person personated, or on the correctness of the name assumed by him.

⁸ It is not essential to the making of a false document that the false document should be so framed that if genuine it would have been valid or binding, provided that in cases in which the forgery of any particular instrument is made a specific offence by any statute, the false document must, in order that the offence may be completed, fall within the description given in the Act.

¹ [Illustrations (6) and (7).]

² Illustration (8).

³ Illustration (9).] (26).

⁴ [Illustrations (10), (11).]

⁵ Illustration (12).

⁶ Illustration (13).

⁷ Illustration (14).

⁸ Illustrations (15)-(17).] And see notes to Art. 498 (c.) and (f.)

¹ [The fact that a document is made to resemble that which it purports to be and is not, is evidence for the consideration of the jury of an intent to defraud, but is not essential to the making of a false document.

² Provided that in cases in which the forgery of any particular instrument is made a specific offence by any statute, the false document must have such a resemblance to the document which it is intended to resemble as to be likely to deceive a common person.

Illustrations.

(1.) ³ A conveys land to B in fee. Afterwards A and C draw up and execute a deed purporting to be of earlier date than the conveyance to B, by which the same land purports to be let to C for a term of 999 years. The second deed is a false document, though executed by A and C.

(2.) ⁴ A obtains a blank acceptance from B, with authority to fill it up for any amount not exceeding £200. A fills it up for £500. This is a false document.

(3.) ⁵ A persuades his servant, William Wilkinson, to write his name across a stamped paper, so as to appear to be the name of the acceptor of a bill of exchange. A then fills up the bill and addresses it to Mr. William Wilkinson, Halifax, so as to make the bill appear as if it had been drawn upon and accepted by a different William Wilkinson. This is a false document.

(4.) ⁶ A gets B to sign a receipt, and afterwards makes additions to it, so as to make it appear that a larger sum was paid to B than had actually been paid. The altered receipt is a false document.

(5.) ⁷ A, employed to draw up B's will, inserts in it legacies out of his own head. The will is a false document.

(6.) ⁸ Sheppard signs a draft in the name of H. Turner, Junior, of Noah's Row, Hampton Court, there being no such place or person. The note is a false document.

¹ [Illustration (18).

² Illustration (19).

³ *R. v. Ivison*, L. R. 1 C. C. R. 260, and in 1 Hawk. P. C. 264.

⁴ *R. v. Hart*, 1 Moody 488; 7 C. & P. 652. In this case the words "£200" were written in the corner of the blank acceptance, and erased. Littledale, J., however, told the jury that the filling up the acceptance for a greater amount than that which was authorized was forgery; *R. v. Bateman*, 2 Russ. Cr. 715. 1 Cox, C. C. 136, is to the same effect.

⁵ *R. v. Blenkinsop*, 1 Den. C. C. 277; 2 Russ. Cr. 724.

⁶ *R. v. Griffiths*, D. & B. 518. It is not easy to see why this case was reserved.

⁷ 1 Hawk. P. C. 264.

⁸ *Sheppard's Case*, 1 Len. 226; 3 *Ex parte Cadby* 26 N. B. R. 452.

[(7.) ¹ Thomas Brown authorizes B to sign a promissory note in the name of Thomas Brown, in order that it might be used as the note of a different and entirely fictitious Thomas Brown. This is a false document, whether B knew or not of the use for which the note was intended.

(8.) ² B agrees to give A time for the payment of a debt, if A will get his mother-in-law, C. Waters (whose Christian name is unknown to B), to execute a promissory note. A gets his wife to sign the note in her maiden name, "A. Waters," and produces the note to B as the note of his mother-in-law. This is a false document.

(9.) ³ A, personating the Hon. A. A. Hope, the brother of the Earl of Hopetown, draws a bill of exchange in the name of A. A. Hope on a person to whom he was known by that name, and who would have paid it if A had really been A. A. Hope, the brother of the Earl of Hopetown. The bill is a false document, though the person on whom it was drawn knew and gave credit to the person who drew it.

(10.) ⁴ A gets B to make his mark to a deed by representing it to be a requisition to a person to stand for a seat in Parliament. A does not make a false document.

(11.) ⁵ A reads B a document by which an action is agreed to be settled for £9. B agrees to sign it, and pays the £9. A, before B signs it, alters the 9 to 12. A does not make a false document.

(12.) ⁶ In drawing up B's will, A omits a legacy to C. A does not make a false document.

(13.) ⁷ In drawing up B's will, A omits a devise of an estate for life to C, whereby the will operates to give D an estate in possession, and not in remainder, on B's death. A makes a false document.

(14.) ⁸ A, personating B, draws a cheque in his assumed name of B, on

¹ *R. v. Parks*, 2 Lea. 775.

² *R. v. Mahony*, 6 Cox. C.C. 487; 2 Russ. Cr. 634-5.

³ *R. v. Hadfield*, 2 Russ. Cr. 640. This is the well known case of the man who married the girl known as the Beauty of Buttermere.

⁴ *R. v. Collins*, 2 M. & R. 461. But see Mr. Greaves' remarks (2 Russ. Cr. (4 ed.) 718, note.) Mr. Greaves suggests, I think rightly, that this was a case of forgery by an innocent agent, B.

⁵ *R. v. Churchwick*, 2 M. & R. 545.

⁶ *Hawkins*, P. C. 265. The distinction seems idle, as every omission of a legacy must increase the residue.

⁷ Such, I submit, would be the law, though I know of no case in which the precise question has been determined. If the law is otherwise, a person passing by a false name would go half way to forgery every time he signed it. If a man passing by a false name drew many bills and regularly provided for them, and at last drew one for which he could not and ought to have known that he could not provide, I do not think he would be guilty of forgery any more than if he had used his own name. The use of a false name is no doubt a fact from which an intent to defraud may often be inferred, but which is a different matter. See the observations of Sir E. H. East on *Aickles' Case*, 2 East, P. C. 969. Since the first edition of this work was published the case of *R. v. Martin*, L. R. 5 Q. B. D. 34, has been decided, which, without going quite as far as Illus-]

[a bank with which in his assumed name he had opened a genuine account by the actual payment of money to his credit. A does not make a false document.]

(15.) ¹ A, with intent to defraud, counterfeits the will of a living person. A is guilty of forgery.

(16.) ² A, with intent to defraud, counterfeits a bill of exchange on unstamped paper, a stamp being necessary to the validity of such a bill. A commits forgery.

(17.) ³ If a person is indicted for forging a bill of exchange, it must be shown that the document forged is a bill of exchange.

(18.) ⁴ A is charged with forging a Bank of England note. If the resemblance of the forged and the real note is sufficient to deceive a common person, the conviction will not be quashed, because in certain important particulars the two documents differ.

(19.) ⁵ A forges a note in these words, "I promise to pay for self and company of my bank in England." A cannot be convicted of forging a Bank of England note.]

Illustrations Founded on Canadian Cases.

(20.) ⁶ A, in company with B, finds a paper purporting to be a promissory note made by F. It had in fact been made by some boys who were amusing themselves, and had been thrown into the fire and carried up the chimney by the draft. B expresses the opinion that the note is not good and advises A to destroy it; but A keeps it and afterwards passes it off, telling the person who takes it that it is good. A is guilty of a felonious uttering.

(21.) ⁷ At common law an indictment would not lie for forging or altering the assessment roll of a township deposited with the township clerk.

(22.) ⁸ A makes a note payable two months after date in favor of B,

[tration (14), confirms the view suggested by it. In that case, *Robert Martin*, for some reason which did not appear, drew in payment for a pony a cheque in the name of William Martin on a bank where he had ceased to have an account. This was held not to be forgery, though it was obtaining the pony by a false pretence. See, too, *R. v. Dunn*, 1 Leach, C.C. 59.

¹ *Murphy's Case*, 2 East, P.C. 949.

² *Hawkeswood's Case*, 2 East, P.C. 955.

³ See several cases collected in 2 Russ. Cr. 755-61, all of which turn on the question whether peculiarly worded instruments answer the statutory description given in the indictment.

⁴ *Elliott's Case*, 2 East, P.C. 951.

⁵ *Jones's Case*, 2 East, P.C. 952. He might however be convicted, if he changed such a document, of obtaining goods by false pretences.]

⁶ *R. v. Dunlop*, 15 U.C.Q.B. 118.

⁷ *R. v. Preston*, 21 U.C.Q.B. 88.

⁸ *R. v. Craig*, 7 U.C.C.P. 239. See also *R. v. McNevin*, 2 R.L. 711, where the note was raised from \$500 to \$2,500.

who endorses it. A then alters the note from two to three months and has it discounted at a bank. A forges the note.

(23.) ¹ A, with intent to defraud, writes out a telegraph message purporting to be sent by B, at Hamilton, to C, at Woodstock, authorizing C to give A what money he requires, has it delivered to C, and on the faith of it procures C's endorsement to a draft on B, which is discounted by a bank for A. A commits forgery.

(24.) ² The alteration, with intent to defraud, of a \$2.00 Dominion note, by adding a cipher after the figure 2, wherever that occurs in the margin of the note, is forgery.

(25.) ³ A being employed to write the will of B, an illiterate person, with intent to get B's property, writes a will contrary to instructions and reads it to B inaccurately, thereby inducing B to execute it. A commits forgery.

The cases on which the following illustrations are founded arose under the Extradition Treaty of 1842 with the United States.

(26.) ⁴ A, who has a power of attorney from B, with intent to defraud, conceals that fact, and, representing himself to be B, executes a deed in B's name. A commits forgery within the Treaty.

(27.) ⁵ A, falsely representing that he has authority to receive a warrant for money in favor of B, signs B's name to the receipt therefor. This is forgery, according to the law of Pennsylvania, where the offence is committed. A commits forgery within the Treaty.

(28.) ⁶ A, a clerk in the office of the Comptroller of the city of Newark, U.S.A., whose duty it is to make in the official books of such Comptroller proper entries of moneys received for taxes, having received a sum of money for taxes, enters in such books the correct amount, and then erasing the true figures inserts a less sum, with intent to benefit himself by the abstraction of the difference between the two amounts, and to deceive the Comptroller and the municipality. A commits forgery within the Treaty.

(29.) ⁷ A, the collector of a county, after the same has been audited and with intent to cover up a defalcation, makes false entries in a book of account, the property of the county, kept by him as such collector, of

¹ *R. v. Stewart*, 25 U. C. C. P. 440.

² *R. v. Bail*, 7 O. R. 228.

³ *Hall v. Carty*, James 379.

⁴ *In re Gould*, 20 U. C. C. P. 154.

⁵ *In re Phipps*, 1 O. R. 588. By Ilagarty, C. J., and Armour, J. (Cameron, J., dissenting; and on appeal (8 Ont. A. R. 77), by Spragge, C. J. O., and Patterson, J. A., (Burton, J. A., and Ferguson, J., dissenting).

⁶ *In re Hill*, 3 O. R. 331. (By Boyd, C. Proudfoot and Ferguson, JJ., and on appeal (8 Ont. A. R. 31) by Spragge, C. J. O., and Galk, J. (Burton and Patterson, JJ. A., dissenting).

⁷ *In re Jarrard*, 4 O. R. 265.

moneys received and paid out by him, and changes the additions to correspond. A commits forgery within the Treaty.

(30.) ¹ The making of false coin is not forgery.

(31.) ² To fill up without authority and for a fraudulent purpose, drafts signed in blank is forgery within the Treaty.

(32.) ³ A, with intent to conceal a fraud previously committed, alters a statement of account such as is received by a bank from other banks having business connections with it, and which contains an acknowledgment of the receipt of money to be accounted for. A commits forgery within the Treaty.

(33.) ⁴ A, a clerk in a bank, makes false entries in the bank books under his control to enable him to obtain the money of the bank improperly. A does not commit forgery within the Treaty.

⁵ ARTICLE 491.

"DOCUMENT."

[The word document in Articles 489 and 490 does not include trade-marks or other signs, though they may be written or printed.

Illustrations.

(1.) ⁶ A paints a picture, and intending to represent that it was painted by an eminent artist, writes that artist's name in the corner. This may be a cheat, but is not forgery.

(2.) ⁷ A prints a number of wrappers imitating advertisements in which egg powders were wrapped for sale by B their maker. He incloses spurious egg powders in the wrappers, and sells them. This is not forgery, though it is obtaining money by false pretences.]

¹ *In re Smith*, 4 Ont. P. R. 215.

² *In re Hoke*, 15 R. L. 92, 99.

³ *Ex parte Debaun*, 4 M. L. R. 145; 32 L. C. J. 281; 16 R. L. 612.

⁴ *R. v. Bluckstone*, 4 Man. L. R. 296; *In re John C. Eno*, 10 Q. L. R. 194. See also *Ex parte Lamirande*, 10 L. C. J. 280, which came up under the treaty with France.

⁵ S. D. Art. 337.

⁶ [*R. v. Cross*, D. & B. 460.

⁷ *R. v. Smith*, D. & B. 566. It would seem as if in this case the element wanting to complete the offence was the intent to defraud by means of the document, rather than the absence of a document capable of being forged; the offence lay in selling spurious as real powders. The wrappers without the powders could have no effect whatever. The essence of a forgery is, that the document itself should be made the instrument of fraud.]

¹ CHAPTER XLIII.PUNISHMENT OF PARTICULAR FORGERIES, OFFENCES
RESEMBLING FORGERY, AND ACTS PREPARATORY TO
THE COMMISSION OF FORGERY.² ARTICLE 492.COUNTERFEITING PUBLIC SEALS, AND FORGING STATE
DOCUMENTS.

³ EVERY one is guilty of felony and liable to imprisonment for life, who

(a.) forges or counterfeits, or utters, knowing the same to be forged or counterfeited, the Great Seal of the United Kingdom, or the Great Seal of Canada, or of any Province of Canada,⁴ or of any one of Her Majesty's colonies or possessions, Her Majesty's Privy Seal, any Privy Signet of Her Majesty, Her Majesty's Royal Sign Manual, or any of Her Majesty's seals, appointed by the twenty-fourth article of the union between England and Scotland to be kept, used and continued in Scotland, the Great Seal of Ireland, or the Privy Seal of Ireland, or the Privy Seal or Seal at Arms of the Governor-General of Canada,⁵ or of the Lieutenant-Governor of any Province

¹ The provisions constituting this chapter could be further condensed, as may be seen by reference to the corresponding chapter in Stephens' Digest. I thought it well, however, on the whole, to adhere closely to the language of the statute, although that involved considerable superfluous matter, and the definition of similar offences in a somewhat bewildering variety of terms. The whole statute could, with advantage, be re-drafted.

² S. D. Art. 359 (a.)

³ R. S. C. c. 165, s. 4; 24 & 25 Vict. c. 98, s. 1.

⁴ The expression "Province of Canada" includes the late Province of Canada and the late Provinces of Upper Canada and Lower Canada, also the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, as they respectively existed before they became part of Canada, and also the several Provinces, Territories and Districts now or hereafter forming part of Canada; R. S. C. c. 165, s. 1. See, also, R. S. C. c. 1, s. 7 (13).

⁵ By the 44th Section of *The Militia Act*, the Governor-General is authorized to affix his signature to any commission issued under that Act by means of a stamp. The forging or counterfeiting of any such stamped signature is a felony, punishable in like manner as the forgery of his Privy Seal or Seal at Arms.

of Canada, or of any person who administers, or, at any time, administered the Government of any Province of Canada, or of the Governor or Lieutenant-Governor of any one of Her Majesty's colonies or possessions; or

(*b.*) forges or counterfeits the stamp or impression of any of such seals; or

(*c.*) utters any document or instrument whatsoever, having thereon or affixed thereto the stamp or impression of any such forged or counterfeited seal, knowing the same to be the stamp or impression of such forged or counterfeited seal, or any forged or counterfeited stamp or impression made or apparently intended to resemble the stamp or impression of any of such seals, knowing the same to be forged or counterfeited; or

(*d.*) forges, or alters, or utters, knowing the same to be forged or altered, any document or instrument having any of the said stamps or impressions thereon, or affixed thereto; or

(*e.*)¹ forges or fraudulently alters any document bearing or purporting to bear the signature of the Governor-General of Canada, or of any deputy of the Governor-General, or of the Lieutenant-Governor of any Province of Canada, or of any person who administers, or, at any time, administered the Government of any Province of Canada; or

(*f.*) offers, utters, disposes of or puts off any forged or fraudulently altered document mentioned in clause (*e.*), knowing the same to be so forged or altered.

² ARTICLE 493.

FORGERY AND OTHER OFFENCES RESPECTING TRANSFERS
OF SHARES IN PUBLIC FUNDS—CLAIMS TO CROWN
GRANTS, SCRIP, ETC.

Every one is guilty of felony and liable to imprison-

¹ R. S. C. c. 165, s. 5.

² S. D. Arts. 359 (*b.*), (*c.*), 361 (*d.*), 367.

ment for life in cases (a), (b.) and (c.), and for seven years in cases (d.) and (e.), who,

(a.)¹ with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered,

(i.) any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable in any of the books of the Dominion of Canada, or of any Province of Canada, or of any bank at which the same is transferable, or of or in the capital stock of any body corporate, company or society, which now is or hereafter may be established by charter, or by, under or by virtue of any Act of Parliament of the United Kingdom or of Canada, or by any Act of the Legislature of any Province of Canada; or

(ii.) any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund or capital stock, or any claim for a grant of land from the crown in Canada, or for any scrip or other payment or allowance in lieu of any such grant of land, or to receive any dividend or money payable in respect of any such share or interest; or

(b.)² with intent to defraud, demands or endeavors to have any such share or interest transferred, or to receive any dividend or money payable in respect thereof, or any such grant of land, or scrip or payment or allowance in lieu thereof, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered; or

(c.)³ falsely and deceitfully personates any owner of any such share or interest or any such claim, scrip, payment or allowance, and thereby transfers or endeavors to transfer any share or interest belonging to any such owner, or thereby receives or endeavors to receive any

¹ R. S. C. c. 165, s. 8; 24 & 25 Vict. c. 98, s. 2.

² As to demanding other property on forged instruments, see Art. 512.

³ R. S. C. c. 165, s. 9; 24 & 25 Vict. c. 98, s. 3.

money due to any such owner, or to obtain any such grant of land, or such scrip or allowance in lieu thereof as aforesaid, as if such offender were the true and lawful owner; or

(d.)¹ forges any name, handwriting or signature purporting to be the name, handwriting or signature of a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund or capital stock, or grant of land or scrip or allowance in lieu thereof, or to receive any dividend or money payable in respect of any such share or interest; or

(e.) offers, utters, disposes of or puts off any such power of attorney or other authority, with any such forged name, handwriting or signature thereon, knowing the same to be forged.

ARTICLE 494.

MAKING FALSE ENTRIES IN BOOKS OF PUBLIC FUNDS.

² Every one is guilty of felony and liable to imprisonment for life, who, with intent to defraud does any of the following things in respect of any of the books of account kept by the Government of Canada, or of any Province of Canada, or of any bank at which any of the books of account of the Government of Canada or of any Province of Canada are kept, wherein are entered or kept the accounts of the owners of any stock, annuities or other public funds, which now are or hereafter may be transferable in such books, that is to say:—

(a.) wilfully makes any false entry therein;

(b.) wilfully alters any word or figure therein;

(c.) in any manner wilfully falsifies any of the accounts of any of such owners in any of such books; or

(d.) wilfully makes any transfer of any share or interest of or in any such stock, annuity or other public fund in

¹ R. S. C. c. 165, s. 10; 24 & 25 Viet. c. 98, s. 4.

² R. S. C. c. 165, s. 11; 24 & 25 Viet. c. 98, s. 5.

the name of any person who is not the true and lawful owner thereof.

¹ ARTICLE 495.

MAKING FALSE DIVIDEND WARRANTS.

² Every clerk, officer or servant of, or person employed or entrusted by, the Government of Canada, or of any Province of Canada, or by any bank in which any of such books and accounts as are mentioned in the Article next preceding is kept, is guilty of felony and liable to seven years' imprisonment, who, knowingly and with intent to defraud, makes out or delivers any dividend warrant, or warrant for payment of any annuity, interest or money payable as aforesaid, for a greater or less amount than the person on whose behalf such warrant is made out is entitled to.

³ ARTICLE 496.

FORGERY OF ENTRIES IN REGISTERS OF BIRTH, BAPTISMS,
MARRIAGES, DEATHS, BURIALS AND OTHER
OFFENCES RESPECTING SUCH
REGISTERS.

⁴ Every one is guilty of felony and liable to imprisonment for life who does any of the following things in respect of any register of births, ⁵ baptisms, marriages, deaths or burials, authorized or required to be kept in Canada, or in any Province of Canada, that is to say:

(a.) forges or fraudulently alters in any such register any entry relating to any birth, baptism, marriage, death or burial, or any part of any such register, or any certified copy of such register, or of any part thereof; or

¹ S. D. Art. 361 (*h.*)

² R. S. C. c. 165, s. 12; 24 & 25 Vict. c. 98, s. 6.

³ S. D. Art. 359 (*d.*)

⁴ R. S. C. c. 165, s. 43; 24 & 25 Vict. c. 98, s. 36.

⁵ As to other registers, see Art. 508.

(b.) knowingly and unlawfully inserts, or causes or permits to be inserted, in any such register, or in any certified copy thereof, any false entry of any matter relating to any birth, baptism, marriage, death or burial; or

(c.) knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death or burial, or certifies any writing to be a copy or extract from any such register, knowing such writing, or the part of such register whereof such copy or extract is so given; to be false in any material particular; or

(d.) forges or counterfeits the seal of or belonging to any registry office or burial board; or

(e.) offers, utters, disposes of or puts off any such register, entry, certified copy, certificate or seal, knowing the same to be false, forged or altered, or any copy of¹ any entry in any such register, knowing such entry to be false, forged or altered; or

(f.) unlawfully destroys, defaces or injures, or causes or permits to be destroyed, defaced or injured, any such register, or any part of any such register, or any certified copy of any such register, or of any part thereof.

² ARTICLE 497.

FORGERY AND OTHER OFFENCES RESPECTING COPIES OF REGISTERS.

³ Every one is guilty of felony and liable to imprisonment for life who does any of the following things in respect of any copy of any register directed or required by law to be transmitted to any registrar or other officer, that is to say:

(a.) knowingly and wilfully inserts, or causes or per-

¹ In the statute, instead of "of," the word "or" occurs. There is the same clerical error in 32 and 33 Vict. (D), c. 19 s. 42, from which R. S. C. c. 165, s. 43 is taken. The word "of" is used in the English Act.

S. D. Art. 359 (e.)

R. S. C. c. 165, s. 44; 24 & 25 Vict. c. 98, s. 37.

mits to be inserted therein, any false entry of any matter relating to any ¹ baptism, marriage or burial; or

(b.) forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any copy of any such register; or

(c.) knowingly or wilfully signs or verifies any copy of any such register, such copy being false in any part thereof, knowing the same to be false; or

(d.) unlawfully destroys, defaces or injures, or for any fraudulent purpose, takes from its place of deposit, or conceals, any such copy of any register.

² ARTICLE 498.

FORGERY OF DEBENTURES. — GOVERNMENT AND BANK
BILLS AND NOTES, ETC.—DEEDS, BONDS, ETC.—
WILLS—BILLS OF EXCHANGE—ORDERS,
RECEIPTS.

Every one is guilty of felony and liable to imprisonment for life who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered,

(a.) ³ any debenture or other security, issued under the authority of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, or any exchequer bill or exchequer bond, or any Dominion or Provincial note, or any endorsement on or assignment of any such debenture, exchequer bill or exchequer bond

¹ The word birth seems to be wanted here.

² S. D. Art. 359 (b).

³ R. S. C. c. 155, s. 13; 24 & 25 Vict. c. 98, s. 8.

Every officer charged with the receipt or disbursement of public moneys, every officer of any bank doing business in Canada, and every person acting as or employed by any banker, shall stamp or write in plain letters the word "Counterfeit," "Altered" or "Worthless" upon every counterfeit or fraudulent note issued in the form of a Dominion or bank note, and intended to circulate as money, which is presented to him at his place of business; and if such officer or person wrongfully stamps any genuine note, he shall, upon presentation, redeem it at the face value thereof; 50-51 Vict. c. 47 s. 1.

or other security issued under such authority, or any coupon, receipt or certificate for interest accruing thereon, or any scrip in lieu of land; or

(b.) ¹ any note or bill of exchange of any body corporate, company or person carrying on the business of bankers, commonly called a bank note, a bank bill of exchange or bank post bill, or any endorsement on or assignment of any bank note, bank bill of exchange or bank post bill; or

(c.) ² any deed or any bond or writing obligatory, or any assignment at law or in equity of any such bond or writing obligatory, or any name, handwriting or signature purporting to be the name, handwriting or signature of a witness attesting the execution of any deed, bond or writing obligatory; or

(d.) ³ any will, testament, codicil, or testamentary instrument; or

(e.) ⁴ any bill of exchange, or any acceptance, endorsement or assignment of any bill of exchange, or any promissory note for the payment of money, or any endorsement on or assignment of any such promissory note; or

(f.) ⁵ any undertaking, warrant, order, authority or

¹ R. S. C. c. 165, s. 18; 24 & 25 Vict. c. 98, s. 12.

² R. S. C. c. 165, s. 26; 24 & 25 Vict. c. 98, s. 20. It is not material that any document described in clauses (c), (d), (e) and (f) is in any Act designated by some other special name or description (R. S. C. c. 165, s. 47); nor in what place the money thereby payable, or secured is or purports to be payable, nor in what language the same or any part thereof is expressed, nor whether the same is or is not under seal; (s. 49); nor in what place any writing or matter the forging, &c., of which is an offence under R. S. C. c. 165 purports to be made, or has been made, nor in what language the same or any part thereof is expressed; (s. 48).

³ R. S. C. c. 165, s. 27; 24 & 25 Vict. c. 98, s. 21.

⁴ R. S. C. c. 165, s. 28; 24 & 25 Vict. c. 98, s. 22.

[A agrees to pay B for goods by his, A's, acceptance, and that he, A, will accept it, and procure its endorsement by C. B sends a form for acceptance accordingly, but with no drawer's name. A accepts it and forges C's endorsement to it. He cannot be indicted under this section, but probably might be convicted of a common law forgery: *R. v. Harper*, L. R. 7 Q. B. D. 78.] See *R. v. McFee*, 13 O. R. 8. A forged paper purporting to be a bank note may be a promissory note: *R. v. McDonald*, 12 U. C. Q. B. 543.

⁵ R. S. C. c. 165, s. 29; 24 & 25 Vict. c. 98, s. 23.

[As to what is not a receipt, see *R. v. French*, L. R. 1 C. C. R. 217. An I. O. U may be an undertaking for payment of money; *R. v. Chambers*, L. R. 1 C. C. R. 341. A turn-

request for the payment of money or for the delivery or transfer of any goods or chattels, or of any note, bill or other security for the payment of money, or for procuring or giving credit, or any endorsement on or assignment of any such undertaking, warrant, order, authority or request, or any accountable receipt, acquittance or receipt for money or for goods, or for any note, bill or other security for the payment of money, or any endorsement on or assignment of any such accountable receipt, or any account, book or thing, written or printed or otherwise made capable of being read.

ARTICLE 499.

STAMPS.

¹ Every one is guilty of felony and liable to twenty-one years' imprisonment who

(a.) forges, counterfeits or imitates, or procures to be forged, counterfeited or imitated any stamp or stamped paper, issued or authorized to be used by any Act of the

[pike ticket is a receipt : *R. v. Fitch*, L. & C. 159. A bank pass book is an accountable receipt ; *R. v. Smith*, L. & C. 168 ; *R. v. Moody*, L. & C. 173. A guarantee against negligence and dishonesty is an "undertaking for the payment of money ;" *R. v. Jones*, L. & C. 576.] A pawnbroker's ticket is a warrant for the delivery of goods ; *R. v. Morrison*, Bell, C. C. 158.] A statement of account, such as a bank receives from other banks having business connection with it, and containing an acknowledgment of the receipt of money to be accounted for is an accountable receipt ; *Ex parte De Baux*, 4 M. L. R. 145. *Ex parte Stanbro*, 2 Man. L. R. 1, is an instance of the forgery of a receipt. An order not addressed to any one may be an order for the payment of money, if it appears for whom it was intended ; *R. v. Parker*, 15 U. C. C. P. 15. A forges B's name on the back of a check payable to B's order, A does not forge an order for the payment of money ; by Fournier, Henry, and Tascheronau, J.J. (Ritchie, C. J., and Strong, J., dissenting), in *Cunningham v. R.*, *Cassels's Digest*, 107, reversing *R. v. Cunningham*, 6 R. & G. 31. *R. v. Tuke*, 17 U. C. Q. B. 296 and *R. v. Steel* 13 U. C. C. P. 619 afford illustrations of orders for the payment of money ; and *R. v. Recopelle*, 20 U. C. Q. B. 269 of a mere request.

¹ R. S. C. c. 165, s. 17 ; 33 & 34 Vict. c. 98, s. 18.

As to similar offences in respect of Canadian, British, Colonial or Foreign postage stamps, and forging, counterfeiting, or unlawfully using franks, &c., see R. S. C. c. 35, s. 86, under which the offender is liable to imprisonment for life, or for any term not less than five years. See also R. S. C. c. 101, s. 45 as to forging, &c., certificate purporting to be issued under *The Gas Inspection Act*, or any stamp to be affixed thereto.

Parliament of Canada, or of the Legislature of any Province of Canada, by means whereof any duty thereby imposed may be paid, or any part or portion of any such stamp; or

(b.) knowingly uses, offers, sells or exposes for sale any such forged, counterfeited or imitated stamp; or

(c.) engraves, cuts, sinks or makes any plate, die or other thing whereby to make or imitate such stamp or any part or portion thereof, except by permission of an officer or person who, being duly authorized in that behalf by the Government of Canada or of any Province of Canada, may lawfully grant such permission; or

(d.) has possession of any such plate, die or thing, without such permission, or, without such permission, uses or has possession of any such plate, die or thing lawfully engraved, cut or made; or

(e.) tears off or removes from any instrument, on which a duty is payable, any stamp by which such duty has been wholly or in part paid, or removes from any such stamp any writing or mark indicating that it has been used for or towards the payment of any such duty.

¹ ARTICLE 500.

DEBENTURES ISSUED UNDER ANY LAWFUL AUTHORITY.

² Every one is guilty of felony, and liable to fourteen years' imprisonment, who forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatsoever, either within Her Majesty's dominions or elsewhere.

¹ S. D. Art. 360 (a.)

² R. S. C. c. 165, s. 32; 24 & 25 Vict. c. 98, s. 26. The offender is liable to imprisonment for life if the debenture is issued under the authority of an Act of the Parliament of Canada or of the Legislature of any Province of Canada; Art. 498 (a.)

ARTICLE 501.

FORGERY OF FOREIGN BILLS, AND OTHER OFFENCES
RESPECTING THE SAME.

² Every one is guilty of felony, and liable to fourteen years' imprisonment, who

(a.) forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange, promissory note, undertaking or order for payment of money, in whatsoever language the same is expressed, and whether the same is or is not under seal³ purporting to be the bill, note, undertaking or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company of persons resident in any country not under the dominion of Her Majesty; or

(b.)⁴ without lawful authority or excuse, the proof whereof shall lie on him, engraves, or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any such document or any part thereof; or

(c.) uses or knowingly has in his custody or possession any plate, stone, wood or other material, upon which any such foreign bill, note, undertaking or order, or any part thereof is engraved or made; or

(d.) knowingly offers, utters, disposes of or puts off, or has in his custody or possession any paper upon which any part of any such foreign bill, note, undertaking or order is made or printed.

¹ S. D. Art. 362 (A.)

² R. S. C. c. 165, s. 25; 24 & 25 Viet. c. 98, s. 19.

³ In the clause of the Act that is represented by (b.) the words are "whether the same is or is not, or is or is not intended to be, under seal."

⁴ [Taking a positive impression of an Austrian note on glass by photography is a "making" within this section; *R. v. Rinaldi*, L. & C. 330.]

ARTICLE 502.

FORGERY OF NOTARIAL INSTRUMENTS AND DOCUMENTS
RELATING TO THE REGISTRATION OF TITLE, ETC.

² Every one is guilty of felony and liable to fourteen years' imprisonment, who

(a.) forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered,

(i.) any notarial act or instrument or copy, purporting to be an authenticated copy thereof or any *procès verbal* of a surveyor, or like copy thereof; or

(ii.) any duplicate of any instrument, or any memorial, affidavit, affirmation, entry, certificate, endorsement, document or writing, made or issued under the provisions of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, for or relating to the registry of deeds or other instruments or documents respecting or concerning the title to or claims upon any real or personal property whatsoever, or forges or counterfeits the seal of or belonging to any office for the registry of deeds or other instruments as aforesaid, or any stamp or impression of any such seal; or

(b.) forges any name, handwriting or signature, purporting to be the name, handwriting or signature of any person to any such memorial, affidavit, affirmation, entry, certificate, endorsement, document or writing required or directed to be signed by or by virtue of any such Act; or

(c.) offers, utters, disposes of or puts off any such memorial or other writing, having thereon any such forged stamp or impression of any such seal, or any such forged name, handwriting or signature, knowing the same to be forged.

¹ S. D. Art. 360 (b.)

² R. S. C. c. 165, s. 38; 24 & 25 Vict. c. 98, s. 31.

¹ ARTICLE 503.FORGERY OF PUBLIC REGISTERS OR BOOKS—FALSE COPIES
THEREOF.

² Every one is guilty of felony, and liable to fourteen years' imprisonment, who forges or counterfeits or alters any public register or book appointed by law to be made or kept or any entry therein, or wilfully certifies or utters any writing as and for a true copy of such public register or book or of any entry therein, knowing such writing to be counterfeited.

² ARTICLE 504.

FORGERY OF CERTAIN JUDICIAL DOCUMENTS.

Every one is guilty of felony, and liable to fourteen years' imprisonment in case (a.) and to three years' imprisonment in case (b.), who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered,

(a.) ³ any certificate, report, entry, endorsement, declaration of trust, note, direction, authority, instrument or writing made or purporting or appearing to be made by any judge, commissioner, clerk or other officer of any court in Canada, or the name, handwriting or signature of any such judge, commissioner, clerk or other officer; or

(b.) ⁴ any summons, conviction, order or warrant, of any justice of the peace, or any recognizance purporting to have been entered into before any justice of the peace or other officer authorized to take the same, or any examination, deposition, affidavit, affirmation or solemn declaration, taken or made before any justice of the peace.

¹ S. D. Arts. 360 (c.), 361 (g.)

² R. S. C. c. 165, s. 7. As to register of births, &c., see Art. 496.

³ R. S. C. c. 165, s. 40; 24 & 25 Vict. c. 98, s. 33.

⁴ R. S. C. c. 165, s. 39; 24 & 25 Vict. c. 98, s. 32.

¹ ARTICLE 505.

FORGERY OF OTHER JUDICIAL DOCUMENTS AND INSTRUMENTS ADMISSIBLE IN EVIDENCE IN COURTS OF JUSTICE.

Every one is guilty of felony and liable to seven years' imprisonment who

- (a.) ² forges the seal of any court of record ; or
- (b.) forges or fraudulently alters or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered,
- (i.) ³ any record, writ, return, panel, process, rule, order, warrant, interrogatory, deposition, affidavit, affirmation, recognizance, *cognovit actionem*, warrant of attorney, bill, petition, process, notice, rule, answer, pleading, interrogatory, report, order or decree, or any original document whatsoever of or belonging to any court of justice, or any document or writing, or any copy of any document or writing, used or intended to be used as evidence in any such court ; or
- (ii.) ⁴ any copy or certificate of any such record ; or
- (iii.) ⁵ any instrument, whether written or printed, or partly written and partly printed, which is made evidence by any Act of the Parliament of Canada or of the Legislature of any Province of Canada, and not otherwise specially mentioned in this chapter ; or
- (c.) ⁶ offers, utters, disposes of or puts off any copy or certificate of any record having thereon any false or

¹ S. D. Art. 361.

² R. S. C. c. 165, s. 35 ; 24 & 25 Vict. c. 98 s. 28. The statute is silent as to forging the impression of such seals.

³ R. S. C. c. 165, s. 34 ; 24 & 25 Vict. c. 98, s. 27.

[These sections are singularly cumbrous and ill-arranged, besides being intolerably wordy. A somewhat similar provision as to County Courts occurs in 9 & 10 Vict. c. 95, s. 57 ; see *R. v. Richmond*, Bell, 142, and *R. v. Evans*, D. & B. 236.]

⁴ R. S. C. c. 165, s. 35 ; 24 & 25 Vict. c. 98, s. 28.

⁵ R. S. C. c. 165, s. 36 ; 24 & 25 Vict. c. 98, s. 29.

⁶ R. S. C. c. 165, s. 35 ; 24 & 25 Vict. c. 98, s. 28.

forged name, handwriting or signature, knowing the same to be false or forged ; or

(*d.*) forges or fraudulently alters any process of any court whatsoever ; or

serves or enforces any forged process of any court whatsoever, knowing the same to be forged ; or

delivers or causes to be delivered to any person any paper, falsely purporting to be any such process or a copy thereof, or to be any judgment, decree or order of any court whatsoever, or a copy thereof, knowing the same to be false ; or

acts or professes to act under any such false process, knowing the same to be false ; or

(*e.*) being the clerk of any court or other officer having the custody of the records of any court, or being the deputy of any such clerk or officer, utters any false copy or certificate of any record, knowing the same to be false ; or

(*f.*) not being such clerk, officer or deputy, signs or certifies any copy or certificate of any record as such clerk, officer or deputy ; or

(*g.*)¹ prints any proclamation, order, regulation or appointment, or notice thereof, and causes the same falsely to purport to have been printed by the Queen's Printer for Canada, or the Government Printer for any Province of Canada, as the case may be, or tenders in evidence any copy of any proclamation, order, regulation or appointment, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed ; or

(*h.*) forges, or tenders in evidence, knowing the same to be forged, any certificate authorized to be made or given by any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, for the purpose of certifying or verifying any copy or extract of any proclamation, order, regulation, appointment, paper, document or

¹ R. S. C. c. 165, s. 37 ; 31 & 32 Vict. c. 37, s. 4.

writing, of which a certified copy may lawfully be offered as *prima facie* evidence.

¹ ARTICLE 506.

ACKNOWLEDGING RECOGNIZANCES WITHOUT AUTHORITY.

² Every one is guilty of felony, and liable to seven years' imprisonment, who, without lawful authority or excuse, the proof whereof shall lie on him, in the name of any other person, acknowledges any recognizance of bail, or any *cognovit actionem*, or judgment, or any deed or other instrument, before any court, judge, notary or other person lawfully authorized in that behalf.

ARTICLE 507.

FORGERY OF LETTERS PATENT.

³ Every one is guilty of felony, and liable to seven years' imprisonment, who forges or alters, or in any way publishes, puts off, or utters as true, knowing the same to be forged or altered, any copy of letters patent, or of the enrolment or enregistration of letters patent, or of any certificate thereof, made or given or purporting to be made or given by virtue of any Act of Canada, or of any Province of Canada.

⁴ ARTICLE 508.

FORGERY OF MARRIAGE LICENSES.

⁵ Every one is guilty of felony, and liable to seven years' imprisonment, who forges or fraudulently alters any license or certificate for marriage, or offers, utters,

¹ S. D. Art. 368.

² R. S. C. c. 165, s. 41; 24 & 25 Vict. c. 98, s. 34.

³ R. S. C. c. 165, s. 6.

⁴ S. D. Art. 361 (*q.*)

⁵ R. S. C. c. 165, s. 42; 24 & 25 Vict. c. 98, s. 35.

disposes of or puts off any such a license or certificate, knowing the same to be forged or fraudulently altered.

ARTICLE 509.

FORGERY OF PASSENGER TICKETS.

¹ Every one is guilty of felony, and liable to three years' imprisonment, who, with intent to defraud, forges, offers or utters, disposes of or puts off, knowing the same to be forged, any ticket or order for a free or paid passage on any railway or any steam or other vessel.

² ARTICLE 510.

OFFENCES RESPECTING CROSSED CHEQUES.

³ Every one is guilty of felony, and liable to imprisonment for life, who

(a.) obliterates, adds to, or alters the crossing on any cheque or draft crossed with the name of a banker, or with two transverse lines with the words "and company," or any abbreviation thereof; or

(b.) offers, utters, disposes of or puts off any cheque or draft whereon any such obliteration, addition or alteration has been made, knowing the same to have been made.

⁴ ARTICLE 511.

DRAWING BILLS, ETC., WITHOUT AUTHORITY.

⁵ Every is guilty of felony, and liable to fourteen years' imprisonment, who, with intent to defraud,

(a.) without lawful authority or excuse, draws, makes, signs, accepts or endorses any bill of exchange or promis-

¹ R. S. C. c. 165, s. 83.

² S. D. Art. 351 (c.)

³ R. S. C. c. 165, s. 31; 21 & 25 Vict. c. 93, s. 25.

⁴ S. D. Art. 360 (d.)

⁵ R. S. C. c. 165, s. 30; 24 & 25 Vict. c. 98, s. 24.

sory note, or any undertaking, warrant, order, authority or request for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note or other security for money, by procuration or otherwise, for, in the name, or on the account of any other person ;
or

(*b.*) offers, utters, disposes of or puts off any such bill, note, undertaking, warrant, order, authority or request, so drawn, made, signed, accepted or endorsed, by procuration or otherwise, without lawful authority or excuse, knowing the same to have been so drawn, made, signed, accepted or endorsed.

¹ ARTICLE 512.

DEMANDING PROPERTY UPON FORGED INSTRUMENTS.

² Every one is guilty of felony, and liable to fourteen years' imprisonment, who, with intent to defraud, demands, receives or obtains, or causes or procures to be delivered or paid to any person, or endeavors to receive or obtain, or to cause or procure to be delivered or paid to any person, any chattel, money, security for money, or other property whatsoever, under, upon or by virtue of any forged or altered instrument whatsoever, knowing the same to be forged or altered, or under, upon or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration were obtained to have been forged or altered, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation or affidavit.

¹ S. D. Art. 360 (c.)

² R. S. C. c. 165, s. 45 ; 24 & 25 Vict. c. 98, s. 38. As to demanding transfer of shares in public funds on forged power of attorney, see Art. 493 (*b.*)

¹ ARTICLE 513.UNLAWFUL POSSESSION OF FORGED BANK NOTES—DOMINION, PROVINCIAL OR BANK NOTE PAPER—
INSTRUMENTS FOR MAKING
SUCH PAPER.

Every one is guilty of felony, and liable to fourteen years' imprisonment, who, without lawful authority or excuse, the proof whereof shall lie on him,

(a.) ² purchases or receives from any other person, or has in his custody or possession any forged bank notes, bank bill of exchange or bank post bill, or blank bank note, blank bank bill of exchange or blank bank post bill, knowing the same to be forged; or

(b.) ³ makes, uses, sells, exposes for sale, utters or disposes of, or knowingly has in his custody or possession any Dominion, provincial or bank note paper as defined in the note hereto; or

(c.) makes or uses, or knowingly has in his custody or possession, any frame, mould or instrument for making any such paper; or

(d.) by any contrivance causes

(i.) any words used in any dominion, provincial or bank note, or any part of such words intended to resemble and pass for the same, or any device or distinction peculiar to and appearing in the substance of

¹ S.D. Art. 262.

² R. S. C. c. 165, s. 19; 24 & 25 Vict. c. 98, s. 13.

³ R. S. C. c. 165, ss. 20, 24; 24 & 25 Vict. c. 98, ss. 14, 18.

Dominion, provincial or bank note paper means any paper used for dominion or provincial notes, or for bank notes, with any words used in such notes, or any part of such words intended to resemble or pass for the same, visible in the substance of the paper, or with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum or amount, expressed in a word or words in letters, visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for such notes, respectively; (s. 20); and the expression "bank note paper" also includes paper, with the name or firm of any bank or body corporate, company or person carrying on the business of bankers, appearing visible in the substance of the paper; (s. 24).

the paper used for any such notes, respectively, to appear visible in the substance of any paper ; or

(ii.) the numerical sum or amount of any such note, in a word or words in letters, to appear visible in the substance of the paper whereon the same is written or printed ; or

(iii.) the name or firm of any such bank, body corporate, company or person to appear visible in the substance of the paper upon which the same is written or printed ; or

(e.) ¹ engraves or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any promissory note or part of a promissory note, purporting to be a dominion or provincial note or bank note, or to be a blank dominion or provincial note, or bank note, or to be a part of any dominion or provincial note, or bank note, or any name, word or character resembling, or apparently intended to resemble, any subscription to any such dominion or provincial note, or bank note ; or

uses any such plate, wood, stone or other material, or any other instrument or device for the making or printing of any such note, or part of such note ; or

knowingly has in his custody or possession any such plate, wood, stone or other material, or any such instrument or device ; or

knowingly offers, utters, disposes of or puts off, or has in his custody or possession any paper upon which any blank dominion or provincial note, or bank note, or part of any such note, or any name, word or character resembling, or apparently intended to resemble, any such subscription is made or printed ; or

(f.) ² engraves or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any word, number, figure, device, character or ornament, the impression taken from which resembles, or is

¹ R. S. C. c. 165, s. 22 ; 24 & 25 Vict. c. 98, s. 16.

² R. S. C. c. 165, s. 23 ; 24 & 25 Vict. c. 98, s. 17.

apparently intended to resemble any part of a dominion or provincial note, or bank note; or

uses or knowingly has in his custody or possession any such plate, wood, stone or other material, or any other instrument or device for the impressing or making upon any paper or any other material, any word, number, figure, character or ornament, which resembles or is apparently intended to resemble any part of any such note; or

knowingly offers, utters, disposes of or puts off, or has in his custody or possession any paper or other material upon which there is an impression of any such matter as aforesaid.

¹ It is not an offence to issue any bill of exchange or promissory note, having the amount thereof expressed in a numerical figure or figures denoting the amount thereof in pounds or dollars, appearing visible in the substance of the paper upon which the same is written or printed, or to make, use, or sell any paper having waving or curved lines, or any other devices in the nature of water marks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved, laying wire lines or bar lines, or the water-marks of the paper used for dominion, provincial or bank notes.

² ARTICLE 514.

UNLAWFUL POSSESSION, ETC., OF PAPER PREPARED FOR
DEBENTURES AND OTHER SECURITIES—PLATES,
DIES, ETC.

Every one is guilty of felony and liable to seven years' imprisonment in cases (a.), (b.) and (c.), and to imprison-

¹ R. S. C. c. 165, s. 21; 24 & 25 Vict. c. 98, s. 15.

² S. D. Art. 363.

ment for any term less than two years in case (d.), who, without lawful authority or excuse, the proof whereof shall lie on him,

(a.) makes or causes or procures to be made, or aids or assists in making, or knowingly has in his custody or possession

(i.) ¹ any paper in the substance of which appear any words, letters, figures, marks, lines, threads or other devices peculiar to and appearing in the substance of any paper provided or to be provided or used for debentures, exchequer bills or exchequer bonds, dominion or provincial ² notes or other securities issued under the authority of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, or any part of such words, letters, figures, marks, lines, threads or other devices, and intended to imitate the same; or

(ii.) ³ any frame, mould or instrument, having therein any words, letters, figures, marks, lines or devices, peculiar to or appearing in the substance of any paper provided or to be provided and used for any such debentures, exchequer bills or exchequer bonds, notes or other securities; or

(iii.) any machinery for working any threads into the substance of any such paper, or any such thread, and intended to imitate such words, letters, figures, marks, lines, threads or devices; or

(iv.) any plate peculiarly employed for printing such debentures, exchequer bills or exchequer bonds or such notes or other securities; or

(v.) any die or seal peculiarly used for preparing any such plate, or for sealing such debentures, exchequer bills or exchequer bonds, notes or other securities; or

¹ R. S. C. c. 165, s. 15; 24 & 25 Vict. c. 98, s. 10.

² But see the Article next preceding and the sections of the Act on which the same is founded, by the provisions of which the same and like offences as defined in the text in respect of Dominion and Provincial note paper are punishable by imprisonment for fourteen years.

³ R. S. C. c. 165, s. 14; 24 & 25 Vict. c. 98, s. 9.

(vi.) any plate, die or seal, intended to imitate any such plate, die or seal; or

(b.) ¹ causes or assists in causing any such words, letters, figures, marks, lines, threads or devices, or any part of such words, letters, figures, marks, lines, threads and other devices, and intended to imitate the same, to appear in the substance of any paper whatsoever; or

(c.) takes or assists in taking an impression of any such plate, die or seal; or

(d.) ² purchases or receives, or knowingly has in his custody or possession

(i.) any paper manufactured and provided by or under the direction of the Government of Canada or of any Province of Canada, for the purpose of being used as such debentures, exchequer bills or exchequer bonds, notes or other securities, before such paper has been duly stamped, signed and issued for public use; or

(ii.) any such plate, die or seal.

ARTICLE 515.

PRINTING CIRCULARS, ETC., IN LIKENESS OF NOTES.

³ Every one who designs, engraves, prints or in any manner makes, executes, utters, issues, distributes, circulates or uses any business or professional card, notice, placard, circular, hand-bill or advertisement in the likeness or similitude of any Dominion or bank note, or any obligation or security of any Government or any bank, is liable, on summary conviction before two justices of the peace, to a fine of one hundred dollars or three months' imprisonment, or both.

¹ R. S. C. c. 165, s. 15; 24 & 25 Viet. c. 98, s. 10.

² R. S. C. c. 165, s. 16; 24 & 25 Viet. c. 98, s. 11.

³ 40 & 51 Viet. (D), c. 47, s. 2.

ARTICLE 516.

FORGERY OF ANY DOCUMENT.

¹ Every one is guilty of felony, and liable to imprisonment for life, who, for any purpose of fraud or deceit, forges or fraudulently alters any document or thing written, printed, or otherwise made capable of being read, or offers, utters, disposes of puts off any such forged or altered document or thing, knowing the same to be forged or altered.

² ARTICLE 517.PUNISHMENT IN CASES NOT OTHERWISE PROVIDED FOR
IN R. S. C. c. 165, AND FOR WHICH OFFENDER IS
BY ANY ACT LIABLE TO GREATER PUNISHMENT.

³ Every one is liable to imprisonment for life, [who commits any felony] for which he would be liable to any greater punishment than is provided for by R. S. C. c. 165, and which is not otherwise punishable thereunder, [and which consists in forging or uttering any document, or acting under a forged document or personation, or making or being in possession of instruments for making any kind of paper, or other offence of the same nature.

¹ R. S. C. c. 165, s. 46. This comprehensive section does not occur in the Act of the United Kingdom. As to the forgery of ballot papers, see Art. 171. A writing purporting to be a bank note issued by a banking company in the State of Maine was held to be within 12 Vict. (N. B.) c. 29, which made it forgery to forge or alter any writing with intent to defraud; *R. v. Brown*, 3 All. 13.

² S. D. Art. 359 (*g.*)

³ R. S. C. c. 165, s. 50; [24 & 25 Vict. c. 98, s. 48. S. This section is exceedingly verbose, and is not likely to be put in force. I have therefore greatly abridged it. To judge from the Index to the Revised Statutes, it can apply only to two statutes, 52 Geo. 3, c. 143, s. 6, referring to forging certificates, etc., of redemption of the land tax, and 7 & 8 Geo. 4, c. 53, s. 56, relating to the forgery of instruments to receive money from the Bank of England, on account of the Receiver General of Excise, etc. In each case the punishment was originally death, and in each it was reduced to transportation for life by 1 Will. 4, c. 68, s. 1.] The provision is altogether unnecessary in Canada, and finds a place in the Canadian Act for no better reason than that it occurs in the Act of the United Kingdom.

¹ ARTICLE 518.

FORGERY AT COMMON LAW, MISDEMEANOR.

² [Every one commits a misdemeanor who forges any document by which any other person may be injured, or utters any such document knowing it to be forged with intent to defraud, whether he effects his purpose or not.

Illustrations.

The forgery or uttering of any of the following documents is a misdemeanor:—

³ An order from a magistrate to a gaoler to discharge a prisoner as upon bail being given.

⁴ A certificate of character to induce the Trinity House to enable a seaman to act as master.

⁵ Testimonials whereby the offender obtained an appointment as a police constable.

⁶ The like with intent to obtain the office of a parish schoolmaster.

⁷ A certificate that a liberated convict was gaining his living honestly to obtain an allowance.]

ARTICLE 519.

⁸ SPECIAL STATUTORY PROVISIONS RESPECTING FORGERY AND OFFENCES RESEMBLING FORGERY.

Every one who does anything of the things indicated in a general way in the first column of the schedule hereto, and more particularly defined in the statute cited in the second column is guilty of the offence ⁹ described in the third column, and liable on conviction in the manner mentioned in the fourth column to the punishment ¹⁰ stated in the fifth column of such schedule.

¹ S. D. Art. 366.

² [R. v. Ward, East, P. C. 861; R. v. Sharman, Dear. 385 (overruling R. v. Boulton, 2 C. & K. 604).]

³ R. v. Harris, 1 Moody 393.

⁴ R. v. Mouch, D. & B. 559.

⁴ R. v. Toshack, 1 Den. C. C. 492.

⁵ R. v. Sharman, Dear. C. C. 285.

⁷ R. v. Mitchell, 2 F. & F. 44.]

⁸ Many of such offences are punishable under the general criminal law, and others are of a character so special that it is not necessary or desirable to define them at greater length than is done in the schedule to this Article.

⁹ In some cases the offence is not in terms described in the statute.

¹⁰ I have added the term of imprisonment to which the offender is liable under the general criminal law (Art. 17), where no term is given in the statute. In every case of misdemeanor the offender is liable to a fine in addition to or in lieu of any other authorized punishment: Art. 12.

SCHEDULE.

OFFENCE.	STATUTE.	FELONY OR MISDEMEANOR.	ON INDICTMENT OR SUMMARY CONVICTION.	PUNISHMENT.
Making false bill of inspection of hops.....	C. S. C. c. 52, s. 13.....	Felony.....	Indictment.....	Seven years' imprisonment.
Forging or uttering any debenture issued under <i>The Railway Act</i> of the Province of Canada.....	C. S. C. c. 63, s. 121.....	".....	".....	Imprisonment for life.
Directors, officers or servants of joint stock companies making false entries in company's books, refusing to make proper entry, &c.....	24 Vict. (P. C.) c. 18, s. 23.....	Misdemeanor.....	".....	Five years' imprisonment.
Counterfeiting Customs marks or brands, or possessing or selling goods falsely marked or branded therewith.....	R. S. C. c. 32, s. 210.....	".....	Summary conviction before two Justices.....	Fine \$200.00 and imprisonment for twelve months and not less than two.
Counterfeiting or uttering Customs documents.....	Id., s. 211.....	".....	Indictment.....	Five years' imprisonment.
Counterfeiting any label, stamp or seal provided for by <i>The Inland Revenue Act</i>	R. S. C. c. 34, s. 91.....	Felony.....	".....	Imprisonment for life.
Mixing forged, false or used stamp to package of tobacco or cigars.....	Id., s. 325.....	".....	".....	Fine not exceeding \$500.00 and not less than \$100.00, and imprisonment not exceeding five years and not less than six months.
Forging post office money orders, post office savings banks depositors' books, &c.....	R. S. C. c. 35, s. 87.....	".....	".....	Imprisonment not more than seven and not less than two years.
Counterfeiting keys suited to locks used by the Post Office Department.....	Id., s. 88.....	".....	".....	".....
Making false entries in any register or books, or any false copy of any document relating to the purposes of <i>The Patent Act</i> , or tendering same in evidence.....	R. S. C. c. 61, s. 56.....	Misdemeanor.....	".....	Fine and 5 years' imprisonment

OFFENCE.	STATUTE.	FELONY OR MISDEMEANOR.	ON INDICTMENT OR SUMMARY CONVICTION.	PUNISHMENT.
Making false entries in registers of copyrights, or tendering in evidence any paper falsely purporting to be a copy thereof.	R. S. C. c. 62, s. 23.	Misdemeanor	Indictment	Five years' imprisonment.
Forging or fraudulently altering certificates of masters or mates; aving or procuring same by false representations, &c.	R. S. C. c. 73, s. 16.	"	"	"
Fraudulently altering, making false entry in, or delivering false copy of an agreement made under <i>The Seamen's Act</i> ; or	R. S. C. c. 74, s. 34.	"	"	"
Under <i>The Inland Waters Seamen's Act</i> ;	R. S. C. c. 75, s. 8.	"	"	"
Master or person interested in ship making fraudulent alteration in marks on stem or stern post of ship denoting draught of water.	R. S. C. c. 80, s. 56.	"	"	"
Making false inspection bill of ashes.	R. S. C. c. 99, s. 69.	Pelony	"	Seven years' imprisonment.
Forging or counterfeiting stamps or marks used for stamping or marking gas meters; selling, etc., meters with forged mark or stamp thereon.	R. S. C. c. 101, s. 41.	Misdemeanor	Summary conviction before two Justices	Maximum fine \$200.00; minimum \$50.00 and \$20.00 respectively.
Altering, obliterating, counterfeiting, &c., brands or marks indicating inspection of petroleum, &c., and other offences respecting such marking, &c.	R. S. C. c. 102, s. 26.	"	"	Fine of \$100.00.
Counterfeiting stamps authorized by <i>The Cylinders Act</i> , obliterating marks on lumber indicating that it has been culled or measured.	R. S. C. c. 103, s. 40.	Misdemeanor	Summary conviction	Fine not exceeding \$200.00 or three months imprisonment.
Counterfeiting stamps used for stamping under <i>The Weights and Measures Act</i> , any weight, weighing machine, etc.	R. S. C. c. 104, s. 31.	"	Summary conviction (before two Justices where fine exceeds \$5000)	Fine first offence, \$50.00; subsequent offences, \$100.00 and fine exceeds \$5000).... two months imprisonment.

OFFENCE.	STATUTE.	FELONY OR MISDEMEANOR.	ON INDICTMENT OR SUMMARY CONVICTION.	PUNISHMENT.
Using, uttering, selling, etc., any false weight, balance, weighing machine or measure.....	R. S. C. c. 104, s. 31	Misdemeanor.	Summary conviction (before two justices when fine exceeds \$50.00)....	Fine first offence, not exceeding \$50.00 and not less than \$25.00; subsequent offences, \$100.00.
Forging or uttering any manufacturer's certificate, bill of inspection, certificate of analysis or inspectors' tag required under <i>The Fertilizers Act</i> .	R. S. C. c. 106, s. 13	"	Indictment.....	Imprisonment for term not exceeding two years.
Signing false railway statistical returns.....	R. P. C. c. 109 (51 Viet. c. 29), s. 301	"	"	Five years' imprisonment.
Directors, officers or servants making false entries in books of joint stock companies to which <i>The Companies Act</i> applies—refusing to make proper entry or allow inspection of book.....	R. S. C. c. 118, s. 28	"	"	Imprisonment for term not exceeding two years.
The like in respect of books of companies incorporated under <i>The Companies Act</i>	R. S. C. c. 111, s. 45	"	"	Five years' imprisonment.
Making or using a wilfully false statement in any account, statement, return, report or other document respecting the affairs of a bank.....	R. S. C. c. 120, s. 31	"	"	Imprisonment for a term not exceeding two years. See <i>R. v. Girdle</i> , 22 L. C. J. 141; <i>R. v. Hinch</i> , 24 L. C. J. 110; <i>R. v. Kwan</i> , 19 R. L. 33.
Agent, officer, clerk or servant of a Government savings bank fraudulently defacing, altering, erasing or changing any book of account of such bank or any entry therein.....	R. S. C. c. 121, s. 19	Felony	"	Imprisonment for life.
The like in respect of the books of account of certain savings banks in Ontario and Quebec.....	R. S. C. c. 122, s. 32	"	"	"

OFFENSE.	STATUTE.	FELONY OR MISDEMEANOR.	ON INDICTMENT OR SUMMARY CONVICTION.	PUNISHMENT.
Knowinglly issuing, selling or transferring any bill of exchange or promissory note the consideration for which, in whole or in part, consists of the purchase money of a patent right without having written or printed across the face thereof "Given for a patent right,"	R. S. C. c. 123, s. 14	Misdemeanor	Indictment	Fine of \$200.00 and imprisonment for any term not exceeding one year.
Forging or uttering, etc., any note or memorandum given by pawnbrokers for goods pawned with intent to defraud.	R. S. C. c. 123, s. 7	"	Summary conviction	Three months' imprisonment.
With intent to defraud or deceive, destroying, mutilating, altering or falsifying any book, etc., or making false entry in any register or book etc., belonging to any company the business of which is being wound up under <i>The Winding Up Act</i>	R. S. C. c. 123, s. 95	"	Indictment	Two years' imprisonment.

CHAPTER XLIV.

FORGERY OF TRADE MARKS, FRAUDULENT MARKING OF
MERCANDISE—OFFENCES RESPECTING PATENTED
ARTICLES, INDUSTRIAL DESIGNS AND THE
MARKING OF TIMBER.

ARTICLE 520.

DEFINITIONS.

² IN THIS chapter :—

(a.) The expression "trade mark" means a trade mark or industrial design registered in accordance with "The Trade Mark and Design Act" and the registration whereof is in force under the provisions of the said Act, and includes any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of section one hundred and three of the Act of the United Kingdom, known as "The Patents, Designs, and Trade Marks Act, 1883," are, in accordance with the provisions of the said Act, for the time being applicable ;

(b.) The expression "trade description" means any description, statement, or other indication, direct or indirect,

(i.) as to the number, quantity, measure, gauge or weight of any goods ; or

(ii.) as to the place or country in which any goods were made or produced ; or

¹ S. D. Arts. 364, 365.

The Merchandise Marks Act, 1862, on which Articles 364 and 365 of Stephen's Digest are founded was repealed by the Merchandise Marks Act, 1887. The latter Act was followed in Canada in The Merchandise Marks Offences Act, 1888 (51 Vict. (D.) c. 41) by which The Trades Marks Offences Act (R. S. C. c. 166) was repealed.

² 51 Vict. (D.) c. 41, s. 2 ; 50 & 51 Vict. c. 28, ss. 3, 5.

(iii.) as to the mode of manufacturing or producing any goods ; or

(iv.) as to the material of which any goods are composed ; or

(v.) as to any goods being the subject of an existing patent, privilege, or copyright ;

And the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, shall be deemed to be a trade description within the meaning of this chapter.

(c.) the expression "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect ; and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent such trade description being deemed to be a false trade description within the meaning of this chapter ;

(d.) The expression "goods" means anything which is merchandise or the subject of trade or manufacture ;

(e.) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper ; and the expression "label" includes any band or ticket ;

(f.) The expressions "person, manufacturer, dealer, or trader," and "proprietor" include any body of persons corporate or unincorporate ;

(g.) The expression "name" includes any abbreviation of a name.

The provisions of this chapter respecting the application of a false trade description to goods extend to the application to goods of any such figures, words or marks, or arrangement or combination thereof, whether including

a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are :

The provisions of this chapter respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this chapter the expression "false name or initials" means as applied to any goods, any name or initials of a person which

- (i.) are not a trade mark, or part of a trade mark ; and
- (ii.) are identical with, or a colorable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials ; or
- (iii.) are either those of a fictitious person or of some person not *bonâ fide* carrying on business in connection with such goods.

ARTICLE 521.

WORDS OR MARKS ON WATCH CASES.

¹ Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall *primâ facie* be deemed to be a description of that country within the meaning of this Chapter, and the provisions of this Chapter with respect to goods to which a false description has been applied, and with respect to selling

¹ 51 Viet. (D.) c. 41, s. 11 ; 50 & 51 Viet. c. 23, s. 7.

or exposing for, or having in possession for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly; and for the purposes of this Article the expression "watch" means all that portion of a watch which is not the watch case.

ARTICLE 522.

DEFINITION OF FORGERY OF A TRADE MARK—BURDEN OF PROOF.

¹ Every one is deemed to forge a trade mark who either—

(a.) without the assent of the proprietor of the trade mark makes that trade mark or a mark so nearly resembling that trade mark as to be calculated to deceive; or

or

(b.) falsifies any genuine trade mark, whether by alteration, addition, effacement or otherwise:

And any trade mark or mark so made or falsified is, in this chapter, referred to as a forged trade mark:

And in any prosecution for forging a trade mark the burden of proving the assent of the proprietor lies on the defendant.

ARTICLE 523.

DEFINITION OF APPLYING TRADE MARKS TO GOODS—BURDEN OF PROOF.

² Every one is deemed to apply a trade mark, or mark, or trade description to goods who—

(a.) applies it to the goods themselves; or

(b.) applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed or had in possession for any purpose of sale, trade or manufacture;

or

¹ 51 Viet. (D.) c. 41, s. 3; 50 & 51 Viet. c. 28, s. 4.

² 51 Viet. (D.) c. 41, s. 4; 50 & 51 Viet. c. 28, s. 5.

(c.) places, encloses or annexes any goods which are sold or exposed or had in possession for any purpose of sale, trade or manufacture, in, with or to any covering, label, reel, or other thing to which a trade mark or trade description has been applied; or

(d.) uses a trade mark or mark or trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or mark or trade description:

A trade mark or mark or trade description is deemed to be applied whether it is woven, impressed or otherwise worked into, or annexed or affixed to, the goods, or to any covering, label, reel or other thing.

Every one is deemed to falsely apply to goods a trade mark or mark, who, without the assent of the proprietor of the trade mark, applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive;

and in any prosecution for falsely applying a trade mark or mark to goods, the burden of proving the assent of the proprietor lies on the defendant.

ARTICLE 524.

FORGERY OF TRADE MARKS, ETC.—DEFENCE.

¹ Every one is guilty of a misdemeanor who

(a.) forges any trade mark; or

(b.) falsely applies to goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive; or

(c.) makes any die, block, machine or other instrument, for the purpose of forging, or being used for forging, a trade mark; or

¹ 51 Vict. (D.) c. 41, s. 6; (0 & 51 Vict. c. 28, s. 2. And see R. S. C. c. 63, s. 17. No prosecution for any offence defined in Articles 524-526, 528 and 529, shall be commenced after the expiration of three years next after the commission of the offence, or of one year next after the first discovery thereof by the prosecutor, whichever expiration first happens; s. 17.

- (*d.*) applies any false trade description to goods; or
 (*e.*) disposes of, or has in his possession, any die, block, machine or other instrument, for the purpose of forging a trade mark; or
 (*f.*) causes any of such things to be done,
 Unless he proves that he acted without intent to defraud.

ARTICLE 525.

SELLING GOODS FALSELY MARKED—DEFENCE.

¹ Every one is guilty of a misdemeanor who sells or exposes for, or has in his possession for sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, unless he proves

(*a.*) that having taken all reasonable precaution against committing such an offence² he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and

(*b.*) that on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or

(*c.*) that otherwise he had acted innocently.

¹ 51 Viet. (D.) c. 41, s. 6; 50 & 51 Viet. c. 28, s. 2. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the vendor is deemed to warrant that the mark is a genuine trade mark and not forged or falsely applied, or that the trade description is not a false trade description, unless the contrary is expressed in some writing signed by or on behalf of the vendor and delivered at the time of the sale or contract to and accepted by the vendee: 51 Viet. (D.) c. 41, s. 18; 50 & 51 Viet. c. 28, s. 17.

² "An offence against this Act." The words are wider than those used in the text, but it is probable that in actual practice the defence would be narrowed to showing that the offender had taken all reasonable precautions against committing the offence with which he was charged.

ARTICLE 526.

SELLING BOTTLES MARKED WITH TRADE MARK WITHOUT
CONSENT OF OWNER.

¹ Every person, other than the lawful owner of the bottles and proprietor of the trade mark hereinafter referred to, who sells, or exposes or offers for sale, or traffics in bottles marked with the trade mark of the owner thereof, and without the assent of such owner, is guilty of a misdemeanor.

ARTICLE 527.

PUNISHMENT OF OFFENCES DEFINED IN THIS CHAPTER.

² Every person guilty of any offence defined in this chapter ³ is liable

(a.) on conviction on indictment to imprisonment, with or without hard labor, for a term not exceeding two years, or to fine, or to both imprisonment and fine; and
(b.) on summary conviction, to imprisonment, with or without hard labor, for a term not exceeding four months, or to a fine not exceeding one hundred dollars; and in case of a second or subsequent conviction to imprisonment, with or without hard labor, for a term not exceeding six months, or to a fine not exceeding two hundred and fifty dollars.

In any case every chattel, article, instrument or thing, by means of, or in relation to which, the offence has been committed shall be forfeited.

ARTICLE 528.

FALSELY REPRESENTING THAT GOODS ARE MANUFACTURED
FOR HER MAJESTY, ETC.

⁴ Every person is guilty of a misdemeanor and liable,

¹ 51 Vict. (D) c. 41, s. 7.

² 51 Vict. (D) c. 41, s. 8; 50 & 51 Vict. c. 28, s. 2.

³ This appears to be the effect of the Act, but see ss. 21, 22, Arts 523, 529.

⁴ 51 Vict. (D) c. 41, s. 21; 50 & 51 Vict. c. 28, s. 20.

on summary conviction, to a penalty not exceeding one hundred dollars who falsely represents that any goods are made by a person holding a Royal Warrant, or for the service of Her Majesty, or any of the Royal Family, or any Government Department of the United Kingdom or of Canada.

ARTICLE 529.

UNLAWFUL IMPORTATION OF GOODS LIABLE TO FORFEITURE UNDER THIS CHAPTER.

¹ Every one is guilty of a misdemeanor and liable, on summary conviction, to a penalty of not more than five hundred dollars nor less than two hundred dollars who imports or attempts to import any goods which, if sold, would be forfeited under the provisions of this chapter, or any goods manufactured in any foreign state or country which bear any name or trade mark which is or purports to be the name or trade mark of any manufacturer, dealer or trader in the United Kingdom or in Canada, unless such name or trade mark is accompanied by a definite indication of the foreign state or country in which the goods were made or produced; and such goods shall be forfeited.²

ARTICLE 530.

DEFENCE WHERE PERSON CHARGED INNOCENTLY IN THE ORDINARY COURSE OF BUSINESS MAKES INSTRUMENTS FOR FORGING TRADE MARKS.

³ Whenever a defendant is charged with making any

¹ 51 Vict. (D) c. 41, s. 22; 50 & 51 Vict. c. 28, s. 16. Any name of a place on any goods identical with, or a colorable imitation of, the name of a place in the United Kingdom or Canada, not accompanied with the name of the country in which it is situate, is, unless the same, in the opinion of the Minister of Customs, is not calculated to deceive, to be treated as the name of a place in the United Kingdom or Canada; s. 22 (2). For other provisions respecting importation of goods see s. 22 (3) and (4).

² "and may be seized by any officer of the Customs and dealt with in like manner as any goods or things forfeited under this Act;" 51 Vict. (D) c. 41, s. 22.

³ 51 Vict. (D) c. 41, s. 5; 50 & 51 Vict. c. 28, s. 6.

die, block, machine or other instrument for the purpose of forging, or being used for forging a trade mark, or with falsely applying to goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this Article mentioned to be done, and proves

(a.) that in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines or other instruments for making or being used in making, trade marks, or, as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in Canada, and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and

(b.) that he took reasonable precautions against committing the offence charged; and

(c.) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and

(d.) that he gave to the prosecutor all the information in his power with respect to the person by or on whose behalf the trade mark, mark or description was applied;

He shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence.

ARTICLE 531.

DEFENCE WHERE OFFENDER IS A SERVANT.

¹ No servant of a master, resident in Canada, who *bonâ fide* acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor,

¹ 51 Vict. (D.) c. 41, s. 20 (3); 50 & 51 Vict. c. 28, s. 19 (3).

gives full information as to his master, is liable to any prosecution or punishment for any offence defined in this chapter.

ARTICLE 532.

EXCEPTION RESPECTING TRADE DESCRIPTION LAWFULLY
APPLIED TO GOODS ON 22ND MAY, 1888, ETC.

¹The provisions of this chapter with respect to false trade descriptions do not apply to any trade description which, on the 22nd May, 1888, was lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods. Provided, that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, such provisions shall apply, unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

ARTICLE 533.

PATENTEE SELLING PATENTED ARTICLE NOT
MARKED, ETC.

²Every one is liable to a penalty not exceeding one hundred dollars, and in default of payment thereof to imprisonment for a term not exceeding two months, who

¹ 51 Vict. (D.) c. 41, s. 15; 50 & 51 Vict. c. 28, s. 13.

² R. S. C. c. 61, s. 51. The year of the date of the patent is to be marked thus, "Patented 1886," or as the case may be. The penalty is recoverable by civil action; R. S. C. c. 180, s. 1.

sells or offers for sale any article patented by him under *The Patent Act*, if the year of the date of the patent is not stamped or engraved on such article, or on a label affixed thereto, or to the package in which the same is contained.

ARTICLE 534.

FALSELY MARKING ARTICLE AS PATENTED.

¹ Every one is guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding three months, or to both, who

(a.) writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name or any imitation of the name of any patentee for the sole making or selling of such thing, without the consent of such patentee; or

(b.) without the consent of the patentee, writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything not purchased from the patentee, the words "patent," "letters patent," "Queen's patent," "patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee or his legal representative; or

(c.) offers for sale as patented any article not patented in Canada, for the purpose of deceiving the public.

ARTICLE 535.

UNLAWFULLY APPLYING INDUSTRIAL DESIGN TO ANY ARTICLE, ETC.

² Every one is liable, on summary conviction, to forfeit

¹ R. S. C. c. 61, s. 55.

² R. S. C. c. 63, s. 31.

to the proprietor of any industrial design, registered under *The Trade Mark and Design Act*, or to his assignee, a sum not exceeding one hundred and twenty dollars, and not less than twenty dollars, with costs, who, during the existence of the exclusive right (either of the entire or partial use of such design) without the license in writing of the registered proprietor, or of his assignee, as the case may be,

(a.) applies such design, or a fraudulent imitation thereof, to the ornamenting of any article of manufacture, or other article to which an industrial design may be applied or attached, for the purposes of sale ; or

(b.) publishes, sells or exposes for sale or uses any such article to which such design or fraudulent imitation thereof has been applied.

ARTICLE 536.

FALSELY PLACING ON ANY ARTICLE WORDS DENOTING THE REGISTRATION OF AN INDUSTRIAL DESIGN, ETC.

¹ Every one is liable, on summary conviction, to a penalty not exceeding thirty dollars, and not less than four dollars and costs, who places the word "registered" or the letters "Rd.," upon any article for which no design has been registered, or upon any article for the design of which the copyright has expired, or who advertises the same for sale as a registered article, or unlawfully sells, publishes or exposes for sale such article, knowing the same to have been fraudulently marked, or that the copyright therefor has expired.

ARTICLE 537.

USING TIMBER MARKS UNLAWFULLY.

² Every one is liable, on summary conviction before

¹ R. S. C. c. 63, s. 32.

² R. S. C. c. 64, s. 7. The words in parentheses are not in the Act, but they are, of course, implied. See Art. 415.

two justices of the peace, to forfeit to the proprietor of any mark registered under *The Act Respecting the Marking of Timber* a sum not exceeding one hundred dollars, and not less than twenty dollars and costs, who (without lawful authority) marks any timber with any such mark, or any part of such mark.

CHAPTER XLV.

¹ PERSONATION.

ARTICLE 538.

PERSONATION AT CIVIL SERVICE EXAMINATIONS.

² EVERY one who, at any examination held under *The Civil Service Act*, personates any candidate or employs, induces or allows any person to personate him, is guilty of a misdemeanor, and liable, on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred dollars, and, if he is employed in the Civil Service, to be dismissed therefrom

ARTICLE 539.

PERSONATION AT MILITIA PARADES.

³ Every one is guilty of a misdemeanor and liable to a fine of one hundred dollars, who falsely personates another at any parade of the Militia, or on any other occasion, for any of the purposes required by *The Militia Act*.

ARTICLE 540.

FRAUDULENTLY ACTING AS AGENT OF AUTHOR IN
REGISTRATION OF COPYRIGHT.

⁴ Every one is guilty of a misdemeanor, and liable to

¹ See EN to:—

personation at elections, Art. 170;
personation of owner of shares or interest in any public fund, or capital stock of any company, or of any claim to any crown grant, scrip, &c., Article 493 (c.); and
acknowledging recognizance, &c., in false name, Art. 506.

² R. S. C. c. 17, s. 9 (6), as enacted in 51 Viet. (D), c. 12, s. 2. Every one who surreptitiously procures from, or without authority furnishes to, any person any examination paper is liable to the same punishment.

³ R. S. C. c. 41, s. 99. The time within which the offender may be prosecuted is limited to six months; s. 112.

⁴ R. S. C. c. 62, s. 23.

five years' imprisonment,¹ who fraudulently assumes authority to act as agent of the author or of his legal representative for the registration of a temporary copyright, an interim copyright, or a copyright.

ARTICLE 541.

PERSONATION TO OBTAIN DEPOSITS IN SAVINGS BANKS.

² Every one is guilty of a misdemeanor, and liable to five years' imprisonment,¹ who, with intent to defraud, falsely pretends to be the owner of any deposit made under *An Act Respecting Government Savings Banks*, or of the interest upon such deposit (or of any part of such deposit or interest), and who is not such owner, and who demands or claims from the agent with whom such deposit has been made, or from any other person employed under such Act, the payment of such deposit or interest, or of any portion thereof, as the case may be, and whether he does or does not thereby obtain any such deposit or interest, or any part thereof.

ARTICLE 542.

FALSELY REPRESENTING ONESELF TO BE A NOTARY, ETC.,
AND PROTESTING BILL IN QUEBEC.

³ Every one is guilty of a misdemeanor, and liable to imprisonment for a term not exceeding six months, who falsely representing himself to be a notary for or justice of the peace in the Province of Quebec, acts as such in and about the protesting of a bill or note, or in and about the noting of a bill.

¹ Art. 17.

² R. S. C. c. 121, s. 20. A similar provision is contained in R. S. C. c. 122, s. 33 in respect to deposits in certain savings banks in Ontario and Quebec, to which the latter statute applies.

³ R. S. C. c. 123, s. 30.

CHAPTER XLVI.

¹ OFFENCES RELATING TO THE COIN.² ARTICLE 543.

INTERPRETATION OF TERMS.

³ IN THIS chapter the following words and expressions are used in the following senses :—

“Current gold or silver coin,” includes any gold or silver coin coined in any of Her Majesty’s mints, or gold or silver coin of any foreign prince or state, or country, or other coin lawfully current, by virtue of any proclamation or otherwise, in any part of Her Majesty’s dominions.

“Current copper coin,” includes copper coin coined in any of Her Majesty’s mints, or lawfully current by virtue of any proclamation or otherwise in any part of Her Majesty’s dominions.

“Copper coin,” includes any coin of bronze or mixed metal and every other kind of coin other than gold or silver.

“Counterfeit” means false, not genuine.

Any genuine coin prepared or altered so as to resemble or pass for any current coin of a higher denomination is a counterfeit coin.

⁴ A coin fraudulently filed at the edges so as to remove the milling, and on which a new milling has been added to restore the appearance of the coin, is a counterfeit coin.

⁵ “Gild” and “silver,” as applied to coin, include casing with gold or silver respectively, and washing and

¹ 3 Hist. Cr. Law, 177-180.

² S. D. Art. 369.

³ R. S. C. c. 167, s. 1; 24 & 25 Vict. c. 99, s. 1. For definition of “having in possession” see page 4.

⁴ *R. v. Harman*, L. R. 4 Q. B. D. 231.

⁵ These definitions are not taken from section 1 but from the Act generally

coloring by any means whatsoever with any wash or materials capable of producing the appearance of gold or silver respectively.

¹ "Utter" includes "tender" and "put off."

² ARTICLE 544.

COUNTERFEITING COINS, ETC.

Every one is guilty of felony and liable to imprisonment for life in cases (a), (b), (c), (d) and (e) and for seven years in case (f) who

³ (a.) ⁴ makes any counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin ;

⁵ (b.) gilds or silvers any coin whatsoever, resembling or apparently intended to resemble or pass for any current gold or silver coin ;

(c.) gilds or silvers any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin ;

(d.) gilds any current silver coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold coin ;

(e.) gilds or silvers any current copper coin, or files or in any manner alters such coin with intent to make the same resemble or pass for any current gold or silver coin ; or

⁶ (f.) makes any counterfeit coin resembling or apparently intended to resemble or pass for any current copper coin.

¹ This definition is not taken from section 1 but from the Act generally

² S. D. Arts. 370 (a), (b), (c), (d), 372 (a).

³ R. S. C. c. 167, s. 3 ; 24 & 25 Vict. c. 99, s. 2.

⁴ "Falsely makes."

⁵ R. S. C. c. 167, s. 4 ; 24 & 25 Vict. c. 99, s. 3.

⁶ R. S. C. c. 167, s. 15 ; 24 & 25 Vict. c. 99, s. 14.

¹ ARTICLE 545.

DEALING IN AND IMPORTING COUNTERFEIT COIN.

Every one is guilty of felony and liable to imprisonment for life in cases (a) (i) and (b) and for seven years in case (a) (ii) who, without lawful authority or excuse, the proof whereof shall lie on him,

² (a.) buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, at or for a lower rate or value than the same imports, or was apparently intended to import,

(i.) any counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin,

(ii.) any counterfeit coin resembling or apparently intended to resemble or pass for any current copper coin,

³ (b.) imports or receives into Canada any counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be counterfeit.

ARTICLE 546.

MANUFACTURE OF COPPER COIN AND IMPORTATION OF UNCURRENT COPPER COIN.

⁴ Every one who manufactures in Canada any copper coin, or imports into Canada any copper coin, other than current copper coin, with the intention of putting the same into circulation as current copper coin, is liable, on summary conviction, to a penalty not exceeding twenty dollars for every pound Troy of the weight thereof; and all such copper coin so manufactured or imported shall be forfeited to Her Majesty.

⁵ ARTICLE 547.

EXPORTATION OF COUNTERFEIT COIN.

⁶ Every one is guilty of a misdemeanor and liable to

¹ S. D. Arts. 370 (e), (f) 372 (e).

² R. S. C. c. 167, ss. 7, 15; 24 & 25 Viet. c. 99, ss. 6, 14.

³ R. S. C. c. 167, s. 8; 24 & 25 Viet. c. 99, s. 7.

⁴ R. S. C. c. 167, s. 2^a.

⁵ S. D. Art. 375 (a).

⁶ R. S. C. c. 167, s. 9; 24 & 25 Viet. c. 99, s. 8.

imprisonment for any term less than two years who, without lawful authority or excuse the proof whereof shall lie on him, exports or puts on board any ship, vessel or boat, or on any railway or carriage or vehicle of any description whatsoever, for the purpose of being exported from Canada, any counterfeit coin resembling or apparently intended to resemble or pass for any current coin or for any foreign coin of any prince, country or state, knowing the same to be counterfeit.

¹ ARTICLE 548.

MAKING INSTRUMENTS FOR COINING.

Every one is guilty of felony, and liable to imprisonment for life in cases (a), (b) and (c), and for seven years in case (d), who, ² without lawful authority or excuse, the proof whereof shall lie on him, makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession,

³ (a.) any puncheon, counter puncheon, matrix, stamp, die, pattern or mould, in or upon which there is made or impressed, or which will make or impress, or which is adapted and intended to make or impress the figure, stamp or apparent resemblance of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state or country, or any part or parts of both or either of such sides;

(b.) any edger, edging or other tool, collar, instrument or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures, apparently resembling those on the edges of

¹ S. D. Art. 370 (a), 372 (b).

² [A orders a die for coining counterfeit half-crowns from B. B communicates with the Mint, and is permitted by them to finish and deliver the die to A. A receives it. A has the die in his possession without lawful excuse; *R. v. Harvey*, L. R. 1 C. C. R. 285.]

³ R. S. C. c. 167, s. 24; 24 & 25 Viet. c. 49, s. 24. The word "knowingly" precedes the word "makes" in the provisions from which clauses (a) and (b) are taken.

any such coin, knowing the same to be so adapted and intended;

(c.) any press for coinage, or any cutting engine for cutting, by force of a screw or of any other contrivance, round blanks out of gold, silver or other metal or mixture of metals or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been used or to be intended to be used for or in order to the false making or counterfeiting of any such coin;

(d.) any instrument, tool or engine adapted and intended for the counterfeiting any current copper coin.

² ARTICLE 549.

BRINGING INSTRUMENTS FOR COINING FROM MINTS INTO CANADA.

³ Every one is guilty of felony, and liable to imprisonment for life, who, without lawful authority or excuse, the proof whereof shall lie on him, knowingly conveys out of any of Her Majesty's mints into Canada, any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging or other tool, collar, instrument, press or engine, used or employed in or about the coining of coin, or any useful part of any of the several articles aforesaid, or any coin, bullion, metal or mixture of metals.

⁴ ARTICLE 550.

CLIPPING CURRENT GOLD OR SILVER COIN.

⁵ Every one is guilty of felony, and liable to fourteen

¹ R. S. C. c. 167, s. 15; 24 & 25 Vict. c. 99, s. 14.

² S. D. Art. 370 (h).

³ R. S. C. c. 167, s. 25; 24 & 25 Vict. c. 99, s. 25.

⁴ S. D. Art. 371.

⁵ R. S. C. c. 167, s. 5; 24 & 25 Vict. c. 99, s. 4. As to the right of any person, and the duty of revenue officers, to whom light coin is tendered to break the same, see R. S. C. c. 167, s. 25; 24 & 25 Vict. c. 99, s. 26.

years' imprisonment, who impairs, diminishes or lightens any current gold or silver coin, with intent that the coin so impaired, diminished, or lightened may pass for current gold or silver coin.

¹ ARTICLE 551.

DEFACING CURRENT COINS.

² Every one is guilty of a misdemeanor, and liable to one year's imprisonment, who defaces any current gold, silver or copper coin, by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened, and afterwards tenders the same.

³ ARTICLE 552.

PASSING CLIPPINGS, ETC., OF CURRENT GOLD OR SILVER COIN.

⁴ Every one is guilty of a felony, and liable to seven years' imprisonment, who unlawfully has in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which have been produced or obtained by impairing, diminishing or lightening any current gold or silver coin, knowing the same to have been so produced or obtained.

⁵ ARTICLE 553.

POSSESSING COUNTERFEIT COINS.

Every one is guilty of a misdemeanor, and liable to three years' imprisonment in case (a.), and to one year's imprisonment in case (b.), who has in his custody or

¹ S. D. Art. 375 (e).

² R. S. C. c. 167, s. 17; 24 & 25 Vict. c. 99, s. 16.

³ S. D. Art. 372 (f).

⁴ R. S. C. c. 167, s. 6; 24 & 25 Vict. c. 99, s. 5.

⁵ S. D. Arts. 374 (e), 375 (e).

possession, knowing the same to be counterfeit, and with intent to utter the same or any of them.

¹ (a.) any counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin: or

² (b.) three or more pieces of counterfeit coin resembling or apparently intended to resemble or pass for any current copper coin.

³ ARTICLE 554.

UTTERING COUNTERFEIT OR LIGHT COINS, METALS, ETC.

Every one is guilty of a misdemeanor, and liable in case (a.) to fourteen years' imprisonment, and in cases (b.), (c.) and (d.) to one year's imprisonment, who

⁴ (a.) utters any counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be counterfeit;

⁵ (b.) utters, as being current, any gold or silver coin of less than its lawful weight, knowing such coin to have been impaired, diminished or lightened, otherwise than by lawful wear.

⁶ (c.) with intent to defraud, utters, as or for any current gold or silver coin, any coin not being such current gold or silver coin, or any medal, or piece of metal or mixed metals, resembling, in size, figure and color, the current coin as or for which the same is so uttered, such coin, medal or piece of metal or mixed metals so uttered being of less value than the current coin as or for which the same is so uttered;

⁷ (d.) utters any counterfeit coin resembling or appa-

¹ R. S. C. c. 167, s. 12; 24 & 25 Vict. c. 99, s. 11.

² R. S. C. c. 167, s. 16; 24 & 25 Vict. c. 99, s. 15.

³ S. D. Art. 374 (a.), 375 (b.), (d).

⁴ R. S. C. c. 167, s. 10; 24 & 25 Vict. c. 99, s. 9.

⁵ R. S. C. c. 167, s. 11.

⁶ R. S. C. c. 167, s. 14; 24 & 25 Vict. c. 99, s. 13. [As to the degree of resemblance necessary to bring a medal within this section, see *R. v. Robertson*, L. & C. 604.]

⁷ R. S. C. c. 167, s. 16; 24 & 25 Vict. c. 99, s. 15.

rently intended to resemble or pass for any current copper coin, knowing the same to be counterfeit.

¹ ARTICLE 555.

PUNISHMENT OF SUBSEQUENT OFFENCES.

² Every one who, having been convicted of any misdemeanor defined in Art. 553 (*a.*), or in clause (*a.*) or (*b.*) of Art. 554, or of any misdemeanor or felony defined in this Chapter, or any Act relating to the coin, afterwards commits any of the misdemeanors defined in Art. 553 (*a.*) or in clause (*a.*) or (*b.*) of Art. 554, is guilty of felony and liable to imprisonment for life.

ARTICLE 556.

UTTERING DEFACED COIN.

³ Every one who utters any coin defaced, by having stamped thereon any names or words, is liable, on summary conviction before two justices of the peace, to a penalty not exceeding ten dollars; but no person shall proceed for any such penalty without the consent of the Attorney-General for the Province in which such offence is alleged to have been committed.

ARTICLE 557.

UTTERING UNCURRENT COPPER COINS.

⁴ Every one who utters, or offers in payment, any copper coin, other than current copper coin, is liable on summary conviction to a penalty of double the nominal value thereof, and in default of payment of such penalty to eight days' imprisonment.

¹ S. D. Art. 374 (*id.*)

² R. S. C. c. 167, s. 13; 24 & 25 Vict. c. 99, s. 12.

³ R. S. C. c. 167, s. 18; 24 and 25 Vict. c. 99, s. 17.

⁴ R. S. C. c. 167, s. 23.

¹ ARTICLE 558.² UNCURRENT FOREIGN COINS.

Every one is guilty of a felony in cases (a) and (b) (i) and of a misdemeanor in cases (b) (ii) (c) and (d) who

³ (a.) makes any counterfeit coin or silver coin, resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, not being current coin,

(b.) without lawful authority or excuse, the proof of which shall lie on him ;

⁴ (i.) brings or receives into Canada any such counterfeit coin, knowing the same to be counterfeit ;

⁵ (ii.) has in his custody or possession any such counterfeit coin, knowing the same to be counterfeit and with intent to put off the same ;

⁶ (c.) utters any such counterfeit coin ; or

⁷ (d.) makes ⁸ any counterfeit coin, resembling or apparently intended to resemble or pass for any copper coin of any foreign prince, state or country, not being current coin.

And is liable to imprisonment as follows, that is to say :

In cases (a.) and (b.) (i), to seven years.

In case (b.) (ii), to three years.

In case (c.) for a first offence six months, for a second offence any term less than two years, and for any ⁹ subsequent offence seven years.

In case (d.) for a first offence one year, and for any subsequent offence seven years.

¹ S. D. Art. 372 (a), (c.), 375 (f), 373.

² As to exportation, see Art. 547.

³ R. S. C. c. 167, s. 19 ; 24 & 25 Viet. c. 99, s. 18.

⁴ R. S. C. c. 167, s. 20 ; 24 & 25 Viet. c. 99, s. 19.

⁵ R. S. C. c. 167, s. 22.

⁶ R. S. C. c. 167, s. 21 ; 24 & 25 Viet. c. 99, s. 20.

⁷ R. S. C. c. 167, s. 23 ; 24 & 25 Viet. c. 99, s. 22.

⁸ "Falsely makes."

⁹ An offence after two convictions is a felony.

¹ ARTICLE 559.

WHEN OFFENCE COMPLETED.

² Every offence of making any counterfeit coin, or of buying, selling, receiving, paying, tendering, uttering or putting off, or of offering to buy, sell, receive, pay, utter or put off, any counterfeit coin, is deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered or put off, or offered to be bought, sold, received, paid, tendered, uttered or put off, was not in a fit state to be uttered, or the counterfeiting thereof was not finished or perfected.

¹ S. D. Arts: 370 (e), 372 (e.), 375 (g.)

² R. S. C. c. 167, s. 27; 24 & 25 Vict. c. 99, s. 30.

CHAPTER XLVII.

ADVERTISING COUNTERFEIT MONEY.

ARTICLE 560.

DEFINITION.

¹ IN THIS chapter the expression "counterfeit token of value" means any spurious or counterfeit coin, paper money, inland revenue stamp, postage stamp, or other evidence of value, by whatever technical, trivial or deceptive designation the same may be described.

ARTICLE 561.

ADVERTISING COUNTERFEIT MONEY AND OTHER OFFENCES
CONNECTED THEREWITH.

Every one is guilty of felony, and liable to five years' imprisonment who

² (a) prints, writes, utters, publishes, sells, lends, gives away, circulates or distributes any letter, writing, circular, paper, pamphlet, handbill or any written or printed matter advertising, or offering or purporting to advertise, or offer for sale, loan, exchange, gift or distribution, or to furnish, procure or distribute any counterfeit token of value, or what purports to be a counterfeit token of value, or giving or purporting to give, either directly or indirectly, information, where, how, of whom, or by what means any counterfeit token of value, or what purports to be a counterfeit token of value, may be procured or had;

² (b) aids or assists in any manner in any scheme or

¹ 51 Vict. (D) c. 40, s. 1.

² 51 Vict. (D) c. 40, s. 2.

device whatsoever, offering or purporting to offer for sale, loan, gift, exchange or distribution, any counterfeit token of value ;

¹ (c.) purchases, exchanges, accepts, takes possession of, or in any way uses, or offers to purchase, exchange, accept, take possession of, or in any way use, any such counterfeit token of value, or what purports so to be ;

² (d.) in executing, operating, promoting, carrying on, or in the aiding, assisting or abetting in the promoting, operating, carrying on or executing of any scheme or device whatsoever to defraud, by the use or by means of any papers, writings, letters, circulars or written or printed matters concerning the offering for sale, loan, gift, distribution or exchange of counterfeit tokens of value, uses any fictitious, false or assumed name or address, or name or address other than his own right, proper and lawful name ;

² (e.) in the executing, operating, promoting, carrying on, aiding, assisting or abetting in the execution, promoting or carrying on of any scheme or device, offering for sale, loan, gift or distribution, or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, knowingly receives or takes from the mails, or from the post office, any letter or package addressed to any such fictitious, false or assumed name or address, or name other than his own right, proper or lawful name.

¹ 51 Vict. (D) c. 40, s. 2.

² 51 Vict. (D) c. 40, s. 3.