

ANNO VICESIMO & VICESIMO PRIMO

VICTORIÆ REGINÆ.

****

CAP. LIV.

An Act to make better Provision for the Punishment of Frauds committed by Trustees, Bankers, and other Persons intrusted with Property.

[17th *August* 1857.]

WHEREAS it is expedient to make better Provision for the Punishment of Frauds committed by Trustees, Bankers, and other Persons intrusted with Property: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Trustees fraudulently disposing of Property guilty of a Misdemeanor.

I. If any Person being a Trustee of any Property for the Benefit, either wholly or partially, of some other Person, or for any public or charitable Purpose, shall, with Intent to defraud, convert or appropriate the same or any Part thereof to or for his own Use or Purposes, or shall, with Intent aforesaid, otherwise dispose of or destroy such Property or any Part thereof, he shall be guilty of a Misdemeanor.

Bankers, &c. fraudulently selling, &c. Property in-

II. If any Person being a Banker, Merchant, Broker, Attorney, or Agent, and being intrusted for safe Custody with the Property of any other

trusted to their Care, guilty of Misdemeanor.

other Person, shall, with Intent to defraud, sell, negotiate, transfer, pledge, or in any Manner convert or appropriate to or for his own Use such Property or any Part thereof, he shall be guilty of a Misdemeanor.

Persons under Powers of Attorney fraudulently selling Property guilty of Misdemeanor.

III. If any Person intrusted with any Power of Attorney for the Sale or Transfer of any Property shall fraudulently sell or transfer or otherwise convert such Property or any Part thereof to his own Use or Benefit, he shall be guilty of a Misdemeanor.

Bailees fraudulently converting Property to their own Use guilty of Larceny.

IV. If any Person, being a Bailee of any Property, shall fraudulently take or convert the same to his own Use, or the Use of any Person other than the Owner thereof, although he shall not break Bulk or otherwise determine the Bailment, he shall be guilty of Larceny.

Directors, &c. of any Body Corporate or Public Company fraudulently appropriating Property;

V. If any Person, being a Director, Member, or Public Officer of any Body Corporate or Public Company, shall fraudulently take or apply, for his own Use, any of the Money or other Property of such Body Corporate or Public Company, he shall be guilty of a Misdemeanor.

or keeping fraudulent Accounts;

VI. If any Person, being a Director, Public Officer, or Manager of any Body Corporate or Public Company, shall as such receive or possess himself of any of the Money or other Property of such Body Corporate or Public Company otherwise than in Payment of a just Debt or Demand, and shall, with Intent to defraud, omit to make or to cause or direct to be made a full and true Entry thereof in the Books and Accounts of such Body Corporate or Public Company, he shall be guilty of a Misdemeanor.

or wilfully destroying Books, &c.;

VII. If any Director, Manager, Public Officer, or Member of any Body Corporate or Public Company shall, with Intent to defraud, destroy, alter, mutilate, or falsify any of the Books, Papers, Writings, or Securities belonging to the Body Corporate or Public Company of which he is a Director or Manager, Public Officer or Member, or make or concur in the making of any false Entry, or any material Omission in any Book of Account or other Document, he shall be guilty of a Misdemeanor.

or publishing fraudulent Statements, guilty of Misdemeanor.

VIII. If any Director, Manager, or Public Officer of any Body Corporate or Public Company shall make, circulate, or publish, or concur in making, circulating, or publishing, any written Statement or Account which he shall know to be false in any material Particular, with Intent to deceive or defraud any Member, Shareholder, or Creditor of such Body Corporate or Public Company, or with

with Intent to induce any Person to become a Shareholder or Partner therein, or to intrust or advance any Money or Property to such Body Corporate or Public Company, or to enter into any Security for the Benefit thereof, he shall be guilty of a Misdemeanor.

Persons receiving Property fraudulently disposed of, knowing the same to have been so, guilty of Misdemeanor.

IX. If any Person shall receive any Chattel, Money, or valuable Security which shall have been so fraudulently disposed of as to render the Party disposing thereof guilty of a Misdemeanor under any of the Provisions of this Act, knowing the same to have been so fraudulently disposed of, he shall be guilty of a Misdemeanor, and may be indicted and convicted thereof, whether the Party guilty of the principal Misdemeanor shall or shall not have been previously convicted, or shall or shall not be amenable to Justice.

Punishment for a Misdemeanor under this Act.

X. Every Person found guilty of a Misdemeanor under this Act shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years, or to suffer such other Punishment, by Imprisonment for not more than Two Years with or without Hard Labour, or by Fine, as the Court shall award.

No Person exempt from answering Questions in any Court; Evidence not admissible in Prosecutions under this Act.

XI. Nothing in this Act contained shall enable or entitle any Person to refuse to make a full and complete Discovery by Answer to any Bill in Equity, or to answer any Question or Interrogatory in any Civil Proceeding in any Court of Law or Equity, or in the Courts of Bankruptcy or Insolvency; but no Answer to any such Bill, Question, or Interrogatory shall be admissible in Evidence against such Person in any Proceeding under this Act.

No Remedy at Law or in Equity shall be affected.

Convictions shall not be received in Evidence in Civil Suits.

XII. Nothing in this Act contained, nor any Proceeding, Conviction, or Judgment to be had or taken thereon against any Person under this Act, shall prevent, lessen, or impeach any Remedy at Law or in Equity which any Party aggrieved by any Offence against this Act might have had if this Act had not been passed; but no Conviction of any such Offender shall be received in Evidence in any Action at Law or Suit in Equity against him; and nothing in this Act contained shall affect or prejudice any Agreement entered into or Security given by any Trustee, having for its Object the Restoration or Repayment of any Trust Property misappropriated.

No Prosecution shall be commenced without the Sanction of some Judge or the Attorney General.

XIII. No Proceeding or Prosecution for any Offence included in the First Section, but not included in any other Section of this Act, shall be commenced without the Sanction of Her Majesty's Attorney General, or, in case that Office be vacant, of Her Majesty's Solicitor General: Provided that where any Civil Proceeding shall have been taken against any Person to whom the Provisions of the said First Section,

Section, but not of any other Section of this Act, may apply, no Person who shall have taken such Civil Proceeding shall commence any Prosecution under this Act without the Sanction of the Court or Judge before whom such Civil Proceeding shall have been had or shall be pending.

If Offence amounts to Larceny, Person not to be acquitted of a Misdemeanor.

XIV. If upon the Trial of any Person under this Act it shall appear that the Offence proved amounts to Larceny, he shall not by reason thereof be entitled to be acquitted of a Misdemeanor under this Act.

Costs of Prosecutions.

XV. In every Prosecution for any Misdemeanor against this Act the Court before which any such Offence shall be prosecuted or tried may allow the Expenses of the Prosecution in all respects as in Cases of Felony.

Misdemeanors not triable at Sessions.

XVI. No Misdemeanor against this Act shall be prosecuted or tried at any Court of General or Quarter Sessions of the Peace.

Interpretation of certain Terms.

XVII. The Word "Trustee" shall in this Act mean a Trustee on some express Trust created by some Deed, Will, or Instrument in Writing, and shall also include the Heir and Personal Representative of any such Trustee, and also all Executors and Administrators, Liquidators under the Joint Stock Companies Act, 1856, and all Assignees in Bankruptcy and Insolvency:

The Word "Property" shall include every Description of Real and Personal Property, Goods, raw or other Materials, Money, Debts, and Legacies, and all Deeds and Instruments relating to or evidencing the Title or Right to any Property, or giving a Right to recover or receive any Money or Goods; and such Word Property shall also denote and include not only such Real and Personal Property as may have been the original Subject of a Trust, but also any Real or Personal Property into which the same may have been converted or exchanged, and the Proceeds thereof respectively, and anything acquired by such Proceeds.

Act not to extend to Scotland.

XVIII. This Act shall not extend to *Scotland*.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1857.