

CHAPTER 258

THE MALICIOUS DAMAGE ACT

Arrangement of Sections Section

1. Short title.

PART I — INJURIES BY FIRE TO BUILDINGS, AND GOODS THEREIN

2. Setting fire to a church or chapel.
3. Setting fire to a dwelling-house, any person being therein.
4. Setting fire to a house, outhouse, manufactory, farm building, &c.
5. Setting fire to any public building.
6. Setting fire to other buildings.
7. Setting fire to goods in any building, the setting fire to which is felony.
8. Attempting to set fire to buildings.

PART II — INJURY BY EXPLOSIVE SUBSTANCES TO BUILDINGS, AND GOODS THEREIN

9. Destroying or damaging house with gunpowder, any person being therein.
10. Attempting to destroy buildings with gunpowder.

PART III — INJURIES TO BUILDINGS BY RIOTERS, &c.

11. Rioters demolishing church, building, &c.
12. Rioters injuring building, machinery, &c.

PART IV—INJURIES TO BUILDINGS BY TENANTS

13. Tenants of houses, &c. maliciously injuring them.

PART V — INJURIES TO MANUFACTURES,
MACHINERY, &c

14. Destroying machines in manufactures, threshing machines, &c.

PART VI — INJURIES TO CORN, TREES AND
VEGETABLE PRODUCTIONS

15. Setting fire to canes, corn, &c.
16. Setting fire to trash, megass, &c.
17. Attempting to set fire to any crops of cane, corn, &c.
18. Carrying or having fire in cane fields, &c.
19. Destroying or damaging trees, shrubs, &c. to the value of more than \$4.80, growing in a pleasure ground, &c.
20. Destroying or damaging trees, shrubs, &c., to the value of more than \$25.00, growing elsewhere than in a pleasure ground, &c,
21. Damaging trees, wheresoever growing, to the amount of 25 cents.
22. Destroying any fruit or vegetable production in a garden.
23. Destroying &c., vegetable productions not growing in gardens, &c.

PART VII — INJURIES TO FENCES

24. Destroying, &c. any fence, wall, stile or gate.

PART VIII — INJURIES TO SEA AND
RIVER BANKS, &c

25. Destroying any sea bank or wall, &c.
26. Breaking down the dam of a pond or fishery, or poisoning ponds, fish or water.
27. Removing the piles of any sea bank, &c., or doing any damage to obstruct the navigation of a river, &c.

PART IX — INJURIES TO BRIDGES AND
VIADUCTS

28. Injury to a public bridge, &c.

PART X — INJURIES TO TELEGRAPHS &c

29. Injury to electric telegraphs.
30. Attempt to injure such telegraph.

PART XI — INJURIES TO WORKS OF ART, &c

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

PART XII — INJURIES TO CATTLE AND
OTHER ANIMALS

32. Killing or maiming cattle.
33. Interpretation of term "cattle".
34. Killing or maiming other animals.

PART XIII — INJURIES TO SHIPS, VESSELS, &c

35. Setting fire to ship.
36. Setting fire to ships to prejudice the owner or underwriters.
37. Attempting to set fire to vessel.
38. Placing explosive near a vessel with intent to damage it.
39. Damaging ships otherwise than by fire.
40. Exhibiting false signals, &c.
41. Removing or concealing buoys and other sea marks.
42. Destroying wrecks or any article belonging thereto.

PART XIV — SENDING LETTERS
THREATENING TO BURN OR DESTROY

43. Sending letters threatening to burn or destroy houses, buildings, ships, &c.

PART XV — INJURIES NOT BEFORE
PROVIDED FOR

44. Persons committing malicious injuries not before provided for, exceeding the amount of \$500.00.
45. Trespass.
46. Persons committing damage in any case not previously provided for.
47. Preceding section to extend to trees.

PART XVI — MAKING GUNPOWDER TO
COMMIT OFFENCES, AND SEARCHING
FOR THE SAME

48. Making or having gunpowder, &c., with intent to commit any felony against this Act.
49. Magistrates may issue warrants for searching houses, &c., for such gunpowder, &c.

PART XVII — OTHER MATTERS

50. Principals in second degree, and accessories.
 51. Any person loitering at night and suspected of any felony may be apprehended.
 52. Malice against owner of property unnecessary.
 53. Provisions of Act to apply to person in possession of the property injured.
 54. Persons in the act of committing any offence may be apprehended without a warrant.
 55. Abettors in offences punishable on summary conviction.
 56. Application of forfeitures and penalties upon conviction.
 57. The Magistrate may discharge the offender in certain cases.
 58. A summary conviction shall be a bar to any other proceeding for the same cause.
 59. Fines and sureties for keeping the peace, in what cases, &c.
 60. The costs of the prosecution of misdemeanours against this Act may be allowed.
 61. Application of fines.
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MALICIOUS DAMAGE

(1st January, 1878.)

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S.R.O. 22/1956.
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1. This Act may be cited as the Malicious Damage Act. Short title.

PART I

INJURIES BY FIRE TO BUILDINGS, AND GOODS THEREIN

2. Whosoever shall unlawfully and maliciously set fire to any church, chapel, meeting-house, or other place of divine worship shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour. Setting fire to a church or chapel.

3. Whosoever shall unlawfully and maliciously set fire to any dwelling-house, any person being therein, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour. Setting fire to a dwelling-house, any person being therein.

4. Whosoever shall unlawfully and maliciously set fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, barn, store-house, granary, hovel, shed or fold, or to any plantation building, or to any building or erection used for plantation purposes, or in carrying on any trade or manufacture or any branch thereof, whether the same shall then be in the possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour. Setting fire to a house, outhouse, manufactory, farm building, &c.

5. Whosoever shall unlawfully and maliciously set fire to any building, other than such as are in this Act before mentioned, belonging to the Queen, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour. Setting fire to any public building.

Setting fire to other buildings.

6. Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this Act before mentioned shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

Setting fire to goods in any building, the setting fire to which is felony.

7. Whosoever shall unlawfully and maliciously set fire to any matter or thing, being in against or under any building, under such circumstances that, if the building were thereby set fire to, the offence would amount to felony, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

Attempting to set fire to buildings.

8. Whosoever shall unlawfully and maliciously, by any overt act attempt to set fire to any building, or any matter or thing in the last preceding section mentioned, under such circumstances that, if the same were thereby set fire to, the offender would be guilty of felony, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

PART II

INJURY BY EXPLOSIVE SUBSTANCES TO BUILDINGS, AND GOODS THEREIN

Destroying or damaging house with gunpowder, any person being therein.

9. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroy, throw down, or damage the whole or any part of any dwelling-house, any person being therein, or of any building, whereby the life of any person shall be endangered, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

Attempting to destroy buildings with gunpowder.

10. Whosoever shall unlawfully and maliciously place, or throw, in, into, upon, under, against, or near any building, any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods, or chattels, shall, whether or not any explosion takes place, and whether or not any damage be caused, be guilty of felony, and shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

PART III**INJURIES TO BUILDINGS BY RIOTERS, &C**

11. If any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force demolish, or pull down, or destroy, or begin to demolish, pull down, or destroy, any church, chapel, meeting-house, or other place of divine worship, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, mill-house, boiling-house, curing-house, still-house, barn, store-house, granary, shed, hovel, or fold, or any trash-house, or megass-house, or any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, or any building other than such as are in this section before mentioned, or any machinery, whether fixed or movable, prepared for or employed in any manufacture or in any branch thereof, or any steam engine, every such offender shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

Rioters demolishing church, building, &c.

12. If any persons riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force injure or damage any such church, chapel, meeting-house, place of divine worship, house, stable, coach-house, out-house, warehouse, office, shop, mill, mill-house, boiling-house, curing-house, still-house, barn, store-house, granary, shed, hovel, fold, building, erection, machinery, or engine, as is in the last preceding section mentioned, every such offender shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour:

Rioters injuring building, machinery, &c.

Provided that if, upon the trial of any person for any felony, in the last preceding section mentioned, the jury shall not be satisfied that such person is guilty thereof but shall be satisfied that he is guilty of any offence in this section mentioned, then the jury may find him guilty thereof, and he may be punished accordingly.

PART IV

INJURIES TO BUILDINGS BY TENANTS

Tenants of houses, &c. maliciously injuring them.

13. Whosoever, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, shall unlawfully and maliciously pull down or demolish, or begin to pull down or demolish the same or any part thereof, or shall unlawfully and maliciously pull down, or sever from the freehold, any fixture being fixed in or to such dwelling-house or building, or part of such dwelling-house or building, shall be guilty of a misdemeanour.

PART V

INJURIES TO MANUFACTURES, MACHINERY, &C

Destroying machines in manufactures, threshing machines, &c.

14. Whosoever shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or render useless, any machine or engine, whether fixed or movable, used or intended to be used for sowing, reaping, mowing, threshing, ploughing, or draining, or for performing any other agricultural operation, or any machine or engine, or any tool or implement, whether fixed or movable, prepared for or employed in any manufacture whatsoever, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

PART VI

INJURIES TO CORN, TREES AND VEGETABLE PRODUCTIONS

Setting fire to canes, corn, &c.

15. Whosoever shall unlawfully and maliciously set fire to any crop of canes, grass, corn, grain, cotton, or pulse, or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice, or plantation of trees, or to any heath, gorse, furze, or fern, wheresoever the same may be growing, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding seven years, with or without hard labour.

Setting fire to trash, megass, &c.

16. Whosoever shall unlawfully and maliciously set fire to any stack of trash, megass, cane-tops, corn, grain, pulse, tares, hay, straw, haulm, or stubble, or of any cultivated vegetable produce, or of furze, gorse, heath, fern,

turf, peat, coals, charcoal, wood, or bark, or to any stack of wood or bark, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

17. Whosoever shall unlawfully and maliciously, by any overt act, attempt to set fire to any such matter or things as in either of the last two preceding sections mentioned, under such circumstances that, if the same were thereby set fire to, the offender would be, under either of such sections, guilty of felony, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Attempting to set fire to any crops of cane, corn, &c.

18. Whosoever shall take, carry, or have any fire, lighted torch, pipe, or cigar into or in any piece of canes, whether standing or cut down, or any trash-house, or megass-house, or shall carelessly set on fire any such canes, trash-house, or megass-house, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Carrying or having fire in cane fields, &c.

19. Whosoever shall unlawfully and maliciously cut, break, bark, root-up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any under-wood growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the amount of the injury done shall exceed the sum of four dollars and eighty cents), shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Destroying or damaging trees, shrubs, &c. to the value of more than \$4.80, growing in a pleasure ground, &c.

20. Whosoever shall unlawfully and maliciously cut, break, bark, root-up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any under-wood growing elsewhere than in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, (in case the amount of injury done shall exceed the sum of twenty-five dollars), shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Destroying or damaging trees, shrubs, &c., to the value of more than \$25.00, growing elsewhere than in a pleasure ground, &c.

Damaging trees, wheresoever growing, to the amount of 25 cents.

21. Whosoever shall unlawfully and maliciously cut, break, bark, root-up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub, or any under-wood, wheresoever the same may be growing, the injury done being to the amount of twenty-five cents at the least, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for any term not exceeding three months, or else to forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding two hundred and fifty dollars as to the Magistrate shall seem meet; and whosoever, having been convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, shall be liable, on summary conviction, to imprisonment with hard labour for any term not exceeding twelve months, and whosoever, having been twice convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Destroying any fruit or vegetable production in a garden.

22. Whosoever shall unlawfully and maliciously destroy, or damage with intent to destroy, any plant, root, fruit or vegetable production growing in any garden, orchard, nursery ground, hothouse, greenhouse, or conservatory, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for any term not exceeding six months, or else to forfeit and pay, over and above the amount of the injury done, such sum of money not exceeding one thousand dollars, as to the Magistrate shall seem meet; and whosoever, having been convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Destroying &c., vegetable productions not growing in gardens, &c.

23. Whosoever shall unlawfully and maliciously destroy, or damage with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden, orchard, or nursery ground, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for any term not exceeding one

month, or else to forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding fifty dollars, as to the Magistrate shall seem meet; and whosoever, having been convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, shall be liable on summary conviction, to imprisonment with hard labour for any term not exceeding six months.

PART VII

INJURIES TO FENCES

24. Whosoever shall unlawfully and maliciously cut, break, throw down, or in any wise destroy any fence of any description whatsoever, or any wall, stile or gate, or any part thereof respectively, shall, on summary conviction, for the first offence, forfeit and pay over and above the amount of the injury done, such sum of money, not exceeding two hundred and fifty dollars as to the Magistrate shall seem meet; and whosoever, having been convicted of any offence, shall afterwards commit any of the said offences in this section before mentioned, shall, for such second offence, be liable, on summary conviction, to imprisonment with hard labour for any term not exceeding six months.

Destroying, &c.
any fence, wall,
stile, or gate.

PART VIII

INJURIES TO SEA AND RIVER BANKS, &C

25. Whosoever shall unlawfully and maliciously break down or cut down, or otherwise damage or destroy, any sea bank or sea wall, or bank, dam or wall, whereby any land or building shall be in danger of being overflowed or damaged, or shall unlawfully and maliciously throw, break, or cut down, level, undermine, or otherwise destroy any quay, wharf, jetty, drain, watercourse, or other work belonging to any port, harbour, dock, or reservoir, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Destroying any
sea bank or wall,
&c.

26. Whosoever shall unlawfully and maliciously cut through, break down, or otherwise destroy, the wall, dam, bank, or sluice of any pond, reservoir, or pool, or of any water, whether the same shall be public or private property, or shall unlawfully and maliciously put any lime or noxious material in any such pond, reservoir, pool or water, or shall

Breaking down
the dam of a
pond or fishery,
or poisoning
ponds, fish or
water.

unlawfully cut through, break down, or otherwise destroy the wall, dam, bank, or sluice of any such pond, reservoir, pool, or water, or shall unlawfully put any lime or noxious material in any such pond, reservoir, pool, or water, or any water running into any such pond, reservoir or pool with intent thereby to take or destroy any fish, or so as thereby to cause the loss or destruction of any fish, or to injure the water in any such pond, reservoir, or pool, or any water running into the same, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Removing the piles of any sea bank, &c., or doing any damage to obstruct the navigation of a river, &c.

27. Whosoever shall unlawfully and maliciously cut off, draw up or remove any piles, chalk, or other materials fixed in the ground, and used for securing any sea bank or sea wall, or the bank, dam, or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty, or lock, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

PART IX

INJURIES TO BRIDGES AND VIADUCTS

Injury to a public bridge, &c.

28. Whosoever shall unlawfully and maliciously pull or throw down, or in any wise destroy, any bridge (whether over any stream of water or not), or any viaduct, or aqueduct, or do any injury with intent and so as thereby to render such bridge, viaduct, or aqueduct, or any part thereof, dangerous or impassable, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

PART X

INJURIES TO TELEGRAPHS, &C

Injury to electric telegraphs.

29. Whosoever shall unlawfully and maliciously cut, break, throw down, destroy, injure, or remove any battery, machinery, wire, cable, post, or other matter or thing whatsoever, being part of, or being used or employed in or about, any electric or magnetic telegraph, or in the working thereof, or shall unlawfully and maliciously prevent or obstruct, in any manner whatsoever, the sending, conveyance, or delivery

of any communication by any such telegraph, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour:

Provided that if it shall appear to any Magistrate, on the examination of any person charged with any offence against this section, that it is not expedient to the ends of justice that the same should be prosecuted by indictment, the Magistrate may proceed summarily to hear and determine the same, and the offender shall, on summary conviction, be liable to imprisonment, with or without hard labour, for any term not exceeding six months, or else to forfeit and pay such sum of money, not exceeding five hundred dollars as to the Magistrate shall seem meet.

30. Whosoever shall unlawfully and maliciously, by any overt act, attempt to commit any of the offences in the last preceding section mentioned, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for any term not exceeding three months, or else to forfeit and pay such sum of money, not exceeding five hundred dollars, as to the Magistrate shall seem meet.

Attempt to injure such telegraph.

PART XI

INJURIES TO WORKS OF ART, &C

31. Whosoever shall unlawfully and maliciously destroy or damage any book, manuscript, picture, print, statue; bust, or vase, or any other article or thing kept for the purposes of art, science or literature, or as any object of curiosity, in any museum, gallery, cabinet, library, or other repository, or any picture, statue, monument, or other memorial of the dead, painted glass, or other ornament, or work of art in any church, chapel, meeting-house, or other place of divine worship, or in any building belonging to the Queen or in any street, square, churchyard, burial-ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing, or fence surrounding such statue or monument, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding six months, with or without hard labour:

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

Provided that nothing herein contained shall be deemed to affect the right of any person to recover, by action at law, damages for injuries so committed.

PART XII

INJURIES TO CATTLE AND OTHER ANIMALS

Killing or maiming cattle.

32. Whosoever shall unlawfully and maliciously kill, maim, or wound any cattle, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

Interpretation of term "cattle".

33. The term "cattle" shall include any horse, mule, ass, swine, sheep, or goat, as well as any neat cattle, or animal of the bovine species, or deer, and whatever be the age and sex of the animal, and whether castrated or not, and by whatever technical or trivial name it may be known, and shall apply to one animal as well as to many.

Killing or maiming other animals.

34. Whosoever shall unlawfully and maliciously kill, maim, or wound, any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall, on summary conviction, be liable to imprisonment with or without hard labour, for any term not exceeding three months, or else to forfeit and pay, over and above the amount of injury done, such sum of money not exceeding one thousand dollars, as to the Magistrate shall seem meet; and whosoever, having been convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, shall, for such second offence, be liable, on summary conviction, to imprisonment with hard labour for any term not exceeding six months.

PART XIII

INJURIES TO SHIPS, VESSELS, &C

Setting fire to ship.

35. Whosoever shall unlawfully and maliciously set fire to, cast away, or in any wise destroy any ship or vessel, whether the same be complete or in any unfinished state, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

36. Whosoever shall unlawfully and maliciously set fire to, or cast away, or in any wise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person who has underwritten, or shall underwrite, any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years, with or without hard labour.

Setting fire to ships to prejudice the owner or underwriters.

37. Whosoever shall unlawfully and maliciously, by any overt act, attempt to set fire to, cast away, or destroy any ship or vessel, under such circumstances that, if the ship or vessel were thereby set fire to, cast away, or destroyed, the offender would be guilty of felony, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

Attempting to set fire to vessel.

38. Whosoever shall unlawfully and maliciously place or throw in, into, upon, against, or near any ship or vessel any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working tools, goods, or chattels, shall, whether or not any explosion takes place, and whether or not any injury be effected, be guilty of felony, and shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

Placing explosive near a vessel with intent to damage it.

39. Whosoever shall unlawfully and maliciously damage, otherwise than by fire, gunpowder, or other explosive substance any ship or vessel, whether complete or in any unfinished state, with intent to destroy the same or render the same useless, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Damaging ships otherwise than by fire.

40. Whosoever shall unlawfully mark, alter, or remove any light or signal, or unlawfully exhibit any false light or signal, with intent to bring any ship, vessel, or boat into danger, or shall unlawfully and maliciously do anything tending to the immediate loss or destruction of any ship, vessel, or boat, and for which no punishment is hereinbefore provided, shall be guilty of felony, and shall be liable to be

Exhibiting false signals, &c.

imprisoned for any term not exceeding ten years, with or without hard labour.

Removing or concealing buoys and other sea marks.

41. Whosoever shall unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall unlawfully and maliciously do any act with intent to cut away, cast adrift, remove, alter, deface, sink, or destroy, or shall in any other manner unlawfully and maliciously injure or conceal, any boat, buoy, buoy rope, perch, or mark used or intended for the guidance of seamen for the purposes of navigation, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

Destroying wrecks or any articles belonging thereto.

42. Whosoever shall unlawfully and maliciously destroy any part of any ship or vessel, which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandise, or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour.

PART XIV

SENDING LETTERS THREATENING TO BURN OR DESTROY

Sending letters threatening to burn or destroy houses, buildings, ships, &c.

43. Whosoever shall send, deliver or utter, or directly or indirectly cause to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn, or other building, or any rick or stack of grain, hay or straw, or other agricultural produce, or any grain, hay, or straw, or other agricultural produce in or under any building, or any ship or vessel, or to kill, maim or wound any cattle, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding four years, with or without hard labour.

PART XV

INJURIES NOT BEFORE PROVIDED FOR

Persons committing malicious injuries not before provided for, exceeding the amount of \$500.

44. Whosoever shall unlawfully and maliciously commit any damage, injury, or spoil to, or upon, any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, the damage, injury, or spoil being to an amount exceeding

five hundred dollars, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour; and, in case any such offence shall be committed between the hours of nine of the clock in the evening and six of the clock in the next morning, shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour.

45. Whosoever shall unlawfully persist in coming or remaining upon any plantation, lands, or premises, after being warned not to come thereon or to depart therefrom, shall, on summary conviction, be liable to imprisonment with or without hard labour, for any term not exceeding two months, or to forfeit and pay such sum of money not exceeding two hundred and fifty dollars, as to the Magistrate shall seem meet. **Trespass.**

46. Whosoever shall unlawfully and maliciously commit any damage, injury, or spoil to, or upon, any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall, on summary conviction, be liable to imprisonment, with or without hard labour, for any term not exceeding two months, or else to forfeit and pay such sum of money not exceeding five hundred dollars, as to the Magistrate shall seem meet, and also such further sum of money as shall appear to the Magistrate to be reasonable compensation for the damage, injury, or spoil so committed, not exceeding the sum of seven hundred and fifty dollars; which last mentioned sum of money shall, in the case of private property, be paid to the party aggrieved; and, in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in the same manner as every penalty imposed by a Magistrate under any Act for the time being in force within Antigua and Barbuda: **Persons committing damage in any case not previously provided for.**

Provided that nothing herein contained shall extend to any case where the party acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, fishing, or in the pursuit of game, but that every such trespass shall be punishable in the same manner as if this Act had not been passed.

Preceding section
to extend to
trees.

47. The provisions in the last preceding section contained shall extend to any person who shall wilfully and maliciously commit any injury to any tree, sapling, shrub, or underwood, for which no punishment is hereinbefore provided.

PART XVI

MAKING GUNPOWDER TO COMMIT OFFENCES, AND SEARCHING FOR THE SAME

Making or
having
gunpowder, &c.,
with intent
to
commit any
felony against
this Act.

48. Whosoever shall make or manufacture, or knowingly have in his possession, any gunpowder or other explosive substance, or any dangerous or noxious thing, or any machine, engine, instrument, or thing, with intent thereby, or by means thereof to commit, or for the purpose of enabling any other person to commit any of the felonies in this Act mentioned, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Magistrates may
issue warrants
for searching
houses, &c., for
such gunpowder,
&c.

49. Any Magistrate of any district or place in which any machine, engine, implement, or thing, or any gunpowder, or other explosive, dangerous or noxious substance, is suspected to be made, kept, or carried for the purpose of being used in committing-any of the felonies in this Act mentioned, upon reasonable cause assigned upon oath by any person, may issue a warrant under his hand and seal for searching, in the day-time, any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf, or other place, or any carriage, waggon, cart, ship, boat, or vessel, in which the same is suspected to be made, kept, or carried for such purpose as hereinbefore mentioned; and every person acting in the execution of any such warrant shall have, for seizing, removing to proper places, and detaining every such machine, engine, implement, and thing, and all such gunpowder, explosive, dangerous, or noxious substances found upon such search, which he shall have good cause to suspect to be intended to be used in committing any such offence, and the barrels, packages, cases, and other receptacles in which the same shall be, the same powers and protections which are given to persons searching for unlawful quantities of gunpowder under the warrant of a Justice by

the Act of the United Kingdom passed in the session holden in the twenty-third and twenty-fourth years of the reign of Queen Victoria, chapter one hundred and thirty-nine, intituled "An Act to amend the law concerning the Making, Keeping, and Carriage of Gunpowder and Compositions of an Explosive Nature, and concerning the Manufacture, Sale, and use of Fireworks".

PART XVII

OTHER MATTERS

50. In the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour, and every person who shall aid, abet, counsel, or procure the commission of any misdemeanour punishable under this Act, shall be liable to be proceeded against, indicted, and punished as a principal offender.

Principles in second degree, and accessories.

51. Any constable or peace officer may take into custody, without warrant, any person whom he shall find lying or loitering in any highway, yard or other place, during the night, and whom he shall have good cause to suspect of having committed, or being about to commit, any felony against this Act, and shall take such person, as soon as reasonably may be, before a Magistrate, to be dealt with according to law.

Any person loitering at night and suspected of any felony may be apprehended.

52. Every punishment and forfeiture by this Act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

Malice against owner of property unnecessary.

Provisions of Act to apply to person in possession of the property injured.

53. Every provision of this Act, not hereinbefore so applied, shall apply to every person who, with intent to injure or defraud any other person, shall do any of the acts hereinbefore made penal, although the offender shall be in possession of the property against or in respect of which such act shall be done.

Persons in the act of committing be apprehended without a warrant.

54. Any person found committing any offence against this Act, whether the same be punishable upon indictment or upon summary conviction, may be immediately apprehended, without a warrant, by any peace-officer, or by the owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before a Magistrate, to be dealt with according to law.

Abettors in offences punishable on summary conviction.

55. Whosoever shall aid, abet, counsel, or procure the commission of any offence which is, by this Act, punishable upon summary conviction, either for every time of its commission or for the first and second time only, or for the first time only, shall, on summary conviction, be liable, for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishments to which a person, guilty of a first, second, or subsequent offence as the principle offender, is by this Act made liable.

Application of forfeitures and penalties upon conviction.

56. Every sum of money, which shall be forfeited for the amount of any injury done, shall be assessed, in each case, by the convicting Magistrate, and shall be paid to the party aggrieved, except where he is unknown, and, in that case, such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any Magistrate, whether in addition to such amount or otherwise, shall be paid and applied in the same manner as other penalties recoverable before Magistrates are to be paid and applied in cases where the Act imposing the same contains no directions for the payment thereof to any person:

Provided that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit the sum equivalent to the amount of injury done, in every such case no further sum shall be paid to the party aggrieved than such value or amount, and the remaining sum or sums forfeited shall

be applied in the same manner as any penalty imposed by a Magistrate is hereinbefore directed to be applied.

57. Where any person shall be summarily convicted before a Magistrate of any offence against this Act, and it shall be a first conviction, the Magistrate may, if he shall so think fit, discharge the offender from his conviction upon his making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the Magistrate.

The Magistrate may discharge the offender in certain cases.

58. When any person convicted of any offence punishable upon summary conviction by virtue of this Act shall have paid the sum adjudged to be paid, together with costs, under such conviction, or shall have received a remission thereof from the Crown, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or shall have been so discharged from his conviction by the Magistrate as aforesaid, he shall be released from all further or other proceedings for the same cause.

A summary conviction shall be a bar to any other proceeding for the same cause.

59. Whenever any person shall be convicted of any indictable misdemeanour punishable under this Act, the Court may, if it shall think fit, in addition to, or in lieu of, any of the punishments by this Act authorized, fine the offender, and require him to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, and being of good behaviour; and, in case of any felony punishable under this Act, the Court may, if it shall think fit, require the offender to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment by this Act authorized:

Fines and sureties for keeping the peace, in what cases, &c.

Provided that no persons shall be imprisoned under this section for not finding sureties for any period exceeding one year.

60. The Court before which an indictable misdemeanour against this Act shall be prosecuted or tried may allow the costs of the prosecution in the same manner as in cases of felony; and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony.

The costs of the prosecution of misdemeanours against this Act may be allowed.

Application of
fines.

61. All fines, forfeitures and penalties imposed and recoverable under this Act shall be paid into the Treasury.
