

## **BREACHES OF TRUST**

### **ACT . No. XIII. OF 1850**

**(Rep., Act 17 of 1862)**

*[Passed on the 22<sup>nd</sup> March, 1850.]*

1. *Public Officers entrusted with receipt of money, &c. embezzling the same or fraudulently applying it, &c. to be deemed guilty of stealing.*
2. *Described the classes of person who shall be deemed within the foregoing section.*
3. *Repeals 9 G. 4, C. 74, Ss. 99, 100, 102, 103, 104.*
4. *Clerk or Servant guilty of stealing, to be punishable as under this Act.*
5. *Clerk or Servant guilty of embezzling shall be deemed to have stolen.*
6. *Members and Officers of trading Company, Bankers, Merchants, &c. employed as Agents to sell, &c. fraudulently applying proceeds of sale, &c. to be deemed to have feloniously stolen such proceeds.*
7. *Such Agents, &c. of the persons mentioned in last section fraudulently misapplying property to other purposes than those for which their principals held it, to be deemed to have stolen the same.*
8. *Every person having the receipt of chattels, &c. and embezzling, &c. same, in breach of trust, to be deemed to have stolen same.*
9. *Persons convicted of stealing under this Act, liable to transportation for life, or imprisonment, &c. for not exceeding seven years.*
10. *What shall be deemed valuable securities within this Act.*
11. *Any number of offences against this Act, committed within six months of one another, may be included in one Indictment. Deficiency in accounts explained to be evidence of offence.*
12. *How securities or money may be described in the Indictment.*
13. *How the person interested in the property may be described in the Indictment.*
14. *Empowers the Courts to amend the Indictment in case of variance.*
15. *Offender under this Act may be tried in place where offence was committed or where he is in custody.*

16. *Punishment of offender not to affect liability of sureties.*

17. *If charge of embezzling fails, but it appears that account, &c. was falsely made up, offender may be fined.*

For Punishing Breaches of Trust.

For the punishment of Breaches of Trust. It is enacted as follows :

I. Every person employed in the public Service of Her Majesty, or of the East India Company, and entrusted, by reason of such employment, with the receipt, custody or control of any chattel, money, or valuable security, who shall embezzle the same or any thereof or in any manner fraudulently apply, use or dispose of the same, or any part thereof for any purpose other than a purpose to which the same is applicable under the trust reposed in him, shall be deemed to have feloniously stolen the same.

II. All Official Trustees, Assignees and Receivers of Money, by virtue of their several offices or appointments, all Justices of the Peace, Coroners and other persons, receiving by virtue of their offices or appointments any fines, forfeitures, penalties or other moneys, on behalf of Her Majesty or of the East India Company, all Sheriffs, Under-Sheriffs, Bailiffs, Officers and other persons employed to levy money in execution of the Judgment or order of any Court : or in receiving any taxes or other moneys directed to be levied by any Regulation of the Governor or Governor in Council of any Presidency or Place, or by any Act of the Governor General of India in Council, and also all subordinate Officers and Servants employed in the office or service of any of the persons hereinbefore enumerated, and entrusted with money in the course of such employment, are declared to be persons employed in the public service within the meaning of this Act ; but this special enumeration of some of the persons included in the general description of persons in the public service of Her Majesty or the East India Company, shall not be taken to abridge the meaning of that general description.

III. The Clauses respectively numbered XCIX, C, CI, CII, CIII and CIV, in an Act of Parliament passed in the ninth year of the Reign of King George the Fourth, intitled an Act for improving the Administration of Criminal Justice in

the East Indies, are repealed, except as to all things done or forborne to be done before the passing of this Act.

IV. Every Clerk or Servant, who shall steal any chattel, money or valuable security, belonging to, or in the possession or power of his Master, shall be punishable in the same manner as persons convicted of felonious stealing under this Act.

V. Every Clerk or Servant, or any person employed for the purpose, or in the capacity of a Clerk or Servant, who shall by virtue of such employment, receive or take into his possession any chattel, money or valuable security, for or in the name or on the account of his Master, and who shall fraudulently embezzle the same or any part thereof, shall be deemed to have feloniously stolen the same from his Master, although such chattel, money or security was not received into the possession of his Master, otherwise than by the actual possession of his Clerk, Servant or other person so employed.

VI. Every Member and Officer of a Trading Corporation or Company, and also every Bankers, Merchant, Factor, Broker, Attorney or other Agent, whether he be commonly so employed or b employed as an Agent in that instance only, and whether he act as such Agent gratuitously or otherwise, to whom any chattel, money or valuable security is entrusted for safe custody, or for any special purpose, and whether with or without any authority to sell, negotiate, pledge, or employ the same, but with an authority limited to some defined purpose as to the application of such money, chattel or valuable security, or of any part thereof, or of the proceeds or of any part of the proceeds thereof, who shall fraudulently apply, use or dispose of the same or any part of the proceeds thereof, for any purpose other than a purpose for which the same was entrusted to him, shall be deemed to have feloniously stolen the same.

VII. Every Sub-Agent, Clerk or Servant of any such Trading Corporation or Company, or of any British, Merchant, Factor, Broker or other Agent as aforesaid, who knowing the purpose for which such chattel, money or valuable security was entrusted to the Corporation, Company, Person or Persons, by whom he is employed, shall fraudulently apply, use or dispose of the same for any purpose other than a purpose for which the same was entrusted to his

employed or employers, shall be deemed to have feloniously stolen the same thought he were not himself immediately employed or entrusted with the disposition thereof by the person entitled thereto.

VIII. Every person possessed, or having the receipt, custody or control, of any chattel, money or valuable security, in trusts for any other person or persons, who shall embezzle the same or any part thereof, or in any manner fraudulently apply, use or dispose of the same, for his own use or benefit, in breach of the trust reposed in him, shall be deemed to have feloniously stolen the same.

IX. Every person convicted of having feloniously stolen any chattels, money or valuable security under this Act, shall be liable to be transported out of the territories under the Government of the East India Company for life, or to be imprisoned with or without labour for any term not exceeding seven years.

X. Every instrument entitling or shewing the title of any person to any share or interest in any public stock or fund of any Country or State, or in any Stock of any Corporation or Company, or for the transfer of any such share or interest, or for the receipt of and dividend or interest on any such share, or entitling or shewing the title to any deposit in any Bank, and every warrant, order or instrument for the payment of any money on any event, certain or contingent, or for the delivery or receipt of any goods, or merchandize, or any such event, is a valuable security within the meaning of this Act.

XI. Any offender under this Act may be proceeded against on the same charge for any number of distinct acts of embezzlement or fraudulent application, use or disposition as aforesaid, committed by him within six calendar months, from the first to the last of such acts : and proof of a gross deficiency in the accounts of any such Trustee or Public Servant, shall be evidence of the offence charged, until such deficiency is otherwise explained.

XII. If the offence relates to money or to any Bank Note, Bank Post Bill, Banker's Cheque, Bill of Exchange, Promissory Note, Government Paper or other like security for the payment of money, it shall be enough in the indictment or charge to allege the embezzlement or fraudulent application, use or disposition of money, without specifying any particular coin or valuable security ; and such allegation shall, so far as regards the kind of property, be

sustained, if the offender is proved to have embezzled or fraudulently applied, used or disposed of any amount of money or any valuable security, though the particular kind of coin or valuable security, of which such amount was composed shall not be proved.

XIII. It shall not be necessary, in any proceeding against any offender under this Act, to declare the person to whom the property embezzled or fraudulently applied or disposed of belongs otherwise than hereinafter provided, or to give any other description of it than by stating its general character according to the provisions of this Act ; and if the offence be that of embezzlement or fraudulent application, use or disposition, by a person in the public service of the Crown, or of the East India Company, of property entrusted to him by reason of such employment, or part thereof, it shall be enough to state that the defendant was in such service, and that he received the property by reason of such employment, and embezzled the same, or part thereof, or fraudulently applied, used or disposed of the same, as the case may be ; and, if the case be one of fraudulent application, use or disposition by any person not being such public servant but entrusted as aforesaid, it shall be enough to state that such person was entrusted with the property (describing its general character as aforesaid,) and it shall be enough, to state shortly the purpose of the trust, and that fraudulently applied, used or disposed of the same contrary to his duty in that behalf.

XIV. The Court before which any offender is tried under this Act shall have power upon the trial to make any amendments that may be necessary, by reason of any variance between the statements of the charge and the evidence, either in the description of the property, or of any person, or of any office, appointment or employment, or of the purpose of the trust or otherwise, when in the opinion of the Court the person charged cannot have been misled as to his defence by such imperfect or erroneous statement.

XV. Every offender under this Act may be tried and punished by any Court of competent jurisdiction either in the place where he is in custody, or where he committed the offence.

XVI. The punishment of any offender under this Act shall not be deemed to take away or lessen his liability or the liability of his sureties to make good any losses sustained by Her Majesty or the East India Company, or any other person or persons by his misbehavior or breach of trust.

XVII. Every person charged with a felonious breach of trust under this Act, who shall be proved to have knowingly made up or furnished false statements, or accounts of the sums of money received or paid by him or entrusted to his care, or of the goods or balance of money in his custody or control, shall be liable to fine in the discretion of the Court, although no actual embezzlement or fraudulent application, use or disposition of trust, moneys, chattels or valuable securities is proved against him, and in addition to such fine may be imprisoned, with or without labour, as the Court shall adjudge, for any term not exceeding one year ; but no person convicted of felonious breach of trust as aforesaid shall be punished also for making up false accounts in connection with the same breach of trust.

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