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THE  
REVISED STATUTES,  
OF THE  
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1851

## CHAPTER 101.

## OF OFFENCES AGAINST PROPERTY.

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**SEC. 1.** Every person who shall willfully and maliciously burn, in the night time, the dwelling house of another, whereby the life of any person shall be destroyed, or shall in the night time, willfully and maliciously set fire to any other building owned by himself or another, by the burning whereof such dwelling house shall be burnt in the night time, whereby the life of any person shall be destroyed, shall suffer the same punishment as provided for the crime of murder in the second degree; but if the life of no person shall have been destroyed, he shall be punished by imprisonment in the territorial prison not more than fourteen years nor less than seven years; and if at the time of committing the offence there was no person lawfully in the dwelling house so burnt, he shall be punished by imprisonment in the territorial prison not more than ten years, nor less than three years.

Burning dwelling  
in the night time  
by which life of  
person is destroyed.

**SEC. 2.** Every person who shall willfully and maliciously burn in the day time the dwelling house of another, or any building adjoining such dwelling house, and shall willfully and maliciously set fire to any building owned by himself or another, by the burning whereof such

When life of person  
not destroyed.

Burning house in  
the day time.

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dwelling house shall be burnt in the day time, or shall in the day time willfully and maliciously set fire to any building owned by himself or another, by the burning whereof such dwelling house shall be burnt in the night time, shall be punished by imprisonment in the territorial prison not more than fifteen years, nor less than five years.

Burning church,  
court house, &c., at  
night.

SEC. 3. Every person who shall willfully and maliciously burn in the night time, any meeting house, church, court house, town house, college, academy, jail, or other building erected for public uses, or any ship, steamboat, or other vessel, or any banking house, warehouse, store, manufactory, or mill of another, or any barn, stable, shop, or office of another, within the curtilage of any dwelling house, or any other building, by the burning whereof any building mentioned in this section shall be burnt in the night time, shall be punished by imprisonment in the territorial prison not more than fifteen years, nor less than five years.

Burning church in  
day time.

SEC. 4. Every person who shall willfully and maliciously burn, in the day time, any building mentioned in the next preceding section, the punishment for which if burnt in the night time, would be imprisonment in the penitentiary not more than fifteen years nor less than five years, shall be punished by imprisonment in the territorial prison not more than eight years, nor less than four years.

Burning certain  
buildings day or  
night.

SEC. 5. Every person who shall willfully and maliciously burn in the night time or day time, any banking house, warehouse, store, manufactory, mill, barn, stable, shop, out house, or other building whatsoever, of another, other than is mentioned in the third section of this chapter, or any bridge, lock, dam, or flume, shall be punished by imprisonment in the territorial prison not more than eight years, nor less than four years.

Burning boards,  
timber, &c.

SEC. 6. Every person who shall willfully and maliciously burn any pile or parcel of boards, timber, or other lumber, or any stack of hay, grain, or other vegetable product severed from the soil but not stacked, or any standing grain, grass, or other standing product of the soil, shall be punished by imprisonment in the territorial prison not more than two years, nor less than six months.

Married women li-  
able.

SEC. 7. The preceding sections shall severally extend to a married woman who may commit either of the offences therein described, though the property burnt or set fire to may belong partly or wholly to her husband.

Burning property to  
injure insurer.

SEC. 8. Every person who shall willfully burn any goods, wares, merchandize, or other chattels, which shall be at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person be the owner of the property burnt or not, shall be punished by imprisonment in the territorial prison not more than ten years, nor less than three years.

Burglary being  
armed, or making  
assault.

SEC. 9. Every person who shall break and enter any dwelling house in the night time, with intent to commit the crime of murder, rape, robbery, larceny, or any other felony, or after having entered with such intent, shall break any such dwelling house in the night time, any person being then lawfully therein, and the offender being armed with a dangerous weapon at the time of such breaking, or entering or so arming himself in such house, or making an actual assault on any person lawfully therein, shall be punished by imprisonment in the territorial prison not more than twelve years, nor less than four years.

Burglary not being  
armed, or making  
assault.

SEC. 10. Every person who shall break and enter any dwelling house in the night time, with such intent as is mentioned in the last preceding section, or who having entered with such intent, shall break such dwelling house in the night time, the offender not being armed nor arming himself in such house with a dangerous weapon, nor making an assault upon any person then being lawfully therein, shall be punished

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by imprisonment in the territorial prison not more than five years, nor less than two years.

SEC. 11. Every person who shall break and enter in the night time any office, shop, or warehouse, not adjoining to or occupied with a dwelling house, or any ship, steamboat, or vessel, within the body of any county, with intent to commit the crime of murder, rape, robbery, larceny, or any other felony, shall be punished by imprisonment in the territorial prison not more than three years, nor less than one year.

Breaking into office  
&c., at night.

SEC. 12. Every person who shall enter in the night time without breaking, or shall break and enter in the day time, any dwelling house or any out house thereto adjoining and occupied therewith, or any office, shop, or warehouse, or any ship, steamboat, or vessel, within the body of any county, with the intent to commit the crime of murder, rape, robbery, larceny, or other felony, shall be punished by imprisonment in the territorial prison not more than two years, nor less than six months.

Entering house at  
night, &c., without  
breaking, &c.

SEC. 13. Every person who shall commit the crime of larceny in any dwelling house, office, shop, bank or warehouse, ship, steamboat or vessel, or shall break and enter in the night time or day time, any meeting house, church, court house, town house, college, academy, or other public building erected for public use, and steal therein, shall be punished by imprisonment in the territorial prison, not more than three years nor less than one year, or by imprisonment in the county jail not more than one year, nor less than three months, or by fine not exceeding five hundred dollars.

Larceny in dwel-  
ling house, &c.

SEC. 14. Every person who shall commit the offence of larceny, by stealing from the person of another, shall be punished by imprisonment in the territorial prison, not more than four years, nor less than two years, or by imprisonment in the county jail not more than two years, nor less than three months, or by fine not exceeding five hundred dollars.

Stealing from the  
person.

SEC. 15. Every person who shall commit the crime of larceny, by stealing of the property of another, any money, goods, or chattels, or any bank note, bond, promissory note, bill of exchange, or other bill, order, or certificate, or any book of accounts, for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release, or defeasance, or any writ, process, or public record, if the property stolen shall exceed the value of one hundred dollars, shall be punished by imprisonment in the territorial prison, not more than three years, nor less than one year; and if the property stolen shall not exceed the value of one hundred dollars, he shall be punished by imprisonment in the county jail, not more than two years, nor less than three months, or by fine not exceeding three hundred dollars.

Simple larceny ex-  
ceeding \$100 in val-  
ue.

SEC. 16. Every justice of the peace shall have jurisdiction concurrent with the district court, of all the larcenies mentioned in the fifteenth section of this chapter, when the money or other property stolen shall not be alleged to exceed the value of twenty dollars, and of all other larcenies whatever, when the money or other property stolen shall not be alleged to exceed the value of ten dollars, in all which cases the punishment shall be by fine not exceeding fifty dollars, or by imprisonment in the county jail, for the term of three months, saving to every person who shall be convicted before the justice, the right to appeal as in other cases.

Simple larceny less  
than \$100.

Jurisdiction of Jus-  
tices in larcenies.

SEC. 17. Every person who shall buy, receive, or aid in the concealment of stolen money, goods, or property, knowing the same to have been stolen, shall be punished by imprisonment in the territorial prison, not more than four years, nor less than one year, or by imprisonment in

Buying, &c., stolen  
goods.

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the county jail, not more than two years, nor less than three months, or by fine not exceeding five hundred dollars.

Jurisdiction of justice in case of buying, &c., stolen goods.

SEC. 18. Every justice of the peace shall have jurisdiction concurrent with the district court, as before provided, of all offences of buying, receiving, or aiding in the concealment of stolen goods or other property, in all cases in which they would have had jurisdiction of a larceny of the same goods or other property; and the punishment of buying, receiving, or aiding in the concealment of such goods or other property, shall be the same as in the case of a larceny of the same goods or other property, with the same right of appeal on conviction.

Receiver, &c., may be tried before thief is convicted.

SEC. 19. In any prosecution for the offence of buying, receiving, or aiding in the concealment of stolen money or other property known to have been stolen, it shall not be necessary to aver, nor on the trial thereof to prove that the person who stole such property, has been convicted.

Officer arresting, to secure goods.

SEC. 20. The officer who shall arrest any person charged as principal or accessory in any robbery or larceny, shall secure the property alleged to be stolen, and shall be answerable for the same; and he shall annex a schedule thereof to his return of the warrant, and upon conviction of the offender, the stolen property shall be restored to the owner.

Prosecutor and officer when and how paid.

SEC. 21. Upon any conviction of burglary, robbery, or larceny, the court may order a meet recompence to the prosecutor, and also to the officer who has secured and kept the stolen property, not exceeding their actual expenses, with a reasonable allowance for their time and trouble, to be paid by the county treasurer.

Embezzlement by officers, &c., of corporations.

SEC. 22. If any cashier or other officer, or any agent, clerk, or servant of any incorporated bank, shall embezzle or fraudulently convert to his own use, or shall fraudulently take or secrete, with intent to convert to his own use, any bullion, money, note, bill, obligation, or security, or any other effects or property belonging to and in possession of such bank, or belonging to any person and deposited therein, he shall be deemed to have committed the crime of larceny in such bank.

Embezzlement by officers, agents, clerks, &c.

SEC. 23. If any officer, agent, clerk, or servant of any incorporated company, or if any clerk, agent, or servant of any private person, or of any copartnership, except apprentices and other persons under the age of sixteen years, shall embezzle or fraudulently convert to his own use, or shall take and secrete, with intent to embezzle and convert to his own use, without consent of his employer or master, any money or property of another which shall have come to his possession, or shall be under his care by virtue of such employment, he shall be deemed by so doing to have committed the crime of larceny.

Embezzlement by carrier and others.

SEC. 24. If any carrier or other person to whom any money, goods, or other property, which may be the subject of larceny, shall have been delivered to be carried for hire, or if any other person who shall be intrusted with such property, shall embezzle or fraudulently convert to his own use, or shall secrete with intent to embezzle or fraudulently convert to his own use, any money, goods, or property, either in the mass as the same were delivered, or otherwise, and before delivery of such money, goods, or property, at the places where or to the persons to whom they were to be delivered, he shall be deemed to have committed the crime of larceny.

Embezzlement or fraudulent selling by warehousemen, &c.

SEC. 25. Any warehouseman, storage, forwarding, or commission merchant, or miller, or his or their agents, clerks, or servants, who shall embezzle or fraudulently convert to his or their own use, or fraudulently sell or otherwise dispose of for his or their own gain, profit, or advantage, without the consent of the owner thereof, any grain, flour, pork, beef, wool, or other goods, wares, or merchandise, which shall have been received by such warehouseman, miller, or storage, forward-

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ing or commission merchant, to be stored for hire or for any other purpose, shall be deemed to have committed the crime of larceny.

SEC. 26. If any person having in his possession any money belonging to this territory, or any county, town, city, or other municipal corporation, or in which this territory, or any county, town, city, or other municipal corporation has any interest, or if any collector or treasurer of any town or county, or incorporated city, town, or village, or the treasurer or other disbursing officer of the territory, or any other person holding an office under any law of this territory, or any officer of an incorporated company, who now is by virtue of his office, or shall hereafter be, intrusted with the collection, safe keeping, receipt, transfer, or disbursement of any tax, revenue, fine, or other money, shall convert to his own use, in any way or manner whatever, any part thereof, or shall loan, with or without interest, any portion of the money intrusted to him as aforesaid, or who shall willfully neglect or refuse to pay over the same or any part thereof, according to the provisions of law, so that he shall not be able to meet the demands of any person lawfully demanding the same, whether such demand be made before or after the expiration of his office, he shall be deemed and adjudged to be guilty of an embezzlement.

Embezzlement or  
loaning, &c., of  
public moneys by  
officers and others.

SEC. 27. Any person who shall be guilty of embezzling any money prohibited by this or the last preceding section, not exceeding in amount the sum of one hundred dollars, shall, upon conviction thereof, be punished by imprisonment in the county jail not more than twelve months nor less than three months; and any person who shall be convicted of embezzling a greater sum than one hundred dollars, shall be punished by imprisonment in the territorial prison, not more than three years nor less than one year, and by a fine in each case, of twice the amount so embezzled; and if the court cannot determine from the verdict of the jury or otherwise, the amount of the sum embezzled, they shall impose such fine as in their discretion shall be adequate and corresponding, as nearly as may be, with the penalty imposed by this section; and every refusal by an officer, to pay any sum lawfully demanded, shall be deemed an embezzlement of the sum so demanded.

Punishment there-  
for.

SEC. 28. Any person demanding of any officer, any sum of money which he may be entitled to demand and receive, who shall be unable to obtain the same, by reason of the money having been embezzled as aforesaid, if he shall neglect or refuse, for thirty days after making such demand, to make complaint against such officer, shall be deemed an accessory, and upon conviction thereof, shall be fined in a sum not exceeding one hundred dollars.

Who deemed an ac-  
cessory.

SEC. 29. The refusal of any officer to pay any demand in spécie, where the sum so demanded was actually received by such officer, in good faith, in checks, drafts, certificates of deposite, or currency which may have depreciated in value, provided payment be tendered in the checks, drafts, certificates of deposite, or currency, received by such officer, shall not be construed to be an embezzlement, according to the intent and meaning of the twenty-sixth and twenty-seventh sections of this chapter.

When officer need  
not pay in specie,  
&c.

SEC. 30. Every officer or other person mentioned in the twenty-sixth section of this chapter, shall pay over the same money that he may have received in the discharge of his duties, and shall not set up any amount as a set off against any money so received, and all justices of the peace, clerks of the district courts, sheriffs, and other officers, shall pay into the respective treasuries, all the money collected on fines, within thirty days after said moneys may be collected.

Officer, &c., to pay  
over same money  
received, &c.

SEC. 31. If any warehouseman, miller, or storage, forwarding, or commission merchant, or his or their agents, clerks, or servants, shall

Money for fines  
where to be paid.

Warehousemen,  
&c., making false  
receipt, &c.

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willfully and fraudulently make or utter any receipt, or other written evidence of the delivery into any warehouse, mill, store, or other building belonging to him, them, or either of them, or his, or their employers, of any grain, flour, pork, beef, wool, or other goods, wares, or merchandize, which shall not have been so received or delivered into such mill, warehouse, store, or other building, previous to the making and uttering of such receipt or other written evidence thereof, shall be punished by imprisonment in the territorial prison not more than two years, nor less than one year.

Falsely personating another.

SEC. 32. Every person who shall falsely personate or represent another, and in such assumed character shall receive any money or other property whatever, intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed by so doing to have committed the crime of larceny.

Obtaining property by false pretences.

SEC. 33. If any person shall designedly, by any false pretence or by any privy or false token, and with intent to defraud, obtain from any other person any money or goods, wares, merchandize, or other property, or shall obtain with such intent the signature of any person to any written instrument, the false making whereof would be punishable as forgery, he shall be punished by imprisonment in the territorial prison not more than five years, nor less than one year, or by fine not exceeding five hundred dollars, nor less than fifty dollars.

Gross fraud how punished.

SEC. 34. Every person who shall be convicted of any gross fraud or cheat at common law, shall be punished by imprisonment in the territorial prison not more than four years nor less than one year, or by fine not exceeding one thousand dollars nor less than fifty dollars.

Casting away, burning, &c., vessels, &c.

SEC. 35. If any person shall willfully cast away, burn, sink, or otherwise destroy any ship, steamboat or vessel, within the body of any county, with intent to injure or defraud any owner of such vessel, steamboat, or ship, or the owner of any property laden on board the same, or any insurer of such vessel, or property, or of any part thereof, he shall be punished by imprisonment in the territorial prison not more than ten years, nor less than three years.

Lading or fitting out vessel, &c., with intent to destroy it.

SEC. 36. If any person shall lade, equip, or fit out, or assist in lading, equipping, and fitting out any steamboat, ship or vessel, with the intent that the same shall be cast away, burnt, sunk, or otherwise destroyed, to injure or defraud any owner or insurer of such vessel, or of any property laden on board the same, he shall be punished by imprisonment in the territorial prison not more than five years, nor less than two years, or by fine not exceeding five thousand dollars, nor less than one hundred dollars.

Making out or exhibiting false invoice of cargo.

SEC. 37. If the owner of any ship, steamboat, or vessel, or any property laden, or pretended to be laden on board the same, or if any other person concerned in the lading or fitting out of such ship, steamboat or vessel, shall make out or exhibit, or cause to be made out or exhibited, any false or fraudulent invoice, bill of lading, bill of parcels, or other false estimates of any goods or property laden or pretended to be laden on board such vessel, with intent to injure or defraud any insurer of such vessel or property, or any part thereof, he shall be punished by imprisonment in the territorial prison not more than three years, nor less than one year, or by fine not more than five hundred dollars, nor less than one hundred dollars.

Making or procuring false protest, &c.

SEC. 38. If any master, or other officer or mariner of a ship, steamboat, or vessel, shall make or cause to be made, or shall swear to any false affidavit or protest, or if any owner or other person concerned in such vessel, or in the goods or property laden on board of such vessel, shall procure any such false affidavit or protest to be made, or shall exhibit the same with intent to injure or deceive or defraud any insurer

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of such ship, steamboat or vessel, or of the goods or property laden on board the same, or any other person, he shall be punished by imprisonment in the territorial prison not more than five years, nor less than two years, or by fine not exceeding one thousand dollars, nor less than one hundred dollars.

SEC. 39. Every person who shall willfully and maliciously kill, maim, or disfigure any horses, cattle, or other beasts, of another person; or shall willfully and maliciously administer poison to any such beasts, or expose any poisonous substance with intent that the same may be taken or swallowed by them, or shall willfully and maliciously destroy or injure the personal property of another, in any manner by any means not particularly mentioned or described in this chapter, shall be punished by imprisonment in the county jail not more than two years, nor less than three months, or by fine not exceeding five hundred dollars, nor less than fifty dollars.

SEC. 40. If any person shall falsely and fraudulently represent, that he is the owner of any parcel or tract of land, to which he has no title, and shall execute any deed of the same, with intent to defraud any person whatever, he shall be punished by imprisonment, in the territorial prison not more than two years, nor less than six months.

Maliciously killing  
or maiming cattle  
or injuring personal  
property.

Selling lands with-  
out title.

SEC. 41. Every person who shall willfully and maliciously break down, injure, remove or destroy any dam, reservoir, canal, or trench, or any gate, flume, flash boards, or other appurtenances thereof, or of the wheels, mill gear, or machinery of any mill, or shall willfully or wantonly, and without color of right, draw off the water contained in any mill pond, reservoir, canal, or trench, shall be punished by imprisonment, in the territorial prison, not more than two years, nor less than six months, or by fine not exceeding four hundred dollars, nor less than fifty dollars.

Malicious injury to  
dams, &c.

SEC. 42. Every person who shall willfully or maliciously break down, injure, remove, or destroy any public or toll bridge, or rail road, or plank road, or telegraph posts or wires, or any turn pike or plank road gate, or any lock, culvert, or embankment of any canal, or shall willfully or maliciously make any aperture or breach in any such embankment, with intent to destroy or injure the same, shall be punished by imprisonment, in the territorial prison, for not more than three years, nor less than six months, or by fine not exceeding six hundred dollars, nor less than fifty dollars.

Malicious injury to  
bridges, roads, &c.

SEC. 43. Every person who shall willfully and maliciously, or wantonly, and without cause, cut down and destroy, or by girdling, lopping or otherwise, shall injure any fruit tree; or any other trees not his own, standing or growing for shade, ornament or other useful purposes, or shall maliciously or wantonly, break the glass, or any part of it, in any building not his own, or shall maliciously break down any fence belonging to or inclosing land not his own, or shall maliciously throw down or open any bars, gate or fence, and leave the same down or open, or shall maliciously and injuriously sever from the freehold of another any produce thereof, or any thing attached thereto, shall be punished by imprisonment in the county jail, not more than one year, nor less than three months, or by fine not exceeding two hundred dollars.

Malicious injury to  
fruit and ornamental  
trees, &c.

SEC. 44. Every person who shall willfully and maliciously break down, injure, remove, or destroy, any monument erected for the purpose of designating the boundaries of any tract or lot of land, or any tree marked for that purpose, or shall so break down, injure, remove, or destroy, any mile stone, mile board, or guide board, erected upon any highway, or other public way, turn pike, or railroad, plank road, or shall willfully or maliciously deface or alter the inscription on any such stone or board, or shall willfully or maliciously mar or deface any

Malicious injury to  
monuments, guide  
boards, &c.

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building, or any sign board, or shall extinguish any lamp, or break, destroy, or remove any lamp or lamp post, or any railing or post, erected on any bridge, side walk, street, highway, court or passage, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment in the county jail, not more than six months.

Trespassing in gardens, orchards, &c.

SEC. 45. Every person who shall willfully commit any trespass by entering upon the garden, orchard, or other improved land of another without permission of the owner thereof, and with intent to cut, take, carry away, destroy, or injure the trees, grain grass, hay, fruit or vegetables there growing, or being, shall be punished by fine, not exceeding fifteen dollars nor less than three dollars.

Jurisdiction of justices.

SEC. 46. Every justice of the peace shall have concurrent jurisdiction in his own county, with the district court, of all offences mentioned in the last three preceding sections of this chapter, when the value of the trees, fruit, grain, or other property injured, destroyed, taken, or carried away, or the injury occasioned by the trespass shall not exceed the sum of one hundred dollars, and in such case, the punishment shall be by fine, not exceeding fifty dollars, nor less than five dollars.

Willful injury to trees, &c., upon lands of any person.

SEC. 47. Any person who shall willfully and without authority, cut down or destroy, or shall injure by girdling, or otherwise any tree growing or standing upon the private property of any individual, or cut any timber or wood upon such property, or take, carry, or haul away therefrom, any timber or wood, previously cut or severed from the freehold; or who shall willfully and without authority, dig or carry, away any mineral, earth or stone, from any such land, shall be held guilty of a misdemeanor, and upon conviction of any of the said offences, shall be punished by imprisonment in the county jail of the proper county, not more than one year, or by fine not exceeding five hundred dollars, nor less than five dollars.

Jurisdiction of justices of the peace.

SEC. 48. Any justice of the peace shall have concurrent jurisdiction in his own county, with the district court, of any offences in the preceding section specified, when the value of trees, wood, timber, mineral, earth or stone, shall be alleged not to exceed the sum of one hundred dollars, and in such case the punishment shall be by fine, not less than five, nor more than one hundred dollars; and if any person, on conviction of such offence, shall refuse or neglect for the space of ten days, to pay such fine, it shall be lawful for the justice before whom the conviction was had, to commit such person to the jail of the proper county, for a period not less than ten, nor more than thirty days.

Firing woods and prairies, &c.

SEC. 49. If any person shall willfully and maliciously set on fire, or cause to be set on fire, any woods or prairie, or other grounds, other than his own, or shall intentionally, or by neglect, permit the fire to pass his own prairie or grounds, to the injury of any other person or persons, every person so offending shall, on conviction thereof, for every such offence, be fined in a sum not exceeding five hundred dollars, nor less than ten dollars.