

SENATE No. 462

The Commonwealth of Massachusetts

SENATE, May 4, 1943.

The committee on the Judiciary, to whom was referred the report of the special commission established (under Chapter 48 of the Resolves of 1941) for the purpose of making an investigation and study of the criminal laws of the Commonwealth and of drafting a penal code (House, No. 1462), report, in part, the accompanying bill (Senate, No. 462).

For the committee,

ARTHUR W. COOLIDGE.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Three.

AN ACT RELATING TO LARCENY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter two hundred and sixty-
2 nine of the General Laws is hereby amended by
3 inserting after section thirty, as appearing in the
4 Tercentenary Edition, the following section:—

5 *Section 30A.* (A) The following words as used
6 in this section, unless the context otherwise requires,
7 shall have the following meanings:—

8 “Thing of value” shall include property, real, per-
9 sonal and mixed, tangible or intangible, including
10 that owned or possessed jointly or in common with
11 another, and all evidences of legally enforceable rights
12 or obligations as well as services rendered, benefits
13 conferred or detriments sustained where an action
14 at law or suit in equity could be maintained for com-
15 pensation or damages by the person rendering such
16 services, conferring such benefits or sustaining such
17 detriments.

18 “Another” shall include natural persons, corpora-
19 tions, and all legal entities capable of suing or being
20 sued, whether or not they are owners or possessors
21 jointly or in common with the defendant, but shall not
22 include the spouse of the defendant. The burden of

23 proving that "another" from whom a larceny is
24 charged is the spouse of the defendant shall be upon
25 him.

26 (B) 1. Whoever (a) steals anything of value; or
27 (b), with intent to defraud, obtains the signature of
28 another to, or induces another to, make or alter any
29 writing purporting to have legal efficacy, or with like
30 intent obtains, or deprives another of, anything of
31 value either —

32 (1) By a false pretense (including a false pretense
33 of carrying on business and dealing in the ordinary
34 course of trade, or a false pretense respecting the
35 financial condition or means or ability to pay of
36 himself or of any person); provided that if a pretense
37 shall be a pretense relative to the purchaser's means
38 or ability to pay in connection with the obtaining of
39 anything of value whereby the terms of the agree-
40 ment payment is not to be made therefor upon or
41 before the obtaining of such thing of value, the
42 pretense must be in writing and signed by the party
43 to be charged; or

44 (2) By a game, device (including a slug or any
45 false, counterfeited, mutilated or sweated coin),
46 sleight-of-hand, pretended fortune-telling, or by any
47 trick or other means with or without the use of
48 cards or other implements or instruments.

49 2. Whoever unlawfully or with intent to steal or
50 embezzle converts or secretes with intent to convert
51 anything of value, whether such thing of value is or is
52 not in his possession at the time of such conversion or
53 secreting, shall be guilty of larceny.

54 (C) Larceny in the first degree shall consist of —

55 (1) Larceny by the captain of a vessel of any-
56 thing of value belonging wholly or in part to the

57 crew, the owners, or to those who have furnished
58 supplies to the vessel; or

59 (2) Larceny from the commonwealth by a person
60 employed in the treasury of the commonwealth; or

61 (3) Larceny by a county, city or town official
62 from the county, city or town of which he is an
63 officer; or

64 (4) Larceny by an officer, director, trustee, agent
65 or employee of a bank of any bullion, money, note,
66 bill or other security for money which belongs to
67 and is in possession of such bank or which belongs
68 to any person and is deposited therein, whether such
69 officer, director, trustee, agent or employee is en-
70 trusted with the custody thereof or not; or

71 (5) Larceny by an agent appointed by the com-
72 missioner of banks for the purpose of liquidating the
73 affairs of a bank or a person employed by said com-
74 missioner or a receiver or other officer appointed
75 by a court of record of anything of value in his
76 possession by virtue of his appointment or employ-
77 ment; or

78 (6) Larceny by a broker or officer, manager or
79 agent of a corporation doing the business of brokers
80 entrusted solely or jointly with anything of value; or

81 (7) Larceny by a trustee under an express trust
82 created by a deed, will or other instrument in writing,
83 a guardian, conservator, executor or administrator
84 or any person upon or to whom such a trust has
85 developed or come of anything of value held or
86 possessed by him for the use or benefit either wholly
87 or partially of some other person or for a public or
88 charitable purpose; or

89 (8) Larceny by an officer, agent, clerk or servant
90 of a voluntary association or society of anything of

91 value which belongs to such association or society
92 or which may have come to his possession or under
93 his care by virtue of his office or employment.

94 Larceny in the second degree shall consist of —

95 (1) Larceny with intent to defraud, obtaining or
96 inducing another to make or alter any writing pur-
97 porting to have legal efficacy; or

98 (2) Larceny with like intent, obtaining or de-
99 priving another of anything of value by means of a
100 false pretense or by a game, device (including a
101 slug or any false, counterfeited, mutilated or sweated
102 coin), sleight-of-hand, pretended fortune-telling or
103 by any trick or other means with or without the use
104 of cards or other implements or instruments.

105 Larceny in the third degree shall consist of larceny

106 (1) from a burning building; (2) from the person;

107 (3) of tools from a building under construction;

108 (4) of an automobile; (5) from a common carrier;

109 (6) of a will, codicil or other testamentary instru-

110 ment; (7) of a bicycle; (8) from the realty; (9) of

111 a beast, bird or fish kept in confinement, or of a dog.

112 Larceny in the fourth degree shall consist of any

113 larceny not hereinbefore described as being larceny

114 in the first, second or third degree.

115 (D) Larceny in the first degree shall be punished

116 by imprisonment in the state prison for not more

117 than ten years or by a fine of not more than five

118 thousand dollars or by imprisonment in a jail or

119 house of correction for not more than two and one

120 half years or both.

121 Larceny in the second degree shall be punished by

122 imprisonment in the state prison for not more than

123 five years or by a fine of not more than three thousand

124 dollars or by imprisonment in a jail or house of

125 correction for not more than two and one half years
126 or both such fine and imprisonment.

127 Larceny in the third degree shall be punished by
128 imprisonment in the state prison for not more than
129 five years or by a fine of not more than one thousand
130 dollars or by imprisonment in a jail or house of
131 correction for not more than two and one half years
132 or both such fine and imprisonment.

133 Larceny in the fourth degree shall, if the value of
134 the subject matter of the larceny be one hundred
135 dollars or less, be punished by imprisonment in a
136 jail or house of correction for a term of not more
137 than two and one half years or by a fine of not more
138 than five hundred dollars, or by both such fine and
139 imprisonment; or if the value of the subject matter
140 of the larceny exceeds one hundred dollars shall be
141 punished by imprisonment in the state prison for a
142 term of not more than five years or by a fine of not
143 more than one thousand dollars or by imprisonment
144 in a jail or house of correction for a term of not more
145 than two and one half years or by both such fine
146 and imprisonment.

147 Wherever the degree of larceny or the punishment
148 therefor is dependent upon the value of the subject
149 matter of the larceny, all writings which evidence
150 enforceable legal rights or obligations shall be
151 deemed to have the value of the right or obligation
152 of which they are evidence.

1 SECTION 2. This act shall take effect on October
2 first in the current year.

