

Mala Fide
mis-application
contrary to
written in-
struction of
moneys, &c.,
entrusted to
bankers, bai-
lees, &c.

43. If any money or security for the payment of money having been intrusted to any banker, merchant, broker, attorney or other agent, with a direction in writing to apply such money or any part thereof, or the proceeds or any part of the proceeds of such security, for any purpose specified in such direction, and such person in violation of good faith, and contrary to the purpose so specified, in any wise converts to his own use or benefit such money, security or proceeds, or any part thereof, respectively, every such offender shall be guilty of a misdemeanor, and shall be imprisoned in the Penitentiary, for any term not less than two years, or be imprisoned in any other Prison or place of confinement for any term less than two years, or suffer such other punishment by fine or imprisonment, or by both, as the Court may award. 4, 5 V. c. 25, s. 41, and see 12 V. c. 12, --6 V. c. 5, s. 2.

Embezzlement
of goods, mo-
neys, &c., en-
trusted to bank-
ers, agents, &c.,
to be applied to
special pur-
poses—or for
safe custody,
&c.

44. If any banker, merchant, broker, attorney or other agent having been intrusted with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of this Province or of the United Kingdom of *Great Britain and Ireland*, or of *Great Britain* or of *Ireland*, or of any British Colony or Foreign State or Country, or in any fund of any body corporate, company or society for safe custody, or for any special purpose without any authority to sell, negotiate, transfer or pledge the same and such person in violation of good faith, and contrary to the purpose for which such chattel, security or power of attorney has been entrusted to him, sells, negotiates, transfers, pledges, or in any manner converts to his own use or benefit such chattel or security, or the proceeds of the same or any part thereof, or the share or interest in the stock or fund to which such power of attorney relates, or any part thereof, such offender shall be guilty of a misdemeanor, and shall be liable to any of the punishments which the Court may award as hereinbefore last mentioned. 4, 5 V. c. 25, s. 41.

Misdemeanor.
Punishment.

Not to affect
trustees or
mortgagees.

Nor bankers
receiving mo-
neys due upon
securities.

Or disposing of
securities in
which they
have a lien.

45. Nothing hereinbefore contained relating to agents, shall affect any trustee in or under any instrument whatever, or any mortgagee of any property real or personal in respect of any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney or other agent from receiving any money which may become actually due and payable upon or by virtue of any valuable security according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed; nor from selling, transferring or otherwise disposing of any securities or effects in his possession, upon which he has any lien, claim or demand, entitling him by law so to do; unless such sale, transfer, or other disposal extended to a greater number or part of such securities or effects, than was requisite for satisfying such lien, claim or demand. 4, 5 V. c. 25, s. 42.