

which he is convicted, if to such court or judge it seems fit so to do; [and the court or judge may include in the amount to be paid such moderate allowance for loss of time as the court or judge, by affidavits or other inquiry and examination, ascertains to be reasonable;] and the payment of such costs and expenses, or any part thereof, may be ordered by the court or judge to be made out of any moneys taken from such person on his apprehension (if such moneys are his own), or may be enforced at the instance of any person liable to pay or who has paid the same in such and the same manner (subject to the provisions of this Act) as the payment of any costs ordered to be paid by the judgment or order of any court of competent jurisdiction in any civil action or proceeding may for the time being be enforced: Provided, that in the meantime, and until the recovery of such costs and expenses from the person so convicted as aforesaid, or from his estate, the same shall be paid and provided for in the same manner as if this section had not been passed; and any money which is recovered in respect thereof from the person so convicted, or from his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs and expenses have been paid or defrayed."

Section 838. By repealing subsection 1 thereof and substituting the following therefor:—

"**838.** If any person who is [charged with] an indictable offence in stealing, or knowingly receiving, [or obtaining by false pretences,] any property, is indicted for such offence, by or on behalf of the owner of the property, or his executor or administrator, and convicted thereof, or is tried before a judge or justice for such offence under any of the foregoing provisions and convicted thereof, the property shall be restored to the owner or his representative."

And by repealing subsection 3 thereof, and substituting the following therefor:—

"**3.** If it appears before any award or order is made, that any valuable security has been *bonâ fide* paid or discharged by any person liable to the payment thereof, or being a negotiable instrument, has been *bonâ fide* taken or received by transfer or delivery, by any person, for a just and valuable consideration, without any notice, or without any reasonable cause to suspect that the same had, by any indictable offence been stolen, [or received, or obtained by false pretences,] or if it appears that the property stolen, [or received, or obtained] has been transferred to an innocent purchaser for value, who has acquired a lawful title thereto, the court or tribunal shall not award or order the restitution of such security or property."

NOTE.—Restitution may be ordered in England in cases where property is obtained by false pretences on the same terms as in cases of theft or receiving, and there seems to be no good reason why it should not be so here also. See *Bentley v. Vilmont*, (1887) Law Reports, 12 Appeal Cases, 476.

Section 846.—By substituting the following therefor:—

"**846.** No information, complaint, warrant, conviction or other proceeding under this Part shall be deemed objectionable or insufficient on any of the following grounds, that is to say:

(a) that it does not contain the name of the person injured, or intended or attempted to be injured; or