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2nd Session, 3rd Parliament, 12th Victoria, 1849.

V.

BILL.

An Act for the Removal of Defects in the Administration of Criminal Justice.

Printed by Order of the Hon. the Legislative Council.

Received and read 1st time, Friday, 30
March, 1849.

Second Reading, Tuesday, 3rd April, 1849.

Honorable Mr. LESLIE

[200 copies.]

(6)

Legis. Council.

BILL.

An Act for the removal of defects in the administration of Criminal Justice.

WHEREAS the technical strictness of Preamble to.
Criminal Proceedings might in some instances be further relaxed, so as to ensure the Punishment of the Guilty, without depriving the accused of any just means of defence: and, whereas, according to the present practice of Courts of Criminal Jurisdiction, it is not permitted in an indictment for stealing property to add a Count for receiving the same property, knowing it to have been stolen; or in an indictment for receiving stolen property, knowing it to have been stolen, to add a Count for stealing the same property, and justice is hereby often defeated: Be it therefore enacted, &c.

15 And it is hereby enacted by the authority of the same, That from and after the passing of this Act, in every indictment for feloniously stealing property, it shall be lawful to add a Count for feloniously receiving the same property, knowing it to have been stolen; and in any indictment for feloniously receiving property, knowing it to have been stolen, it shall be lawful to add a Count for feloniously stealing the same property: and where any such indictment shall have been preferred and found against any person, the prosecutor shall not be put to his election, but it shall be lawful for the Jury who shall try the same to find a verdict of guilty, either of stealing the property or of receiving it knowing it to have been stolen; and

Counts for stealing and for receiving stolen property may be included in the same indictment.

if such indictment shall have been preferred and found against two or more persons, it shall be lawful for the Jury who shall try the same, to find all or any of the said persons guilty, either of stealing the property or of receiving it knowing it to have been stolen; or to find one or more persons guilty of stealing the property, and the other or others of them guilty of receiving it knowing it to have been stolen.

Courts may cause indictments to be amended in certain cases.

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 II. And whereas a failure of justice frequently takes place in Criminal Trials, by reason of variances between writings produced in evidence, and the recital or setting forth thereof in the indictment or information, and the same cannot now be amended at the Trial, except in cases of misdemeanor: for remedy thereof, be it enacted, That it shall and may be lawful for any Court of Queen's Bench, or other Superior Court of Criminal Jurisdiction in Lower Canada, of Oyer and Terminer and General Gaol Delivery, in any part of this Province, if such Court shall see fit so to do, to cause the indictment or information for any offence whatever, when any variance or variances shall appear between any matter in writing or in print produced in evidence, and the recital or setting forth thereof in the indictment or information, whereon the trial is pending, to be forthwith amended in such particular or particulars by some officer of the Court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance or variances had appeared.

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