

In an indictment of a clerk to county commissioners under this section, a tax bill on which was written "Received payment, W. D., Collector, per J. A. D., Clerk, County Commissioners," is evidence. Embezzlement by clerk to county commissioners is within scope of this section. It is not necessary to show that traverser received the money "by virtue of his employment," nor that he had authority to receive it, but only that it was received in name or on account of employer. *Denton v. State*, 77 Md. 528. And see *State v. Denton*, 74 Md. 517.

An indictment which merely charges the larceny of \$102.72 "current money, a more particular description of which said money the jurors aforesaid have not and cannot give," is properly quashed as too vague. *State v. Denton*, 74 Md. 518.

An indictment under this section which does not allege ownership of property or money embezzled, is not sufficient. *State v. Tracey*, 73 Md. 447.

An attorney-at-law is an "agent" within meaning of this section. The jury are judges of law as well as of facts in a criminal case; improper statement to jury by state's attorney. *Dick v. State*, 107 Md. 12.

For suits for malicious prosecution growing out of indictment under this section, see *Moneyweight Co. v. McCormick*, 109 Md. 179; *Medcalfe v. Brooklyn Life Co.*, 45 Md. 202; *Jordan v. Piano Co.*, 140 Md. 212.

An. Code, sec. 113. 1910, ch. 477 (p. 87).

X 130. If an insurance agent, solicitor or broker who acts in negotiating a contract of insurance by an insurance company lawfully doing business in this State, and who embezzles or fraudulently converts to his own use, or, with intent to use or embezzle, takes, secretes, lends, invests or otherwise uses or applies any money or substitute for money received by him as such agent, solicitor or broker, contrary to the instructions or without the consent of the company for or on account of which the same was received by him, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to the jail or penitentiary for not more than three years, in the discretion of the court.

An. Code, sec. 114. 1904, sec. 104. 1900, ch. 22, sec. 75A.

131. If any executor, administrator, guardian, committee, trustee, receiver or any other fiduciary shall fraudulently and wilfully appropriate to any use and purpose not in the due and lawful execution of his trust, any money or any other thing of value which may come into his hands as such executor, administrator, guardian, committee, trustee, receiver, or in any other fiduciary capacity, or secrete it with a fraudulent intent to appropriate it to such use or purpose, he shall be deemed guilty of embezzlement, and shall be punished upon conviction by imprisonment in the penitentiary for not less than one year nor more than five years.

Cited but not construed in *Dick v. State*, 107 Md. 15, 21, 23.

An. Code, sec. 115. 1904, sec. 105. 1888, sec. 76. 1862, ch. 114.

132. If any person engaged in transporting coal, iron, lumber or other articles of merchandise, or any property whatever, on any highway, river, railroad or canal, within this State, shall sell, dispose of, give away, use or pledge the same or any part thereof, without the consent of the owner or owners thereof, such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail of the county in which the offense is committed, for a term not more than one year, or by both such fine and imprisonment, at the discretion of the court.

Cited but not construed in *Dick v. State*, 107 Md. 16.