

THE PENAL CODE
(INDIA ACT XLV. 1860)
(1ST MAY. 1861)

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- 374. Unlawful compulsory labour.

Of Rape

- 375. Rape.
- 376. Punishment for rape.

Of Unnatural Offences

- 377. Unnatural offences.

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

Of Theft

- 378. Theft.
- 379. Punishment for theft.
- 380. Theft in dwelling-house, etc.
- 381. Theft by clerk or servant of property in possession of master.
- 382. Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.

Of Extortion

- 383. Extortion.
- 384. Punishment for extortion.
- 385. Putting person in fear of injury in order to commit extortion.
- 386. Extortion by putting a person in fear of death or grievous hurt.
- 387. Putting person in fear of death or of grievous hurt, in order to commit extortion.
- 388. Extortion by threat of accusation of an offence punishable with death or transportation, etc.
- 389. Putting person in fear of accusation of offence ; in order to commit extortion.

Of Robbery and Dacoity

- 390. Robbery.
 - When theft is robbery.
 - When extortion is robbery.
- 391. Dacoity.
- 392. Punishment for robbery.
- 393. Attempt to commit robbery.
- 394. Voluntarily causing hurt in committing robbery.
- 395. Punishment for dacoity.

- 396. Dacoity with murder.
- 397. Robbers' or dacoity, with attempt to cause death or grievous hurt.
- 398. • • • •
- 399. Making preparation to commit dacoity.
- 400. Punishment for belonging to gang of dacoits.
- 401. Punishment for belonging to gang of thieves.

Of Criminal Misappropriation of Property

- 403. Dishonest misappropriation of property.
- 404. Dishonest misappropriation of property possessed by deceased person at the time of his death.

Of Criminal Breach of Trust

- 405. Criminal breach of trust.
- 406. Punishment for criminal breach of trust
- 407. Criminal breach of trust by carrier, etc.
- 408. Criminal breach of trust by clerk or servant.
- 409. Criminal breach of trust by public servant, or by banker, merchant or agent.

Of the Receiving of Stolen Property

- 410. Stolen property.
- 411. Dishonestly receiving stolen property.
- 412. Dishonestly receiving property stolen in the commission of a dacoity.
- 413. Habitually dealing in stolen property.
- 414. Assisting in concealment of stolen property.

Of Cheating

- 415. Cheating.
- 416. Cheating by personation.
- 417. Punishment for cheating.
- 418. Cheating with knowledge that wrongful loss may ensue to person whose interest of property is bound to protect.
- 419. Punishment for cheating by personation.
- 420. Cheating and dishonestly inducing delivery of property.

Of Fraudulent Deeds and Dispositions of Property

- 421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
- 422. Dishonestly or fraudulently preventing debt being available for creditors.
- 423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
- 425. Mischief.
- 426. Punishment for mischief.
- 427. Mischief causing damage to the amount of fifty rupees.
- 428. Mischief by killing or maiming animal of the value of ten rupees.
- 429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of

fifty rupees.

430. Mischief by injury to works of irrigation 01 by wrongfully diverting water.
431. Mischief by injury to public road, bridge, river, or channel.
432. Mischief by causing inundation or obstruction to public drainage attended with damage.
433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.
434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.
435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.
436. Mischief by fire or explosive substance with intent to destroy house, etc.
437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.
438. Punishment for the mischief described in section 437 committed by fire or explosive substance.
439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.
440. Mischief committed after preparation made for causing death or hurt.

Of Criminal Trespass

441. Criminal trespass.
442. House-trespass.
443. Lurking house-trespass.
444. Lurking house-trespass by night.
445. House-breaking.
446. House-breaking by night.
447. Punishment for criminal trespass.
448. Punishment for house trespass.
449. House-trespass in order to commit offence punishable with death.
450. House-trespass in order to commit offence punishable with transportation for life.
451. House-trespass in order to commit offence punishable with imprisonment.
452. House-trespass after preparation for hurt, assault or wrongful restraint.
453. Punishment for lurking house-trespass or house-breaking.
454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.
455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.
456. Punishment for lurking house-trespass or house-breaking by night.
457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.
458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.
459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460. AH persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.
461. Dishonestly breaking open receptacle containing property.
462. Punishment for same offence when committed by person entrusted with custody.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

- 463. Forgery.
- 464. Making a false document.
- 465. Punishment for forgery.
- 466. Forgery of record of Court or of public register, etc.
- 467. Forgery of valuable security, will, etc.
- 468. Forgery for purpose or cheating.
- 469. Forgery for purpose of harming reputation.
- 470. Forged document.
- 471. Using as genuine a forged document.
- 472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.
- 473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.
- 474. Having possession of document described in section 466 or 467 knowing it to be forged and intending to use its genuine.
- 475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.
- 476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.
- 477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.
- 477A. Falsification of accounts.

Of Trade, Property and Other Marks

- 478. Trademark.
- 479. Property mark.
- 480. Using a false trade mark.
- 481. Using a false property mark.
- 482. Punishment for using a false trade mark or property mark.
- 483. Counterfeiting a trade mark or property mark used by another.
- 484. Counterfeiting a mark used by a public servant.
- 485. Making or possession of any instrument for counterfeiting a trade mark or property mark.
- 486. Selling goods marked with a counterfeit trade mark or property mark.
- 487. Making a false mark upon any receptacle containing goods.
- 488. Punishment for making use of any such false mark.
- 489. Tampering with property mark with intent to cause injury.

Of Currency-Notes and Bank-Notes

- 489A. Counterfeiting currency-notes or bank-notes.
- 489B. Using as genuine forged or counterfeit currency-notes or bank-notes.

489C. Possession of forged or counterfeit currency-notes or bank-notes.

489D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.

CHAPTER XIX

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. * * * *

491. Breach of contract to attend on and supply wants of helpless person.

492. * * * *

CHAPTER XX

OF OFFENCES RELATING TO MARRIAGE

493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

494. Marrying again during life-time of husband or wife.

495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.

496. Marriage ceremony fraudulently gone through without lawful marriage.

497. Adultery.

498. Enticing or taking away or detaining with criminal intent a married woman.

CHAPTER XXI

Of Defamation

499. Defamation.

Imputation of truth which public good requires to be made or published.

Public conduct of public servants.

Conduct of any person touching any public question.

Publication of reports of proceedings of Courts.

Merits of case decided in Court, or conduct of witnesses and others concerned.

Merits of public performance.

Censure passed in good faith by person having lawful authority over another.

Accusation preferred in good faith to authorized person.

Imputation made in good faith by person for protection of his or other's interests.

Caution intended for good of person to whom conveyed or for public good.

500. Punishment for defamation.

501. Printing or engraving matter known to be defamatory.

502. Sale of printed or engraved substance containing defamatory matter.

CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

503. Criminal intimidation.

504. Intentional insult with intent to provoke breach of the peace.

505. Statements conducing to public mischief.

506. Punishment for criminal intimidation.
If threat be to cause death or grievous hurt, etc.
507. Criminal intimidation by an anonymous communication.
508. Act caused by inducing person to believe that he will be
Tendered an object of Divine displeasure.
509. Word, gesture or act intended to insult the modesty of a
woman.
510. Misconduct in public by a drunken person.

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES

511. Punishment for attempting to commit offences punishable
with transportation or imprisonment.

THE PENAL CODE
(INDIA ACT XLV. 1860) (1ST MAY. 1861)

CHAPTER I

INTRODUCTION

1. * * * * *

2. Every person shall be liable to punishment under this Code and not Punishment otherwise for every act or omission contrary to the provisions thereof, which he shall be guilty within the Union of Burma.

3. Any person liable, by any law in force in the Union of Burma, to be tried for an offence committed beyond the limits of the Union of Burma shall be death with according to the provisions of this Code for any act committed beyond the Union of Burma.

4. The provisions of this Code apply also to any offence committed by (any citizen of the Union wherever he may be)¹.

Explanation.—In this section the word “offence” includes every act committed outside the Union of Burma which, if committed in the Union of Burma, would be punishable under this Code.

5. Nothing in this Code is intended to affect any Act for punishing officers, soldiers, sailors or airmen in the service of (the Government)² or any special or this Code.

CHAPTER II

GENERAL EXPLANATIONS

6. Throughout this Code every definition of an offence, penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled “General Exceptions,” though those exceptions are not repeated in such definition, penal provision or illustration.

Illustration

(a) The section in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences ; but the definitions are to be understood subject to the general exception which provides that nothing at all be an offence which is done by a child under seven years of age.

(b) A, a police officer ,without warrant, apprehends Z who has committed murder. Here A is not guilty of the offence of wrongful confinement ; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that “ nothing it an offence which it done by a person who is bound by law to do it.”

7. Every expression which is explained in any part of this Code is used in every part of

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

this Code in conformity with the explanation.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

10. The word "man" denotes a male human being of any age : the word "woman" denotes a female human being of any age.

11. The word "person" includes any company or association, or body of persons, whether incorporated or not.

12. The word "public" includes any class of the public or any community.

13. * * * *

14¹. The words "servant of the Government" include all officers or servants continued, appointed or employed under the authority of the Constitution, or by or under the authority of the President of the Union.

15-16. * * * *

17. The word "Government"² denotes the person or persons authorized by law to administer executive government in any part of the Union of Burma.

18. • • • •

19. The word "Judge" denotes not only every person who is officially "Judge" designated as a Judge, but also every person

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations

a) A Collector exercising jurisdiction in a suit under Act X of 1859³ is a Judge,

b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a judge.

(c) * * * *

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court is not a Judge.

20. The words "Court of Justice" denote a Judge who is empowered by the Court at law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body when such Judge or body of Judges is acting judicially.

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following namely :—

First.—Every covenanted servant of the Government:

Second⁴.—Every commissioned Officer in the Military, Naval or Air Forces of the State.

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

2 See also s.263A(4) infra

3 The Bengal Rent Act, 1859

4 Amended by the Union of Burma (Adaptation of Laws) Order, 1948.

Third.—Every Judge :

Fourth.—Every officer of a Court of Justice whose duty it is, at such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court: and every person specially authorized by a Court of Justice to perform any of such duties :

Fifth.— Every juryman, assessor, or member of a village committee assisting a Court of Justice or public servant ;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

Eighth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty (or every member of the Government)¹

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district ;

Eleventh.—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.

Illustration

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “ public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation 3.—The word “ election” means the selection, by any method which is by law prescribed as by election, of any person as a member or officer of or to any office in the Union Parliament or any municipal or other public authority.

¹ Added by the Union of Burma (Adaptation of Laws) Order, 1948.

22. The words “moveable property” are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

23. “Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled.

“Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, at well as when such person is wrongfully deprived of property.

24. Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing “dishonestly.”

25. A person is said to do a thing “fraudulently” if he does that thing with intent to defraud but not otherwise.

26. A person is said to have “reason to believe” a thing if he has sufficient cause to believe that thing but not otherwise.

27. When property is in the possession of a person’s wife, clerk or servant, on account of that person, it is in that person’s possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.

28. A person is said to “counterfeit” who causes one thing to resemble “another thing, intending by means of that resemblance to practice deception or knowing it to be likely that deception will thereby be practised.

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.

29. The word “document” denotes any matter expressed upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations

A writing expressing the terms of a contract, which may be used as evidence of the contract.

A cheque upon a banker is document.

A power-of-attorney is document.

A map or plan, which intended to be used which or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures or marks,

as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section although the same may not be actually expressed.

Illustrations

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature.

30. The words "valuable security" denote a document which is, or security." purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustrations

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

31. The words "a will" denote any testamentary document.

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single.

34. When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

Of common

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z.
A has committed murder.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustration

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison.
A and B administer the poison according to the agreement with intent to murder Z. Z dies from

the effects of the several doses of poison to administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused they are both guilty of the offence though their acts are separate.

(b) A and B are joint tailors and at as such have the charge of Z, a prisoner alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in entitle that effect by illegally omitting, each during the lime of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and flare guilty of the murder of Z.

(c)A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food ; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office and B succeeds him. B without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but as A did not co-operate with B. A it guilty only of in attempt to commit murder,

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are bath engaged in causing Z's death, B is guilty of murder, and A it guilty only of culpable homicide.

39. A person is said to cause an effect “ voluntarily “ when he causes it by means whereby he intended to cause it, or by means which, at the lime of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating robbery and thus causes the death of a person. Here, A may not have intended to cause death, and may ever be sorry that death has been caused by his act ; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

40. Except in the chapters and sections mentioned in clauses 2 and 3 of this section, the word “ offence” denotes a thing made punishable by this code.

In Chapter IV, Chapter VA, and in the following sections, namely, sections 64, 65,66, 67,71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word “ offence” denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word “ offence” has the same meaning when the thing punishable under the special or local law is punishable under for law with imprisonment for a term of six months or upwards, whether with or without fine.

41. A “ special law “ is a law applicable to a particular subject.

42. A “ local law “ is a law applicable only to a particular part of the Union of Burma.

43. The word “ illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action ; and a person is said to be “ legally bound to do” whatever it is illegal in him to omit.

44. The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.
45. The word “ life” denotes the life of a human being, unless the contrary appears from the context.
46. The word “ death” denotes the death of a human being, unless the contrary appears from the context.
47. The word “ animal” denotes any living creature, other than a human being.
48. The word “ vessel” denotes anything made for the conveyance by water of human beings or of property.
49. Wherever the word “ year” or the word “ month” is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.’
50. * * * *
51. The word “oath” includes a solemn affirmation substituted by law, for an oath, and any declaration required or authorized bylaw to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.
52. Nothing is said to be done or believed in “ good faith” which is done or believed without due care and attention.
- ¹52A. Except in section 130 and in Section 157 in the case in which the harbour is given by the wife or husband of the person harboured, the word ‘harbour’ includes supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting of a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.

CHAPTER III

OF PUNISHMENTS

53. like punishments to which offenders are liable under the provisions of this Code are:
--

First.—Death;

Secondly.—Transportation;

²[* * * *]

Fourthly.—Imprisonment, which is of two descriptions, namely :—

(1) Rigorous, that is, with hard labour ;

(2) Simple ;

³[* * * *]

Sixthly.—Fine.

54. In every case in which sentence of death shall have been passed, the President of the Union may, without the consent of the offender, commute of the punishment for any other

1 Inserted by Act, XX, 1950

2 Clause “ Thirdly.--Penal Servitude; and “ Fifthly.-- Forfeiture of Property; “ were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

3 Clause “ Thirdly.--Penal Servitude; and “ Fifthly.-- Forfeiture of Property; “ were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

punishment provided by this Code.

55. In every case in which sentence of transportation for life shall have been passed, the President of the Union may, without the consent of the offender commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

56¹. * * * *

57. In calculating fractions of terms of punishment, transportation for life shall be reduced as equivalent to transportation for twenty years.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been under-going his sentence of transportation during the term of his imprisonment.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

61-62. * * * *

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

64. In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine,

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth or the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

66. The imprisonment which the Court imposes in default of fine may be of any description to which the offender might be liable for the offence.

67. If the offence be punishable with fine only, the term of imprisonment which the Court imposes in default of payment of the fine shall be the term for which the Court directs the offender to be imprisoned in default of payment of fine, shall not exceed the following scale, that term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not

1 Omitted *ibid*.

exceeding six months in any other case.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration

A is sentenced to a fine of one hundred rupees and to four months imprisonment in default of payment.

Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment. A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid before the expiration of two months of the imprisonment. A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment. A will be immediately discharged.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period ; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

71. Where anything which is an offence is made up of parts, any of punishment which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

Illustration

(a) A gives Z fifty strokes with a stick. Here, A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also be liable by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he ought to be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y intervenes and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

72. In which judgment is given that a person is guilty of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided

73. Whenever any person is convicted of an offence for which under this confinement the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

a time not exceeding one month if the term of imprisonment shall not exceed six months:

a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year :

a time not exceeding three months, if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinements shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods and when the imprisonment awarded shall exceed three months. the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

75. Whoever, having been convicted—

(a) by a Court in the Union of Burma of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards. (* *)¹

(b)² * * * *

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to transportation for life, or to imprisonment of either description for a term which may extend to ten years.

CHAPTER IV

GENERAL EXCEPTIONS

76. Nothing is an offence which is done by a person who is, or who by Act one by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustration

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest and, after due enquiry, Believing Z to be Y, arrests Z. A has committed no offence.

77. Nothing is an offence which is done by a Judge when acting judicially Act of judge in the exercise of any power which is, or which in good faith he believes to be, acting given to him by law.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

78. Nothing which is done in pursuance of, or which is warranted by Act done the judgment or order of, a Court of Justice, if done whilst such judgment or pursuant to order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the Court act in good faith believes that the Court had such jurisdiction.

79. Nothing is an offence which is done by any person who is justified by Act done by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law, in doing it.

Illustration

A sees Z commit what appears to A to be a murder. A in the exercise, to the best of his judgment, exerted in good faith of the power which the law gives to all persons of apprehending murderers in the act. seizes Z in order to bring Z. before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Nothing is an offence which is done by accident or misfortune, and Accident in without any criminal intention or knowledge, in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration

A is at work with a hatchet ; the head flies off mid kills a man who is standing by. Here, if there was no want of proper caution on the part of A. his act is excusable and not an offence.

81. Nothing is an offence merely by reason of its being done with the Act likely to knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or without avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm other harm. to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

(a) A. the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that before he can stop his vessel he must inevitably run down a boat B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B. he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect. If it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.

(b) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of an offence.

82. Nothing is an offence which is done by a child under seven years of seven years age.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and

consequences of his conduct on that occasion.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act or that he is doing what is either wrong or contrary to law: provided that intoxication the thing which intoxicated him was administered to him without his knowledge or against his will.

86. In cases where an act done is not an offence unless done, with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which administered to him without his knowledge or against his will.

87. Nothing which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing may be caused without foul play; and if A, while playing fairly, hurls Z, A commits no offence.

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether good faith for express or implied, to suffer that harm, or to take the risk of that harm.

Illustration

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending in good faith Z's benefit, performs that operation on Z with Z's consent. A has committed no offence.

89. Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person ;

Provided—

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death ;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt of the curing or any grievous disease or infirmity ;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt or the curing of any grievous disease or infirmity ;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration

A, in good faith, for his child's benefit without his child's content, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, in as much as his object was the cure of the child.

90. A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception ; or

if the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent ; or

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

91. The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause to the person giving the consent, or on whose behalf the consent is given.

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman.

Therefore, it is not an offence by reason of such harm ; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92. Nothing is an offence by reason of any claim which it may cause to a person for whose benefit it is done in good faith, even without that person's consent if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit: Provided -

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death ;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity ;

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt for any purpose other than the preventing of death or hurt ;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A

not intending Z's death but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

- (b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill, Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball give Z a mortal wound. A has committed no offence.
- (c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is no time to apply to the child's guardian. A perform the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.
- (d) A is in a home which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the housetop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 88,89 and 92.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made, for the benefit of that person.

Illustration

A, a surgeon, in good faith communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Except murder, and offences against the State punishable with death, Act to which nothing is an offence which is done by a person who is compelled to do it by threats, which at the time of doing it, reasonably cause the apprehension that threats instant death to that person will otherwise be the consequence : Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoity, and forced by threat of instant death, to do a thing which is an offence by law ; for example, a smith compelled to take his tools and to force the door of a house for the dacoity to enter and plunder it, is entitled to the benefit of this exception.

95. Nothing is an offence by reason that it causes, or that it is intended Act causing to cause, or that it is known to be likely to cause, any harm, if that harm is so , slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence

96. Nothing is an offence which is done in the exercise of the right of private Things dons defence.

97. Every person has a right, subject to the restrictions contained in section Right of 99,

to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body ;

Secondly—The property, whether moveable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

98. When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

- (a) Z. under the influence of madness, attempts to kill A : Z is guilty of no offence. But A has the time right of private defence which he would have if Z were sane.
- (b) A enters by night a house which he is legally entitled to enter. Z. in good faith, taking A for a house-breaker, attacks A Here Z. by attacking A under this misconception, commits no offence But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

99. There is no right of private defence against an act which does not reasonably cause apprehension of death or of grievous hurt, if done or attempted to be done by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done or attempted to be done by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law. There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities. The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence, exercised.

Explanation 1.—A person is not deprived of the right of private defence against an act done or attempted to be done by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant,

Explanation 2.—A person is not deprived of the right of private defence against an act done or attempted to be done by the direction of a public servant unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority if demanded.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :—

First — Such an assault as may reasonably cause the apprehension that death, death will otherwise be the consequence of such assault ;

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.—An assault with the intention of committing rape ;

Fourthly.—An assault with the intention of gratifying unnatural lust;

Fifthly.—An assault with the intention of kidnapping or abducting ;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. If the offence be not of any of the descriptions enumerated in the When such last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the any harm restrictions mentioned in section 99, to the voluntary causing to the assailant death.

102. The right of private defence of the body commences as soon as Commence a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed ; and of the right it continues as long as such apprehension of danger to the body continues.

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting defence of to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

First.—Robbery ;

Secondly.—House-breaking by night ;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling or as a place for the custody of property ;

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence if such right of private defence is not exercised.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief to causing or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that light does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences. The right of private defence of property against theft continues till the offender has effected his retreat with the property, or either the assistance of the public authorities is obtained or the property has been recovered.

The right of private defence of property against robbery continues long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues. The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as

long as the house-trespass which has been begun by such house breaking continues.

106. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

CHAPTER V

OF ABETMENT

107. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

108. A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation shoots D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an

offence.

- (b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.
- (c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.
- (d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under the misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration.

A conspires with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison; Z dies in consequence. Here though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in the section and is liable to the punishment for murder.

108A. A person abets an offence within the meaning of this Code who, in the Union of Burma, abets the commission of any act without and beyond offences the Union of Burma which would constitute an offence if committed in the outside of the Union of Burma.

Illustration

A, in the Union of Burma instigates B, a foreigner in Goa, to commit a murder in Goa.

A is guilty of abetting murder.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or

with the aid which constitutes the abetment.

Illustration

- (a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has committed the offence defined in section 161.
- (b) A instigates B to give false evidence. B in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.
- (c) A and B conspire to poison Z, A in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder, A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110. Whoever abets the commission of an offence shall, if the person punished abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

111. When an act is abetted and a different act is done, the abettor is liable for the act done in the same manner and to the same extent as if he had directly abetted it:

provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations

- (a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Z.
- (b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.
- (c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. Murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration

A instigates B to resist by force a distress made by a public servant. B in consequence resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences.

113. When an act is abetted with the intention on the part of the abettor of causing a particular

effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by caused by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing different that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration

A instigates B to cause grievous hurt to Z. B. in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114. Whenever any person, who if absent would be liable to punished as an abettor, is present when the act or offence for which he would committed. be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

115. Whoever abets the commission of an offence punishable with death or transportation for life shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z. he would have been subjected to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine ;

116. Whoever abets an offence punishable with imprisonment shall if that offence be not committed in consequence of the abetment and no express provision is made by this Code for the punishment of such abetment be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence ; or with such fine as is provided for that offence, or with both ;

and if the abettor or the person abetted is a public servant whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence for a term which may extend to one-half of the longest term provided for that offence, or with such tine as is provided for the offence, or with both.

Illustration

(a) A offers a bribe to B, a public servant, as a reward for showing exercise of B's official functions B refuses to accept the bribe.

(b) A instigates B to give false evidence. Here if B does not give false evidence. A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A , a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for the offence, and also to fine.

(d) B abets the commission of a robbery by A, a police officer, whose duty it is to prevent that offence. Here though the robbery be not committed, B is liable be one-half of the longest term

of imprisonment provided for the offence of robbery, and also to fine.

117. Whoever abets the commission of an offence by the public generally, Abetting or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration

A affixes in a public place s placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this section.

118. Whoever, intending to facilitate or knowing it to be likely that he Concealing will thereby facilitate the commission of an offence punishable with death or commit transportation for life,

voluntarily conceals, by any act or illegal omission, the existence of a design with dei,h or to commit such offence or makes any representation which he knows to be false respecting such design,

Shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which If offence be may extend to three years ; and in either case shall also be liable to fine.

Illustration

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

119. Whoever, being a public servant, intending to facilitate or knowing Public it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, prevent.

shall, if the offence be committed, be punished with imprisonment of any if offence be description provided for the offence for a term which may extend to one-half of committed ; the longest term of such imprisonment, or with such fine as is provided for that offence, or with both ;

or, if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years ;

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Illustration

A, an officer of police being legally bound to give information of all design to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give

such information with intend to facilitate the commission of that offence. Here A has by illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

CHAPTER VA

CRIMINAL CONSPIRACY

120A. When two or more persons agree to do, or cause to be done,—

- (1) an illegal act, or
- (2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy;

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

120B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

- (2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months or with fine, or with both.

CHAPTER VI

OF OFFENCES AGAINST THE STATE

121¹. Whoever wages war against the Union of Burma or any constituent unit thereof, or assists any State or person or incites or conspires with any person within or without the Union to wage war against the Union or any constituent unit thereof, or attempts or otherwise prepares by force of arms or other violent means to overthrow the organs of the Union or of its constituent units established by the Constitution, or takes part or is concerned in or incites or conspires with any person within or without the Union to make or to take part or be

concerned in any such attempt shall be guilty of the offence of High Treason.

121A¹. * * * *

122². (1) Whoever commits High Treason within the Union of Burma Punishment shall be punished with death or transportation for life.

(2) Whoever, being a citizen of the Union of Burma or ordinarily resident within the Union, commits High Treason outside the Union shall be punished with death or transportation for life.”

123. (1) Whoever encourages, harbours or comforts any person whom he knows or has reasonable grounds for believing to be engaged in committing High Treason shall be punished with transportation for life or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Exception.—This provision does not apply to the case in which the person rrca*00- who harbours is the husband or wife of the offender.

(2)³ * * * *

124⁴. Whoever, knowing that any act, the commission of which would be High Treason, is intended or proposed to be, or is being, or has been committed, does not forthwith disclose the same, together with all particulars thereof known to him, to a Magistrate, or to any police-officer, or some other person lawfully engaged on duties relating to the preservation of peace and order shall be guilty of the offence of misprision of High Treason and shall be punished with rigorous imprisonment which may extend to seven years, and shall also be liable to fine.

124A⁵. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, bring or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards [the Government established by law for the Union or for the constituent units thereof,]⁶ shall be punished with transportation for life or an shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression “ disaffection” includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

1 Original sections 121, 121A, 122, 123 and 124 were repealed by Act XIV, 1948, and new section 121, 122, 123 and 124 were inserted by Act XX, 1950.

2 Substituted by Act V 1961.

3 Sub-section (2) of section 123 was deleted by Act X, 1951.

4 Original sections 121, 121A, 122, 123 and 124 were repealed by Act XIV, 1948, and new section 121, 122, 123 and 124 were inserted by Act XX, 1950.

5 Original sections 121, 121A, 122, 123 and 124 were repealed by Act XIV, 1948, and new section 121, 122, 123 and 124 were inserted by Act XX, 1950.

6 Substituted by Act XX 1950.

124B¹. Whoever-

- (a) knowingly or wilfully advocates, [* * *]² advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the organs of the Union or of the assassination of any officer of any such organ, or
- (b) knowingly or wilfully prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter which advocates, advises, or teaches the duty, desirability or propriety of overthrowing or destroying any such organ by force or violence, or
- (c) organizes or helps to organize any society, group or assembly of persons who teach, advocate or encourage the overthrow or destruction of any such organ by force or violence, or
- (d) becomes a member of, or affiliates with any such society, group or assembly of persons, knowing the purpose thereof, shall be punished with imprisonment of either description for a term which may extend to not less than three years and not mote than ten years, and shall also be liable to fine.

Explanation.—For the purposes of this section, the term “ the organs of the Union or of its constituent units “ means the organs of the Union or of its constituent units established by the Constitution of the Union of Burma.

125. Whoever wages war against any Asiatic Power in alliance or at Asiatic peace with the State, or attempts to wage such war, shall be punished with transportation for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the State, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

127. Whoever receives any property knowing the same to have been Receiving taken in the commission of any of the offences mentioned in sections 125 and war 126 shall be punished with imprisonment of either description for a term or which may extend to seven years, and shall also be liable to fine and to men-forfeiture of the property so received.

128. Whoever, being a public servant and hiving the custody of any public State prisoner or prisoner of war, Voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which prisoner of may extend to ten years, and shall also be liable to fine.

129. Whoever, being a public servant and having the custody of any Public State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be suffering punished with simple imprisonment for a term which may extend to three years and shall also be liable to fine.

130. Whoever knowingly aids or assists any State prisoner or prisoner of off war in escaping

1 Inserted by Act LXV 1953

2 Deleted by Act XXXIX 1954

from lawful custody, or rescues or attempts to rescue any such rescuing or prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture prisoner, of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in the Union of Burma, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VIA 1

OFFENCES RELATING TO CERTAIN PROVISIONS CONTAINED IN THE CONSTITUTION AND ACTS OF THE PARLIAMENT

130A¹. Except where penalty or other mode of punishment is expressly Offence prescribed by law, whoever, without any reasonable excuse, contravenes any provisions contained in sections 15, 17, 19, 20, or sub-sections (2) and (3) of provision a section 23 of the Constitution of the Union of Burma or in any Act enacted by the Parliament of the Union of Burma by wilfully doing any act which it forbids, or by wilfully omitting to do any act which it requires to be done, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER VIB

LIBEL AGAINST FOREIGN POWERS

130B². Whoever, by words either spoken or intended to be read or by Foreign signs or by visible representations, publishes anything tending to degrade, revile or to expose to hatred or contempt any Foreign State, Head of State, Ambassador or other dignitary of a Foreign State, with intent to disturb peaceful and friendly relationship between the Union of Burma and that Foreign State, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. First Exception. It is not an offence under this section to publish any fair comment on a matter of public interest without any intent to disturb peaceful or friendly relationship between the Union of Burma and that State.

Second Exception.—It is not an offence under this section to publish any- thing which is true, if it be for the public good that the publication should be made. Whether or not it is for the public good is a question of fact.

CHAPTER VII

OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

131. Whoever abets the committing of mutiny by an officer, soldier, sailor or airman, in the Army, Navy or Air Force [$\bullet \bullet \bullet$]³ or attempts to seduce a to seduce any such officer, soldier, sailor or airman from his allegiance or his or airman duty, shall be punished with

1 Inserted by Act LXV 1953

2 Inserted by Act XX, 1950.

3 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

transportation or life, or with imprisonment of from his either description for a term which may extend to ten years, and shall also duty be liable to fine.

132. Whoever abets the committing of mutiny by an officer, soldier, mutiny in the Army, Navy or Air Force [• • •]¹, shall, if committed mutiny be committed in consequence of that abetment, be punished with or transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

133. Whoever abets an assault by an officer, soldier, sailor or airman, in Abetment of the Army, Navy or Air Force [• • •]², on any superior officer being in the execution of his office shall be punished with imprisonment of either sailor or description for a term which may extend to three years, and shall also be liable to fine.

134. Whoever abets an assault by an officer, soldier, sailor or airman, in Abetment of the Army, Navy or Air Force [• • •]³, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence is committed of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

135. Whoever abets the desertion of any officer, soldier, sailor or Abetment of airman, in the Array, Navy or Air Force [• • •]⁴, shall be punished with imprisonment of either description for a terra which may extend to two or airman, years or with fine, or with both.

136. Whoever, except as hereinafter excepted, knowing or having reason Harbours to believe that an officer, soldier, sailor or airman, in the Army, Navy or Air Force [• • •]⁵ has deserted, harbours such officer, soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

137. The master or person in charge of a merchant vessel, on board of Deserter which any deserter from the Army, Navy or Air Force [• • •]⁶, is concealed, shall, though ignorant of such concealment, be liable to a penalty merchant not exceeding five hundred rupees if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or negligence but for some want of discipline on board of the vessel.

138. Whoever abets what he knows to be an act of insubordination by Abetment of an officer, soldier, sailor or airman, in the Army, Navy or Air Force [• • •]⁷, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a terra which may extend to six months, or with fine, or man. with both.

139⁸. No person subject to the Burma Army Act, the Burma Naval Persons Volunteer Reserve

1 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

2 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

3 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

4 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

5 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

6 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

7 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

8 Substituted *ibid*.

(Discipline) Act or the Burma Air Force (Discipline) Act, 1947, is subject to punishment under this Code for any of the offences defined in this Chapter.

140. Whoever, not being a soldier, sailor or airman, in the Military, Naval or Air service [• •]¹wears any garb or carries any token resembling any garb or token used by such a soldier, sailor or airman, with the intention that it may be believed that he is such a soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII

OR OFFENCES AGAINST THE PUBLIC TRANQUILLITY

141. An assembly of five or more persons is designated an “unlawful assembly,” if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, the Union Parliament or the Government, or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law, or of any legal process ; or

Third.—To commit any mischief or criminal trespass, or other offence ; or

Fourth.—By means of criminal force, or shown of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled may subsequently become an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an member of unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

143. Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Joining

144. Whoever, being armed with any deadly weapon, or with anything which used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of their deadlydescription for a term which may extend to two years, or with fine, or with both.

145. Whoever joins or continues in an unlawful assembly, knowing that Joining or such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a assembly,” term which may extend to two years, or with fine, or with both.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is

1 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

guilty of the offence of rioting.

147. Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine for rioting, or with both.

148. Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which weapon, may extend to three years, or with fine, or with both.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that assembly object, every person who, at the time of the committing of that offence, is a member of the same assembly is guilty of that offence.

150. Whoever hires or engages, or employs or promotes, or connivers at the hiring, engagement or employment of any person to join or become a member of an unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, Or with fine, Or With both.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

153. Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of [persons resident in the Union]¹ shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of [persons resident in the Union]¹.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot committed, and any person having or claiming an interest in such land, shall assembly is punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police station and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

156. Whenever a riot is committed for the benefit or on behalf of any person Liability of who is the owner or occupier of any land respecting which such riot takes place, or or who claims any interest in such land, or in the subject of any dispute which occupier for gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such assembly from taking place and for suppressing and dispersing the same.

157. Whoever harbours, receives or assembles, in any house or premises Harbours in his occupation or charge or under his control, any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, unlawful engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

158. Whoever is engaged or hired, or offers or attempts to be hired or Being hired engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both,

and whoever, being so engaged or hired as aforesaid, goes armed or engages or to go or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

159. When two or more persons, by fighting in a public place, disturb the public peace, they

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948

are said to “commit an affray.”

160. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER IX

OF OFFENCES BY OR RELATING TO PUBLIC SERVANT

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Union Parliament or the Government or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.— “Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in Office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

“Gratification.” The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.

“Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government to accept.

“A motive or reward for doing.” A person who receives a gratification as a motive for doing what he does not intended to do, or as a reward for doing what he has not done, comes within these words.

- (a) A. a Magistrate, obtains from Z, a banker, a situation in Z’s bank for A’s brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.
- (b) A, holding the office of Resident at the Court of a subsidiary Power, accepts a lakh 01 rupees from the Minister of that Power. It does not appear the A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.
- (c) A, a public servant, induces Z erroneously to believe that A’s influence with the government has obtained a title for Z and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

162. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for

inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Union Parliament or the Government or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

163. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Union Parliament or the Government or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

An advocate who receives a fee for arguing a case before a Judge ; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist ; a paid agent for a condemned criminal who lays before the Government statements tending to show that the condemnation was unjust—are not within this section, inasmuch as they do not exercise or profess to exercise personal influence -

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give in office to a particular person. A abets her doing so. B is punishable with imprisonment for term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

165. Whoever, being a public servant, accepts or obtains, or agrees to accept public or attempts to obtain, for himself,

or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate,

from any person whom he knows to have been, or to be, or to be likely to be, concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustration

(a) A, a Collector, hires house of Z. who has a settlement case pending before him. It is agreed that A

shall pay fifty rupees a month, the house being sub that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a cause pending in A's Court. Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury A sells to a share in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, fraudulently translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

168. Whoever being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

169. Whoever, being a public servant, and being legally bound as such public servant not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both, and the property, if purchased, shall be confiscated.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class or public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

OF OFFENCES RELATING TO ELECTION

171A. For the purposes of this Chapter-

- (a) “candidate” means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat ; provided that he is subsequently nominated as a candidate at such election ;
- (b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171B. (1) Whoever—

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right : or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right commits the offence of bribery :

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

- (2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.
- (3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171C. (1) Whoever voluntarily interferes or attempts to interfere with Undue the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

- (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
- (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).
- (3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

171D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted on e at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

171E. Whoever commits the offence of bribery shall be punished with for bribery. imprisonment of either description for a term which may extend to one year, or with fine, or with both : Provided that bribery by treating shall be punished with fine only.

Explanation.— “Treating” means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

171F. Whoever commits the offence of undue influence or personation or at an election shall be punished with imprisonment of either description personation for a term which may extend to one year, or with fine, or with both :

Provided that if the offence of personation is committed in respect of an election to either Chamber of Parliament, the offender shall be punished with rigorous imprisonment for a term which may extend to two years, and may also be liable to fine.

171G. Whoever with intent to affect the result of an election makes or any statement purporting to be a statement of fact which is false an election, and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, shall be punished with fine.

171H. Whoever without the general or special authority in writing of a candidate or authorizes expenses on account of the holding of any an election. public meeting, or upon an advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees :

Provided that is any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses where incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

171I. Whoever being required by any law for the time being in force or Failure to any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.

171J¹. Whoever, without lawful excuse, the burden of proof thereof Illegal being on him, has or retains in his possession, inside a polling station, where votes arc being recorded at an election [* * * *]² one or more voting tokens or ballot papers or colourable imitation thereof except for the lawful purpose of recording his vote or has in his possession outside such of voting polling station, one or more voting tokens or ballot papers or colourable imitation thereof shall be punished with rigorous imprisonment for a term which may be extend to two years, and may also be liable to fine.

CHAPTER X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172. Whoever absconds in order to avoid being served with a summons Absconding notice or order proceeding from any public servant legally competent, as such, public servant, to

1 Deleted by Act 38,1957

2 Deleted by Act 38,1957

issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

or, if the summons or notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

173. Whoever in any manner intentionally prevents the serving on Preventing himself or on any other person of any summons, notice or order proceeding or from any public servant legally competent, as such public servant, to issue other such summons, notice or order,

or intentionally prevents the lawful affixing to any place of any such publication summons, notice or order, or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both ;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

174. Whoever, being legally bound to attend in person or by an agent at obedience to an obedience to a summons, notice, order or proclamation an proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is Lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ; or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ; or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

177. Whoever, being legally bound to furnish information on any subject information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ;

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Illustration

A , a landholder. knowing of the common of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

Explanation.—In section 176 and in this section the word “offence” includes any act committed at any place out of the Union of Burma, which, if committed in the Union of Burma, would be punishable under any of the following sections, namely, 302, 304, 382. 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ; and the word 44 offender “includes any person who is alleged to have been guilty of any such act.

178. Whoever refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple when duly imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching public that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which to question, may extend to six months, or with fine which may extend to one thousand rupees, or with both.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he statement shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

181. Whoever, being legally bound by an oath or affirmation to state the truth on any subject to any public servant or other person authorized by law to administer such oath or affirmation, makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant-

- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him,
- or

- (b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration

- (a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.
- (b) A falsely informs a public servant that Z has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.
- (c) A falsely informs a policeman that he has been assaulted and robbed in the neighborhood of a particular village. He does not mention the name of any person at one of his assistants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both,

185. Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both ;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence or of having escaped from

lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

188. Whoever, knowing that by an order promulgated by a public servant lawfully empowered to promulgate such order he is directed to abstain from a certain act, or to take certain order with certain property in his possession or by public under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both, and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order and thereby causes danger of riot. A has committed the offence defined in this section.

189. Whoever holds out any threat of injury to any public servant, or to Threat of any person in whom he believes that public servant to be interested, for the to purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

190. Whoever holds out any threat of injury to any person for the purpose it person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such protection, or to cause such protection to be given shall be punished applying for with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

191. Whoever, being legally bound by an oath or by an express provision evidence. of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1.—A statement is within the meaning of this section whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing

which he does not know.

Illustration

- (a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.
- (b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.
- (c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z, A in good faith believing it to be so. Here A's statement is merely as to his belief and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.
- (d) being bound by an oath to state the truth, states that he knows that Z was at a particular not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.
- (e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

192. Whoever causes any circumstance to exist or makes any false entry false in any book or record, or makes any document containing a false statement, evidence intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricated false evidence."

Illustration

- (a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box. and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.
- (b) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.
- (c) A. with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any evidence, stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine : and whoever intentionally gives or fabricates false evidence in any other case shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court-martial is a judicial proceeding.

Explanation 2.—An investigation directed by law, preliminary to a proceeding before a Court of Justice, is a stage of judicial proceeding, though that investigation may not take

place before a Court of Justice.

Illustration

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice .

Illustration

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by the law of the Union of Burma evidence [• • •]¹ shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine ; conviction offence ;

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment herein before described.

195. Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by the law of the Union of Burma [• • •]² is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment for dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

196. Whoever corruptly uses or attempts to use as true or genuine evidence known any evidence which he knows to be false or fabricated shall be punished in the to be false or same manner as if he gave or fabricated false evidence.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

198. Whoever corruptly uses or attempts to use any such certificate as a a certificate true certificate, knowing the same to be false in any material point, shall be punished be in the same manner as if he gave false evidence.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court

1 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

2 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

200. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality is a declaration within the meaning of sections 199 and 200.

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment for any term not if punishable extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the year, longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation— In sections 201 and 202 and in this section the word “ offence “ includes any act committed at any place out of the Union of Burma, which, if committed in the Union of Burma, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document

with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

206. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made, by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

207. Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made, by a Court of Justice in a civil suit, shall be punished with imprisonment of either description from a term which may extend to two years, or with fine, or with both.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a degree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him fraudulently suffers a judgment to pass Against him for larger amount at the suit of B, who has no just claim against him in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has omitted an offence under this section.

209. Whoever fraudulently or dishonestly, or with intent to injure or Dishonestly annoy any person, makes in a Court of Justice any claim which he knows to be false shall be punished with imprisonment of either description from a Court, term which may extend to two years, and shall also be liable to fine.

210. Whoever fraudulently obtains a decree or order against any person Fraudulently or a

sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree sum not due. or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is not intent to just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

212. Whenever an offence has been committed, whoever harbours or Harbours conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

shall, if the offence is punishable with death, be punished with imprison- if a capital of either description for a term which may extend to five years, and shall offense also be liable to fine ;

and if the offence is punishable with transportation for life, Or With if punishable imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine :

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

“ Offence “ in this section includes any act committed at any place out of the Union of Burma, which, if committed in the Union of Burma, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395,396, 397,398, 399,402, 435, 436, 449, 450, 457, 458,459 and 460 ; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in the Union of Burma.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration

A, knowing that B has committed decoity, knowingly conceals B in order to screen him from legal punishment. B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

213. Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or his screening any person from legal punishment

for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment.

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

214. Whoever gives or causes, or offers or agrees to give or cause, any restoration gratification to any person, or to restore or cause the restoration of any property in considers that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding for the purpose of bringing him to legal punishment,

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

shall, if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.--The provision of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.

215. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code stolen shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

216. Whenever any person convicted of or charged with an offence, being Harboured in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders from a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceal that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say.

if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend

to three years, with or without fine ;

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

“Offence” in this section includes also any act or omission of which a person is alleged to have been guilty out of the Union of Burma which, if he had been guilty of it in the Union of Burma, would have been punishable as an offence, and for which he is, under any law relating to extradition. [• • •]¹ or otherwise, liable to be apprehended or detained in custody in the Union of Burma, and every such act or omission shall, for the purposes of this section be deemed to be punishable as if the accused person had been guilty of it in the Union of Burma.

Exception.--This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.--For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without the Union of Burma.

Exception.--This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

216B. * * * *

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

218. Whoever, being a public servant, and being as such public servant charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces, in any stage of a judicial proceeding, any report, order, verdict or decision which he knows to be contrary to law shall be punished with imprisonment of either description for a term which

1 Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

may extend to seven years, or with fine, or with both.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death ; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with transportation for life or imprisonment for a term which may extend to ten years ; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years; or

222. Whoever, being a public servant, legally bound as such public servant intentional to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence or lawfully committed to custody, intentionally omits on the part to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such bound to confinement, shall be punished as follows, that is to say ;

with transportation for life or with imprisonment of either description sentence or for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death ; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life [* * *]¹ or to transportation [* * *]² or imprisonment for a term of ten years or upwards ; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended,

1 The words " or penal servitude for life " and " or penal servitude " were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

2 The words " or penal servitude for life " and " or penal servitude " were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years or if the person was lawfully committed to custody.

223. Whoever, being a public servant legally bound as such public servant from to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently suffers such person to escape from negligently confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged person to his or of which he has been convicted, or escapes or attempts to escape from any lawful custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

225. Whoever intentionally offers any resistance or illegal obstruction to or the lawful apprehension of any other person for an offence, or rescues or attempts lawful to rescue any other person from any custody in which that person is lawfully .Pension detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term with may extend to seven years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, [* * *]¹, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

 (a) if he does so intentionally, with imprisonment of either description for a term which

1 The words " or penal servitude for life " and " or penal servitude " were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

may extend to three years, or with fine, or with both ; and

(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

225B. Whoever, in any case not provided for in section 224 or section 225 Resistance or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any apprehended other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, provided for or with fine, or with both.

226. Whoever, having been lawfully transported, returns from such Unlawful transportation, the term of such transportation not having expired and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

227. Whoever, having accepted any conditional remission of punishment, Violation of knowingly violates any condition on which such remission was granted shall be punished with the punishment to which he was originally sentenced, if he has punishment already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Whoever is convicted of absconding in violation of a condition of a remission of punishment under this section shall, in addition to the punishment prescribed by this section, be punished by the convicting Magistrate with rigorous imprisonment for a term which may extend to one year.

228. Whoever intentionally offers any insult, or causes any interruption intentional to any public servant, while such public servant is sitting in any state of judicial proceeding, shall be punished with simple imprisonment for a term to which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

229. Whoever, by personation or otherwise, shall intentionally cause, or personation knowingly suffer himself to be returned, empanelled or sworn as a juror or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or, knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

230. Coin is metal used for the time being as money, and stamped and defined. issued by the authority of some State or Sovereign Power in order to be so used. Coin of the [“ Coin of the Union” is metal stamped or issued by the authority of the Union. Government in order to

be used as money ; and metal which has been so stamped or issued shall continue to be the coin of the Union for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]¹

Illustration

- (a) Cowries are not coin.
- (b) Lumps of unstamped copper, though used as money, are not coin.
- (c) Medals are not coin, inasmuch as they are not intended to be used as money.

231. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation—A person commits this offence who, intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting the coin of the Union², shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years,

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the coin of the Union,¹ shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; counterfeiting coin; and if the coin to be counterfeited is the coin of the Union,¹ shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

236. Whoever, being within the Union of Burma, abets the counterfeiting of coin out of the Union of Burma shall be punished in the same manner as if he abetted the counterfeiting of such coin within the Union of Burma counterfeiting out of the Union of Burma.

237. Whoever imports into the Union of Burma, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

238. Whoever imports into the Union of Burma, or exports therefrom, any counterfeit coin

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

2 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

which he knows or has reason to believe to be a counterfeit of the coin of the Union,¹ shall be punished with transportation for life, or with of the imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

239. Whoever, having any counterfeit coin which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

240. Whoever, having any counterfeit coin which is a counterfeit of the coin of the Union¹, and which at the time when he became possessed of it he knew to be a counterfeit of the coin of the Union², fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either counterfeit, description for a term which may extend to ten years, and shall also be liable to fine.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at which, the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited or with both.

Illustration

A, a coiner, delivers counterfeit rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit.

D after receiving the rupees discovers that the are counterfeit and pays them always as if they were good. Here D is punishable only under this section, but D and C are punishable under section 239 or 240. as the cas may be.

242. Whoever, fraudulently or with intent that fraud may be committed, counterfeit is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprison knew it to be either description for a term which may extend to three years, and shall also be liable to fine.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the coin of the Union,¹ having known at the time when he became possessed of it tint it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also liable to fine.

244. Whoever, being employed in any mint lawfully established in the Union of Burma, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment or either description for a term which may extend to seven years, and shall also be liable to fine.

245. Whoever, without lawful authority, takes out of any mint lawfully established in the

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

2 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

Union of Burma any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.—A. person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

247. Whoever fraudulently or dishonestly performs on any of the coin of the Union¹ any operation which diminishes the weight or alters the composition, of that coin shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a Of coin with different description, shall be punished with imprisonment or either description for a term which may extend to three years, and shall also be liable to fine.

249. Whoever performs on any of the coin of the Union any operation which alters the appearance of that coin, with the intention that the said coin of coin of shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall mat

250. Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it. fraudulently or with intent that fraud may be committed delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment 0/ either description for a term which may extend to five years, and shall also be liable to fine.

251. Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed delivers such coin to any other person, or attempts to induce any other

person to receive the same, shall be punished with imprisonment of either description lor a term which may extend to ten years, and shall also be liable to fine.

252. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

253. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of he sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect became punished with imprisonment of either description for

1 Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

possessed a term which may extend to five years, and shall also be liable to fine.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

257. Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

258. Whoever sells, or offers for sale, any stamp which he knows or has Government reason to believe to be a counterfeit of any stamp issued by Government for stamp. the purpose of revenue shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

259. Whoever has in his possession any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it Government may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished Government with imprisonment of either description for a term which may extend to seven years, or with line, or with both.

261. Whoever, fraudulently or with intent to cause loss to the Government from removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp which has been used, or removes from any writing or document , in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which

may extend to three years, or with fine, or with both.

262. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with to have been imprisonment of either description for a term which may extend to two years, or with fine, or with both.

263. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

263A. (1) Whoever—

- (a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or
 - (b) has in his possession, without lawful excuse, any fictitious sump, or
 - (c) makes or without lawful excuse has in his possession any die, plate, instrument or materials for making any fictitious stamp, shall be punished with fine which may extend to two hundred rupees.
- (2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.
 - (3) In this section “ fictitious stamp “ means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.
 - (4) In this section and also in sections 255 to 263, both inclusive, the word “ Government when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India or Pakistan, and also in any part of His Britannic Majesty’s dominions or in any foreign country.

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

264. Whoever fraudulently uses any instrument for weighing which he knows to be false shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure front what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

266. Whoever is in possession of any instrument for weighing, or of any or any measure of

length or capacity, which he knows to be false, or measure, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

267. Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE,

DECENCY AND MORALS

268. A person is guilty of a public nuisance who does any act or is nuisance. y^y Of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, ohstmction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Whoever unlawfully or negligently does any act which is, and which Negligent he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life shall be punished with imprisonment of either of description for a term which may extend to six months, or with fine, or with disease, . dangerous to both. life

270. Whoever malignantly does any act which is, and which he knows Malignant or has reason to believe to be, likely to spread the infection of any disease dangerous to life shall be punished with imprisonment of either description of for a term which may extend to two years, or with fine, or with both.

271. Whoever knowingly disobeys any rule made and promulgated by Disobedience the Government for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

272. Whoever adulterates any article of food or drink so as to make Adulteration such article noxious as food or drink, intending to sell such article as food or drink or knowing it to be likely that the same will be sold as food or drink, intended shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

273. Whoever sales, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine

which may extend to one thousand rupees, or with both.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or of drugs, medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fins which may extend to one thousand rupees, or with both.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

276. Whoever knowingly sells, or offers or exposes for sale, or issues as a different from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

277. Whoever voluntarily corrupts or fouls the water of any public spring water of or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

278. Whoever voluntarily vitiates the atmosphere in any place, so as to atmosphere make it noxious to the health of persons in general dwelling or carrying on business in the neighborhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

279. Whoever drives any vehicle or rides on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to [two years]¹, or with fine which may extend to one thousand rupees, or with both.

279A. Whoever throws or causes to fall or strike at, against, into or any vehicle in a public place, any wood, stone, acid or other matter or thing, with intent or knowledge that he is likely to endanger the safety of any person being in or upon such vehicle, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Explanation 1.—For the purposes of this section, “vehicle” means a wheeled conveyance capable of being used on a street.

Explanation 2.—It it not an offence punishable under this section to throw water at any vehicle in a public place during the Thingyan Festival.

Explanation 3.—Nothing contained in this section shall be deemed to prevent any person from being prosecuted under any other section of this Code or under any other law for any

1 Substituted by Act LII, 1948,

act or omission.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

281. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

282. Whoever knowingly or negligently conveys or causes to be conveyed for hire any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

283. Whoever, by doing any act or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation shall be punished with fine which may extend to two hundred rupees.

284. Whoever does with any poisonous substance any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or with injury to any person, or knowingly or negligently omits to take such order with any poisonous substance, substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

285. Whoever does with fire or any combustible matter any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or with respect injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description [for a term which may extend to three years, and shall also be liable to fine.

286. Whoever does with any explosive substance any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to [three years, and shall also be liable to fine.]¹

287. Whoever does with any machinery any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

1 Substituted by R.C law VII, 1963.

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

288. Whoever in pulling down or repairing any building knowingly or respect to negligently omits to take such order with that building as is sufficient to guard probable danger to human life from the fall of that building, or of buildings. any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code shall be punished with fine which may extend to two hundred rupees.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

292. Whoever—

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or, for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing painting, representation or figure or any other obscene object whatsoever, or
- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or
- (e) offers or attempts to do any act which is an offence under this section, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any book, pamphlet, writing, drawing or painting kept or used bona fide for religious purposes, or any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. Whoever sells, lets to hire, distributes, exhibits or circulates to any of person under the age of twenty years any such obscene object as is referred to object in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for

a term which may extend to six months, or with fine, or with both.

294. Whoever, to the annoyance of others,—

- (a) does any obscene act in any public place, or
- (b) sings, recites or utters any obscene songs, ballad or words in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

294 A. Whoever keeps any office or place for the purpose of drawing any lottery [or promoting or conducting any lottery]¹ not authorized by Government lottery shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

[Whoever]² publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery [or to the conduct of any such lottery]³, shall be punished with fine which may extend to one thousand rupees.

[Whoever distributes or offers or advertises for distribution any tickets or chances in any lottery otherwise than by way of sale, upon receipt of the full sale price thereof, as stated on the ticket, shall be punished with fine which may extend to one thousand kyats.]⁴

CHAPTER XV

Or OFFENCES RELATING TO REMCION

295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class or persons, with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

295A. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [persons resident in the Union]⁵, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

297. Whoever, with the intention of wounding the feelings of any person or of insulting

1 Inserted by Act XXXII, 1960.

2 Substituted by Act XXXII, 1960.

3 Inserted by Act XXXII, 1960.

4 Inserted by Act XXXII, 1960.

5 Inserted by Act XXXII, 1960.

the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may be extend to one year, or with fine, or with both.

CHAPTER XVI

OF OFFENCES AFFECTING THE HUMAN BODY

299¹. (1) Whoever causes death by doing an Act with the intention of causing such bodily injury as is likely to cause death commits the offence of culpable homicide not amounting to murder.

(2) Whoever causes death by doing an Act with the intention of causing death, or with the intention of causing such bodily injury as in fact is sufficient in the ordinary course of nature to cause death, commits the offence of culpable homicide not amounting to murder in any of the following cases :—

If he, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident:

Provided—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person ;

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant; and

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to deprive the offender of the power of self-control is a question of fact.

(b) If he, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

¹ Substituted by Act XXVII, 1960.

- (c) If he, being a public servant or aiding a public servant for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of the duty of such public servant and without ill-will towards the person whose death is caused.
- (d) If he, acts without premeditation in a sudden fight the heat of passion upon a sudden quarrel and without having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

- (e) If he, causes the death of a person who is above the age of eighteen years and who suffers death or takes the risk of death with his own consent.

300¹. Whoever, in the absence of any circumstance which makes the act one of culpable homicide not amounting to murder, causes death by doing an act with the intention of causing death, or with the intention of causing bodily injury as in fact is sufficient in the ordinary course of nature to cause death, commits the offence of murder.

300A². In sections 299 and 300—

- (a) a person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death ;
- (b) where death is caused by bodily injury, the offender's knowledge of the weakness or infirmity of the person on whom the bodily injury is inflicted is a relevant factor in proving the nature of his intention ;
- (c) the offender's knowledge that an act is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, is a relevant factor in proving the nature of his intention ;
- (d) where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death although by resorting to proper remedies and skilful treatment the death might have been prevented ;
- (e) the causing of the death of a child in the mother's womb is net homicide. But it may amount to culpable homicide to cause the death of a living child if any part of that child has been brought forth, though the child may not have breathed or been completely born.

301³. If a person, by doing anything which he intends or knows to be likely to cause death, commits an offence by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the offence committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself, to be likely to cause.

Explanation.—In this section the word “ offence “ means an offence described in section 299 or section 300 or section 304A.

1 Substituted by Act XXXII, 1960.

2 Substituted by Act XXXII, 1960.

3 Substituted by Act XXXII, 1960.

302a. (1) Whoever commits murder-

- (a) being under sentence of transportation for life, or
- (b) with premeditation, or
- (c) in the course of committing any offence punishable under this Code with imprisonment for a term which may extend to seven years, shall be punished with death, and shall also be liable to fine.

(2) Whoever commits murder in any other case shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Explanation—Whether an act is premeditated is a question of fact.

303. * * * *

304¹. Whoever commits culpable homicide not amounting to murder shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

304A². Whoever causes the death of any person by doing any rash or negligent act not punishable as culpable homicide or murder shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine : provided that, if such act is done with the knowledge that it is likely to cause death, the term of imprisonment may extend to ten years.

305. If any person under eighteen years of age, any insane person, Abetment of any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

306. If any person commits suicide, whoever abets the commission of such Abetment of suicide shall be punished with imprisonment of either description for a term, which may extend to ten years, and shall also be liable to fine.

307. Whoever does any act with such intention [. . .]³ and under Attempt to such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine : and, if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned. When any person offending under this section is under sentence by transportation for life he may, if hurt is caused, be punished with death.

Illustration

(a) A should at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(b) A with the intention of causing the death of a child of tender years exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to murder Z, buys gun and loads it. A has not yet committed the offence. A fires the

1 Substituted by Act XXVII, 1960.

2 Substituted by Act XXVII, 1960.

3 The words " or knowledge" were omitted by Act XXXIII, 1947

gun at Z. He has committed the offence defined in this section, and if by such firing he wounds Z he is liable to the punishment provided by the latter part of the first paragraph of this section.

- (d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping ; has not yet committed the offence in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence define in this section.

308. Whoever does any act with such intention (* * *)¹ and under such circumstances that, if lie by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

309. Whoever attempts to commit suicide, and does any act towards the commit commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

310. Whoever shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder is a thug.

311. Whoever is a thug shall be punished with transportation for life, and shall also be liable to fine.

Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

312. Whoever voluntarily causes a woman with child to miscarry shall, miscarriage, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this section.

313A.² Whoever intentionally does sterilization by surgery to a woman shall, unless such sterilization is certified by the Board appointed by the Government in this behalf to be necessary for reasons of physical or mental health, be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine : Provided that in cases where immediate action must be taken in order to save the life of the woman no such certificate is necessary.

¹ The words " or knowledge" were omitted by Act XXXIII, 1947.

² Inserted by R.C. Law VII, 1963.

312B.¹ Whoever intentionally does sterilization by surgery to a man shall, Sterilization unless such sterilization is certified by the Board appointed by Government in this behalf to be necessary for reasons of physical or mental health, be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

312C. Whoever voluntarily allows oneself to be sterilized by surgery, unless Allowing such sterilization is certified by the Board appointed by Government in this behalf to be necessary for reasons of physical or mental health, shall be punished with surgery, imprisonment for a term which may extend to three years, and shall also be liable to fine.

312D. Whoever intentionally does sterilization by surgery to any person Death earned thereby causing the death of such person shall, unless such sterilization is certified by the Board appointed by Government in this behalf to be necessary for reasons of physical or mental health, be punished with imprisonment for a term which may extend to ten years, and shall also be liable to fine.

313. Whoever commits the offence defined in the last preceding section Causing without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of woman's either description for a term which may extend to ten years, and shall also be liable to fine.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman shall be punished done with imprisonment of either description for a term which may extend to ten to cause, years, and shall also be liable to fine ; and if the act is done without the consent of the woman, shall be If act done punished either with transportation for life, or with the punishment above mentioned.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of serving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

316². Whoever without lawful excuse does any act knowing that he is likely to cause death to a pregnant woman, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable.

317. Whoever, being the father or mother of a child under the age of twelve years or having the care of such child, shall expose or leave such child in any place with intention of wholly abandoning such child shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

1 Inserted by R.C. Law VII, 1963.

2 Substituted by Act XXXIII, 1947

318. Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Hurt

319. Whoever causes bodily pain, disease or said to cause hurt.

320. The following kinds of hurt only are -

First—Emasculation.

Secondly.—Permanent privation of the sight

Thirdly.—Permanent privation of the hearing

Fourthly.—Privation of any member or joint

Fifthly.—Destruction or permanent impairment of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, is said “voluntarily to cause hurt.”

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt, which he causes is grievous hurt, is said “voluntarily to cause grievous hurt.”

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if intending or knowing himself to be likely to cause grievous hurt of one kind he actually causes grievous hurt of another kind.

Illustration

A, intending or knowing himself to be likely permanently to disfigure Z’s face, gives Z a blow which does not permanently disfigure Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Whoever, except in the case provided for by section 334, voluntarily causes hurt shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one causing hurt, thousand rupees, or with both.

324. Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

325. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt shall be punished with imprisonment of either description for a term which

may extend to seven years, and shall also be liable to fine.

326. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or by cutting, or any instrument which, used as a weapon of offence, is likely to weapons or death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of an animals, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

327. Whoever voluntarily causes hurt for the purpose of extorting from causing hurt the sufferer, or from any person interested in the sufferer, any property or property, or valuable security, or of constraining the sufferer or any person interested in to constrain such sufferer to do any hing which is illegal or which may facilitate the^am egs C()mmjSS;0n 0f an offence, shall be punished with imprisonment of either description for a term which may extend to ten ycara, and shall also be liable to fine.

328. Whoever administers to or causes to be taken by any person any porion”etc* Poiaon or any stupefying, intoxicating Or unwholesome drug, or other thing srith intent with intent to cause hurt to such person, or with intent to commit or to offence the commission of an offence or knowing it to be likely that he w II thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

329. Whoever voluntarily causes grievous hurt for the purpose of “ievoushurt extortin8 *rom the offerer, or from any person interested in the sufferer my w extort U property or valuable security, or of constraining the sufferer or any person tfTconstrain’ ntercedd iri such sufferer to do anything that is illegal or which may facilitate toandlegal *he commission of an offence, shall be punished with transportation for life, or act. imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

330. Whoever voluntarily causes hurt for the purpose of extorting from causing hurt the sufferer, or any person interested in the sufferer, any confession or any confesiion, information which may lead to the detection of an offence or misconduct, or to compel for the purpose of constraining the sufferer or any person interested in the of property- au^crer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustration

- (a) to.rfu?’ 2in order to indu« * confe* that he committed a crime A uuuty of an offence under this section.
- (b) A. * police officer, tortures D to induce him to point out where certain stolen property is deposited, A is guilty of an offence under this section.
- (c)V “J*!”” * ‘n order to compel him to pay certain arrears of rescue due fro-n Z. A is guilty of an offence under this section.
- (d) a landlord, tortures a tenant in order to compel him to pay his rent A is guilty of an offence under

this section.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his public duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

335. Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be .

Explanation.—The last two sections are subject to the same provisos as (Exception 1, section 300.)¹

336. Whoever does any act rashly or negligently as to human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to five years, or with fine which may extend to one thousand rupees, or with both.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine, or with others.

Of Wrongful Restraint and Wrongful Confinement

339. Whoever voluntarily obstructs any person, so as to prevent that person from proceeding

in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Excepting.-The obstruction of a private way over land or water, which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. A thereby prevented Z from passing—A wrongfully restrains Z. Wrongful confinement. 340. Whoever wrongfully restrains any person in confinement, that person shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to three hundred rupees, or with both.

Illustration

341. Whoever wrongfully restrains any person in confinement, that person shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to three hundred rupees, or with both.

342. Whoever wrongfully confines any person shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

343. Whoever wrongfully confines any person for three days or more shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

344. Whoever wrongfully confines any person for ten days or more shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person to do anything illegal or to give any information to which may facilitate the

commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or confession, misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of property, any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Of Criminal Force and Assault

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling : Provided that the person causing the motion, or change of motion, or cessation of motion causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described :

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z. A has used criminal force to Z.

If A, in order to quicken their motion, changes their motion.

^ k^t 1 L° Zii ,nd ,f Apftdone ,f»* *»>>£»« Z's consent. intending or knowing

it to be likely that he may thereby frighten or annoy Z. has used criminal force to Z.

(e) Z is riding in a palanquin. A intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z. and he has done this by his own bodily power. This

therefore used force to Z ; and as A has acted thus intentionally with respect to

to the commission of an offence, A has used criminal force to Z. consent, in or

.. P»hes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intended or known to be likely that he may thereby injure, frighten or annoy Z. he has used criminal force to Z. 7

(«) A throws a stone, intending or knowing it to be likely that the stone will come into contact with Z, or with Z's clothes, or with something carried by Z and dash up the water against Z's clothes or something carried by Z and the stone produce the effect of causing any substance to come into contact with Z. A has used force to Z ; and if he did so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z. he has used criminal force to Z.8 ,hereby "injure, frighten.

Penal Code

(/) A intentionally pulls up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.

(g) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z. or with other water so situated that such contact must affect Z's sense of feeling. A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force.

(A) A incites a dog to spring upon Z, without Z's consent. Here if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault

Illustrations

- (a) A shakes his fist at Z. intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.
- (b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.
- (c) A takes up a stick, and says to Z, " I will give you a beating." Here though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

352. Whoever assaults or uses criminal force to any person otherwise than in punishment on grave and sudden provocation given by that person shall be punished with

imprisonment of either description for a term which may extend to three months f o r c e
other-

or with fine which may extend to five hundred rupees, or with both. *»tse <*>00

grave provo-

Explanation. —Grave and sudden provocation will not mitigati- the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant, or if the provocation is given by anything done in the lawful exercise of the right of private defence. Whether the provocation was grave and sudden enough to mitigate the offence is a question of fact.

353. Whoever assaults or uses criminal force to any person being a public force to deter servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

356. Whoever assaults or uses criminal force to any person in attempting to commit theft of any property which that person is then wearing or carrying shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

357. Whoever assaults or uses criminal force to any person in attempting wrongfully to confine that person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Explanation.—The last section is subject to the same explanation as section

Of Kidnapping, Abduction, Slavery and Forced Labour

359. Kidnapping is of two kinds : kidnapping from the Union of Burma, and kidnapping from lawful guardianship.

360. Whoever conveys any person beyond the limits of the Union of Burma without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from the Union of Burma.

361. Whoever takes or entices any minor under fourteen years of age if kidnapping a male,

or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of ship, unsound mind without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. Whoever by force compels, or by any deceitful means induces, any Abduction, person to go from any place is said to abduct that person.

363. Whoever kidnaps any person from the Union of Burma or from Punishment lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

364. Whoever kidnaps or abducts any person in order that such person Kidnapping may be murdered, or may be disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustration!

(a) A kidnap Z from the Union of Burma, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section

(b) A forcibly carries or entices R away from his home in order that B may be murdered. A has committed the offence defined in this section.

365. Whoever kidnaps or abducts any person with intent to cause that Kidnapping person to be secretly and wrongfully confined shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

366. Whoever kidnaps or abducts any woman with intent that she may Kidnapping, be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to woman to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description etc. for a term which may extend to ten years, and shall also be liable to fine ; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.

366A. Whoever, by any means whatsoever, induces any minor girl under of minor girl, the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

366B. Whoever imports into the Union of Burma from any country outside the Union of Burma any girl under the age of twenty-one years with intent that she may be, or knowing it

to be likely that she will be, forced or seduced to illicit intercourse with another person, [• * ••]¹ [whether by himself or by another person,] shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

367. Whoever kidnaps or abducts any person in order that such person be or may be so disposed of as to be put in danger of being subjected, to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, hurt, shall be punished with imprisonment of either description for a term which slavery, etc. may extend to ten years, and shall also be liable to fine.

368. Whoever, knowing that any person has been kidnapped or has been or keeping in abducted, wrongfully conceals or confines such person shall be punished in the confinement same manner as if he had kidnapped or abducted such person with the same or abducted intention or knowledge, or for the same purpose as that with or for which he person. conceals or detains such person in confinement.

369. Whoever kidnaps or abducts any child under the age of ten years, child under 8 the intention of taking dishonestly any moveable property from the ten years person of such child, shall be punished with imprisonment of either description to steal' from for a term which may extend to seven years, and shall also be liable to fine, its person.

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

‘ Omitted by the Union of Burma (Adaptation of Laws) Order, 19*8.

The words in brackets should also have been omitted.

372. Whoever sells, lets to hire, or otherwise disposes of any person Selling under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with prostitution, any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation 1.—When a female under the age of eighteen years is sold, let for hire or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation 2.—For the purposes of this section “ illicit intercourse “ means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognized by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a guan-marital relation.

373. Whoever buys, hires or otherwise obtains possession of any person Buying under the age of eighteen years with intent that such person shall at any age be employed or used

for the purpose of prostitution or illicit intercourse with prostitution, any person or for any unlawful and immoral purpose, or knowing it to be likely etc' that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation 1.—Any prostitute or any person keeping or managing a brothel who buys, lures or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation 2.—" Illicit intercourse " has the same meaning as in section 372.

374. Whoever unlawfully compels any person to labour against the will Unlawful of that person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Of Rape

375. A man is said to commit " rape " who, except in the case hereinafter Rape, excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :—

First. —Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and tint her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under fourteen years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

376. Whoever commits rape shall be punished with transportation for for rape. life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Unnatural Offences

377. Whoever voluntarily has carnal intercourse against the order of offences. nature with any man, woman or animal shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

CHAPTER XVII

OR OFFENCES AGAINST PROPERTY

OF THEFT

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person who by any means causes an animal to move is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustration

- (a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking he has committed theft.
- (b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow him. Here, if A's intention is dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.
- (c) A moves a bullock carrying a box of treasure. He drives the bullock in a certain direction in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.
- (d) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.
- (e) Z goes on a journey entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.
- (f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.
- (g) A finds a ring lying on the high-road, not in the possession of any person. A by taking it, commits no theft, though he may commit criminal misappropriation of property.
- (h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the thing in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring,

commits theft.

- (i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security enters the shop openly, takes his watch by force out of Z's hand, and carries "away. Here A, though he may have committed criminal trespass and assault, has not committed theft, in as much as what he did was not done dishonestly-
- (j) If A owes money to Z for repairs to the watch, and if Z retains the watch lawfully as security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, in as much as he takes it dishonestly.
- (k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, in as much as he takes it dishonestly.
- (l) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.
- (m) A, on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.
- (n) A asks alms from Z's wife. She gives A money, food and clothes, which A knows to belong to Z's husband. Here it is probable that A may conceive that Z's wife is authorized to give alms. If this was A's impression, A has not committed theft.
- (o) A is the pimp of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be her property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.
- (p) A, in good faith, believes property belonging to Z to be A's own property, takes that property out of Z's possession. Here, as A does not take dishonestly, he does not commit theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

380. Whoever commits theft in any building, tent or vessel, which house, building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

381. Whoever, being a clerk or servant, or being employed in the clerk or capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustration

- (a) A commits theft of property in Z's possession; and, by committing this theft he has a loaded pistol, under his consent having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section.
- (b) A picks Z's pocket, hiring posted several of his accomplices near him in order that they may restrain Z if Z should perceive what is unfair and should resist or should attempt to apprehend A. A has committed the offence defined in this section.

Of Extortion

383. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion."

Illustration

- (a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.
- (b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers* the note. A has committed extortion.
- (c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.
- (d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377, may be punished with transportation for life.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, any offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377, may be punished with transportation for life.

390. In all robbery there is either theft or extortion. When theft Theft is “ robbery “ if, in order to the committing of the theft, or in is robbery, committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint. When extor- Extortion is “ robbery “ if the offender, at the time of committing the robbery. extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt or of instant wrongful restraint to that person or to some other person, and, by so

putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustration

- (a) A holds Z down, and fraudulently takes Z’s money and jewels from Z’s clothes, without Z’s consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.
- (b) A meets Z on the high road, shows a pistol, and demands Z’s purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.
- (c) A meets Z and Z’s child on the high-road. A takes the child, and threatens to fling it down a precipice unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.
- (d) A obtains property from Z by saying— “ Your child is in the hands of my Rang and will be put to death unless you send us ten thousand rupees.” This is extortion, and punishable as such ; but it is not robbery unless Z is put in fear of the instant death of his child.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery and persons present and aiding such commission or attempt amount to five or more, every person so committing, attempting or aiding is said to commit “dacoity.”

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine ; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

393. Whoever attempts to commit robbery shall be punished with Attempt to rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

394. If any person, in committing or in attempting to commit robbery, voluntarily

causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with robbery, transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

396. If any one of five or more person, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

397. If, at the time of committing robbery or dacoity, the offender [•••]* causes grievous hurt to any person, or attempts to attemptTM1 cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

398. * * * *

399. Whoever makes any preparation for committing dacoity shall be punished with rigorous imprisonment for a term which may extend to ten to commit years, and shall also be liable to fine.

400. Whoever shall belong to a gang of persons associated for the Punishment purpose of habitually committing dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

401. Whoever shall belong to any wandering or other gang or persons for belonging associated for the purpose of habitually committing theft or robbery, and not togTM*of being a gang of thugs or dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

402. Whoever shall be one of five or more persons assembled for the purpose of committing dacoity shall be punished with rigorous imprisonment ting dacoity. for a term which may extend to seven years, and shall also be liable to fine.

Of Criminal Misappropriation of Property

403. Whoever dishonestly misappropriates or converts to his own use any moveable property shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration

- (a) A takes property bloetging to 7. out of 7.'s possession in good faith, believing, at tlie tmw when he lakes it, that the property belongs to himself A is not guilty of theft ; but it A. after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.
- (b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A w-as under the impression that he had Z's implied consent to take the book for the purpose of reading it. A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.
- (c) A and b being joint owners of n Ivorse, A takes the horse out of possession, intending to use it.

Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriate the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Explanation 2.—A person who finds property not in the possession of another person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence: but he is guilty of the offence above defined if he appropriates it to his own use when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it. What are reasonable means of what is a reasonable time in such a case is a question of fact.

It is not necessary that the finder should know who is the owner of the property or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

Illustrations

(a) A finds a rupee on the high-road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.

(b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(f) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(r) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(/) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

404. Whoever dishonestly misappropriates or converts to his own use any property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall

also be liable to fine ; and if the offender at the time of such his death, person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration

Z dies in possession of furniture and money His servant , before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Of Criminal Breach of Trust

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits " criminal breach of trust."

Illustration

- (a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.
- (b) A is a warehouse-keeper. Z, going on a journey entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room, A dishonestly tells the goods. A has committed criminal breach of trust.
- (c) A. residing in Rangoon, is agent for Z, residing at Mandalay. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction, Z remits a lakh of rupees to A, with directions to A to invest the same in Government paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.
- (d) But if A, in the last illustration, not dishonestly but in good faith, believing that's will be more for Z's advantage to hold shares in a joint stock hank, disobeys Z's directions, and buys shares in a joint stock bank for Z, instead of buying Government paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.
- (e) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriate the money. A has committed criminal breach of trust.
- (f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

407. Whoever, being entrusted with property as a carrier, wharfinger or wart house-keeper, commits criminal breach of trust in respect of such property shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

408. Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of the Receiving of Stolen Property

410. Property, the possession whereof has been transferred by theft, or property or by robbery, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as “stolen property,” whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without the Union of Burma, But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years or, with fine, or with both.

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

413. Whoever habitually receives or deals in property which he knows habitually or has reason to believe to be stolen property shall be punished with transportation for life, or with imprisonment of either description for a term property, which may extend to ten years, and shall also be liable to fine.

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Of Cheating

415. Whoever, by deceiving any person, fraudulently or dishonestly Cheating, induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat.”

Explanation.—A dishonest concealment of facts is a deception within the meaning of this

section.

Illustration

- (a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.
- (b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.
- (c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.
- (d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.
- (e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.
- (f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.
- (f) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats ; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.
- (g) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.
- (h) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z.

A cheats.

416. A Person is said to “cheat by personation” if he cheats by personation, pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustration

- (a) A cheats* by pretending to be a certain rich banker of the same name. A cheats by personation.
- (b) A cheats* by pretending to be B. a person who is deceased. A cheats by personation.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates he was bound either by law or by legal contract to protect, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

419. Whoever cheats by personation shall be punished with imprisonment of either

description for a term which may extend to three years, or with fine, or with both.

430. Whoever commits mischief by doing any act which causes, or which Mischief he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

431. Whoever commits mischief by doing any act which renders, or Mischief by which he knows to be likely to render, any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for bridge, river travelling or conveying property shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

432. Whoever commits mischief by doing any act which causes, or which Mischief by he knows to be likely to cause, an inundation or an obstruction to any public drainage, attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

433. Whoever commits mischief by destroying or moving any light-house Mischief by or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any rendering such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either or sea-mark, description for a term which may extend to seven years, or with fine, or with both.

434. Whoever commits mischief by destroying or moving any land-mark Mischief by fixed by the authority of a public servant, or by any act which renders such destroying or land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with fixed , or with both.

435. Whoever commits mischief by fire or any explosive substance, Mischief by Intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards, or (where the property is agricultural produce) ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

436. Whoever commits mischief by fire or any explosive substance, Mischief by intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or make unsafe knowing it to be likely that he will thereby destroy or render unsafe, that vessel , shall be punished with imprisonment of either description for a term of twenty which may extend to ten years, and shall also be liable to fine.

438. Whoever commits, or attempts to commit, by fire or any explosive substance such mischief as is described in the last preceding section shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years,

and shall also be liable to fine.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

440. Whoever commits mischief, having made preparation for causing to any Person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of Criminal Trespass

441. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit “criminal trespass.”

442. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit “house-trespass.”

Explanation.—The introduction of any part of the criminal trespasser’s body is entering sufficient to constitute house-trespass.

443. Whoever commits house-trespass, having taken precautions to Lurking conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the budding, tent or vessel which is the subject of the trespass, is said to commit “lurking house-trespass.”

444. Whoever commits lurking house-trespass after sunset and before Lurking sunrise is said to commit “lurking house-trespass by night.”

445. A person is said to commit “house-breaking” who commits house trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described ; or if, being in the house or any part of it for the purpose of committing an offence or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say :—

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance ; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly— If he enters or quits through any passage which he or any abettor of the house-trespass has opened in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing

of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

- (a) A commits house-trespass by making a hole through the wall of Z's home, and putting his hand through the aperture. This is house-breaking
- (b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.
- (c) A commits house-trespass by entering Z's house through a window. This is house-breaking.
- (d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.
- (e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.
- (f) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.
- (g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.
- (h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. Whoever commits house-breaking after sunset and before sunrise is said to commit “house-breaking by night.”

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft the term of imprisonment may be extended to seven years.

452. Whoever commits house-trespass', having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

453. Whoever commits lurking house-trespass or house-breaking shall be Punished with imprisonment of either description for a term which may pass or extend to two years, and shall also be liable to fine,

454. Whoever commits lurking house-trespass or house-breaking in order Lurking to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend house-to three years, and shall also be liable to fine ; and if the offence intended to be committed is theft the term of the imprisonment may be extended to ten years, commit

455. Whoever commits lurking house-trespass or house-breaking' having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

456. Whoever commits lurking house-trespass by night or house-breaking Punishment by night shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

457. Whoever commits lurking house-trespass by night or house-breaking by night in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine ; and if the offence intended to be committed is theft the term of the imprisonment may be extended to fourteen years.

458. Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall

460. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-break in by night shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

461. Whoever dishonestly, or with intent to commit mischief, breaks open or any closed receptacle, which contains or which he believes to contain property, shall be punished with

imprisonment of either description for a term which may extend to two years, or with fine, or with both.

462. Whoever, being entrusted with any closed receptacle which contains, or which he believes to contain, property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS

463. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to may be committed, commits forgery.

464. A person is said to make a false document-

First.—Who dishonestly or fraudulently make document or part of a document, or in execution of a document, with the intention that such document or part of a document shall be sealed or executed by or by the authority whose authority he knows that it was executed, or at a time at which he knows sealed or executed; or part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not, know the contents of the document or the nature of the alteration.

Illustrations

- (a) A has letter of credit upon B for rupees 10,000 written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000 intending that it may be believed by B that Z so wrote the letter. A has committed forgery.
- (b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase-money. A has committed forgery,
- (c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.
- (d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.
- (e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws* the bill with intent to deceive the banker by leading him to suppose that he had the

security of B, and thereby to discount the bill, A is guilty of forgery.

- (f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.
- (g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.
- (h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.
- (i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and, by representing to Z that he has prepared the will according to his instructions, induces Z to sign live will. A has committed forgery.
- (j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune intending by means of such letter to obtain aims from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.
- (k) A without B's authority writes a letter and signs it in B's name certifying to A's character intending thereby to obtain employment under Z. A has committed forgery inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustration

- (a) A signs illustrations his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the time name. A has committed forgery.
- (b) A writes the word "accepted" on a piece of paper and sign it with Z's name in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, drawn the bill upon the paper pursuant to A's intention, B is also guilty of forgery.
- (c) A picks up a bill of exchange payable to the order of a different person of the such name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery.
- (d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z, at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was grimed before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.
- (e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed

forget) under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

466. Whoever forges a document, purporting to be an accord or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power-of-attorney shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

467. Whoever forges a document which purports to be a valuable security, or a will, or an authority to adopt a son, or which purports to give authority to any person to take or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

469. Whoever commits forgery, intending that the document forged shall be used for the purpose of harming the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

470. A false document made wholly or in part by forgery is designated “a forged document.”

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document shall be punished in the same manner as if he had forged such document.

472. Whoever makes or counterfeits any seals, plate or other instrument or making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 465, 466, 467, or with such intent has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punishable with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

473. Whoever makes or counterfeits any seal, plate or other instrument for making an

impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or with such intent has in his possession any such seal, plate or other instrument, knowing the same to be forgery counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 466, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; and if the knowing it document is one of the description mentioned in section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

475. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

476. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully and with intent to defraud, makes or abets the naking of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security of account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this section to allege a general

intent to defraud, without ruining any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.

Of Trade, Property and Other Marks

478. A mark used for denoting that goods are the manufacture or Trademark, merchandise of a particular person is called a trade mark [•••]¹.

479. A mark used for denoting that moveable property belongs to a Property particular person is called a property mark.

480. Whoever marks any goods or any case, package or other receptacle Using containing goods, or uses any case, package or other receptacle with any mark , thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, arc the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

481. Whoever marks any moveable property or goods or any case, Using a false package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

482. Whoever uses any false trade mark or any false property mark shall. Punishment unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, mark or proof with fine, or with both.

483. Whoever counterfeits any trade mark or property mark used by any Counterfeit other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

484. Whoever counterfeits any property mark used by a public servant, Counterfeit or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

485. Whoever makes or has in his possession any die, plate or other instrument for th purpose of counterfeiting a trade mark or property mark, or has in his possession a trade m irk or property mark for the purpose of denoting that any goods are the manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

486. Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948

such goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the person from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may intend to person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with

Of Currency Notes and Bank Note

489A. Whoever counterfeits, or knowingly process of counterfeiting, any currency-note or bank note shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—For the purposes of this section and of sections 489B, 489C and 489D, the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

489B. Whoever sells to, or buys or receives from, any other person, or Using as otherwise traffics in or uses as genuine, any forged or counterfeit currency note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten bank notes, years, and shall also be liable to fine.

489C. Whoever has in his possession any forged or counterfeit currency- Possession of note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

489D. Whoever makes, or performs any part of the process of making or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having or materials reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CHAPTER XIX

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. * * * *

491. Whoever, being bound by a lawful contract to attend on or to Breach of supply the wants of any person who, by reason of youth, or of unsoundness of on mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term person, which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

CHAPTER XX

OF OFFENCES RELATING TO MARRIAGE

493. Every man who by deceit causes any woman who is not lawfully to him to believe that she is lawfully married to him, and to cohabit fully or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, of lawful and shall also be liable to fine, marriage.

494. Whoever, having a husband or wife living, marries in any ease in which such marriage is void by reason of its taking place during the life of husband or such husband or wife shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

495. Whoever commits the offence defined in the last preceding section, having concealed from the person with whom the subsequent marriage is the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

496. Whoever, dishonestly or with a fraudulent intention, goes through fraudulently ceremony of be«ng married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall

also be liable to fine.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, in such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

498. Whoever takes or entices away any woman, who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXI OF DEFAMATION

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state or in a state generally considered as disgraceful.

Illustrations

- (a) A says—"Z is an honest man; he never stole B's watch intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.
- (b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.
- (c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception.—It is not defamation to impute anything which is true Imputation concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact to be decided by the court.

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct and no further.

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct and no further

Illustration

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Magistrate or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice is a Court within the meaning of the above section.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as party, witness or agent in any such case, or respecting the character of such person, as far as his character appears in that conduct and no further.

Illustrations

- (a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest. A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.
- (b) But if A says—"I do not believe what Z asserted at that trial because I know him to be a man without veracity." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's conduct as a witness.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance and no further.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations

- (a) A person who publishes a book submits that book to the judgment of the public.
- (b) A person who makes a speech in public submits that speech to the judgment of the public.
- (c) An actor or singer who appears on a public stage submits his acting or singing to the judgment of the public.
- (d) A says of a book published by Z—"Z's book is foolish; Z must be a weak man. Z's book is indecent; Z must be a man of impure mind." A is within this exception if he says this in good

faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

- (d) But if A says— “ I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine. A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception.—It is not defamation in a person having over another Censure any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good frith any censure on the conduct of that other by person in matters to which such lawful authority.

Illustrations

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils ; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

Eighth Exception— It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration

If A in good faith accuses Z before a Magistrate ; if A in good faith complains of the conduct of Z, a servant, to Z's matter; if A in good faith complains of the conduct of Z, a child to Z's father—A is within this exception.

Ninth Exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for good faith the protection of the interest of the person making it, or of any other person, or for the public good.

Illustration

- (a) A, a shopkeeper, says to B, who manages his business—”Sell nothing to Z unless he pays you ready money, for I have no opinion of hi* honesty.” A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.
- (b) A, a Magistrate. in making a report to hia own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good. A is within tlse exception.

Tenth Exception.—It is not defamation to convey a caution in good faith to one person against another, provided that such cautbn be intended g^'od of per- for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be known to be punished with simple imprisonment for a term which may extend to two defamatory, years, or with fine, or with both.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years or with fine, or with both, matter.

CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

503. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.

Illustration

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house.

A is guilty of criminal intimidation.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

505. Whoever makes, publishes or circulates any statement, rumour or report --

- (a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman, in the Army, Navy or Air Force [• • •]¹ to mutiny or otherwise disregard or fail in his duty as such ; Or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or
- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid.

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation or with imprisonment for a term which may extend to seven years, or

¹ Omitted by the Union of Burma (Adaptation of Law) Order, 1948.

to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

507. Whoever commits the offence of criminal intimidation by an Criminal anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

508. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to believe that induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustration

(a) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

510. Whoever in a state of intoxication appears in any public place, Or in any place which it is a trespass in him to enter, and there conducts himself in such manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustration

(a) A makes an tempt to steal some jewels by breaking open a box and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b)A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the

attempt in consequences of Z's having nothing in his pocket. A is guilty under this section.

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