

PENAL CODE

[Cap. 19

**CHAPTER 19
PENAL CODE**

AN ORDINANCE TO PROVIDE A GENERAL PENAL CODE *Ordinances,*

1900 R. Ceylon.

Nos. 2 of 1883,
11 of 1887,
13 of 1888, 13
of 1890, 3 of
1892,
11 of 1895,
15 of 1898,
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of 1903, 10 of
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6 of 1944,
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Acts,

Nos. 6 of 1968, 50 of
1980, 32 of
1991,
22 of 1995,
29 of 1998,

[1st January, 1885.]

CHAPTER I

1. This Ordinance may be cited as the Penal Code, and is Short title. generally referred to hereinafter as "this Code".

2. (1) Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof, of which he shall be guilty within Sri Lanka.

Liability for offences committed within and outside Sri Lanka, [§2,32 of 1991.]

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[§2,32 of 1991.]

(2) Every Sri Lankan national shall be liable to punishment under this Code for every act done or omitted to be done contrary to the provisions thereof, of which he shall be guilty, where such act was done or was omitted to be done-

(a) within the premises of a Sri Lankan mission or the residence of the Head of such mission, diplomatic agent or any other member of such mission, situated outside the Republic of Sri Lanka; or

(b) within any premises occupied on behalf of or under the control of the Government of Sri Lanka or any statutory body established in Sri Lanka, and situated outside the Republic of Sri Lanka; or

(c) outside the Republic of Sri Lanka, where such Sri Lankan national enjoys diplomatic immunity in respect of such act or omission which is granted by a foreign state by reason of his diplomatic status in such state.

[§2,32 of 1991.]

(3) Nothing in this section shall be construed, as affecting the liability of any Sri Lankan nationality under the laws of the country in which such act was done or omitted to be done in respect of such act or omission.

Roman Dutch Criminal Law abolished.

3. So much of the Criminal Law heretofore administered in Ceylon as is known as "the Criminal Law of the United Provinces", or as "the Roman-Dutch Law" is hereby abolished.

Certain laws
not to be
affected.
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4. Nothing in this Code is intended to repeal, vary, suspend, or effect any of the provisions of any special or local law, or to affect the power heretofore possessed by the Supreme Court or any Judge thereof of summarily punishing persons guilty of contempts of the said court, and attorneys-at-law guilty of misconduct in the exercise of their profession.

CHAPTER II

Definitions to
be understood
subject to
exceptions.

GENERAL EXPLANATIONS

5. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision shall be understood subject to the exceptions contained in Chapter IV, intituled " General Exceptions", though these exceptions are not repeated in such definition, penal provision, or illustration.

Illustrations

[§2, 50 of 1939]

(a) The sections in this Code which contain definitions of offences do not express that a child under eight years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under eight 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 is an offence which is done by a person who is bound by law to do it".

Expression
once
explained is
used in the
same sense
throughout
the Code.

6. Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.

Gender.

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

Number.

8. Unless the contrary appear from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

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9. The word "man" denotes a male human being of any age; "Man" the word "woman" denotes a female human being of any age. "Woman"

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

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

*12. The word "Queen" denotes the Sovereign for the time being of Ceylon.

+13. The words "servant of the Queen" denote all officers or servants employed in Ceylon by or under the Government of Ceylon.

+14. The word "Government", where no other meaning is indicated by any descriptive or qualifying words or by the context, and the expression "the Ceylon Government" or "the Government of Ceylon", shall mean Her Majesty's Government in Ceylon established under the Ceylon (Constitution and Independence) Order in Council, 1946 and 1947.

15. The words "this Island" and "Sri Lanka" denote respectively, the Island of Sri Lanka.

+16. The term "Governor-General" denotes the Governor-General and Commander-in-Chief of the Island of Ceylon and includes the officer for the time being administering the Government of Ceylon and, to the extent to which a Deputy for the Governor-General is authorized to act, that Deputy.

J17. The word "Judge" not only denotes every person who is officially 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.

1 Section 12- This definition should be amended to read as 'the word "President" denotes the head of the Republic of Sri Lanka' (1978 Constitution).

f Section 13- This definition is redundant and needs to be repealed when an official reprint is being done. f Section 14- This definition is redundant and needs to be repealed when an official reprint is being done. f Section 16- This definition is redundant and needs to be repealed when an official reprint is being done.

{There should be substituted for the definition, the definition of "Judicial officer" in Article 170 of the Constitution of 1978.

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Illustrations

(a) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment is a judge.

(b) * The President of a Rural Court, when exercising jurisdiction under the Rural Courts Ordinance, is a judge.

(c) A District Registrar or Additional District Registrar exercising jurisdiction under section 33 of the Kandyan Marriage and Divorce Act, is a judge.

(d) A juror at a trial before the High Court is a judge.

"Court". (e) 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; but a Magistrate when exercising jurisdiction in requiring persons to give security to keep the peace, or for good behaviour, is a judge.

"Election". **18. The word "Court" denote a judge who is empowered by 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.**

"Public servant". **18A. The word "election" denotes any election for any purpose whatsoever held under or by virtue of any law for the time being in force in Sri Lanka, or any rules or regulations made thereunder.**

19 the words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :-

Firstly-Every person holding any office in Sri Lanka by virtue of any commission or warrant granted by the President or under the President's authority.

Secondly-Every member of the Sri Lanka Administrative Service.

Thirdly-Every commissioned officer in the naval, military or air forces of the Republic.

Fourthly-Every judge.

Fifthly-Every officer of a Court whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or

* Redundant due to repeal of the Rural Courts Ordinance by Law No. 44 of 1973.

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t This definitions should be replaced by the definition of "public officer" contained in Article 170 of the 1978 Constitution. [See definition at page 433]

[Cap. 19] 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 to perform any of such duties. **PENAL CODE**

Sixthly—Every juryman or assessor assisting a Court or a public officer.

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

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

Ninthly—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.

Tenthly—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 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 Government or remunerated by fees or commission for the performance of any public duty.

Eleventhly—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.

Twelfthly—Every person who is empowered to prepare, publish, maintain, or revise an electoral roll or to conduct an election or part of an election.

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Illustrations

A Municipal Inspector is a public officer.

A Superintending Engineer, under the Thoroughfares Ordinance, is a public officer.

A Fiscal is a public officer.

A Grama niladhari is a public officer.

Explanation 1.-Persons falling under any of the above descriptions are public officers whether appointed by the Government or not.

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

"Movable property".

20. The words "movable 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.

"Wrongful gain".

21. (1) "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

"Wrongful loss".

(2) "Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

"Wrongful gain" includes wrongful retention of property.

(3) A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully.

"Wrongful loss" includes the being wrongfully kept out of property.

(4) A person is said to loss wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

"Dishonestly".

22. 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".

"Fraudulently".

"Reason to believe".

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

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24. A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing, but not otherwise.

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25. 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

Property in possession of wife, clerk, or servant.

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.

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

" Counterfeit " .

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

27. The word " document" denotes any matter expressed or described 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.

Document".

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 or not.

Illustrations

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

A cheque upon a banker is a document.

A power of attorney is a document.

A map or plan which is intended to be used, 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 b e 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 constructed in the same manner as if the words " pay to the holder " or words to that effect, had been written over the signature.

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"Valuable security".

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28. The words "valuable security" denote a document which is, or 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.

Illustration

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".

A will".

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

Words referring to acts include illegal omissions.

30. 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.

Act".

31. (1) The word "act" denotes as well a series of acts as a single act.

(2) The word "omission" denotes as well a series of omissions as a single omission.

"Omission".

32. 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.

Liability for act done by several persons in furtherance of common intention. When such an act is criminal by reason of its being done with a criminal knowledge or intention.

33. 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.

Effect caused partly by act and partly by omission.

34. Whenever 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.

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Illustration

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

35. 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.

Co-operation by doing one of several acts constituting an offence.

Illustrations

- (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 several doses of poison so 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 jailors, and 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 causing that effect by illegally omitting each during the time of his attendance to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are 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 is guilty only of an attempt to commit murder.

36. 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.

Several persons engaged in the commission of a criminal act may be guilty of different offences.

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 both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

37. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to

Voluntarily

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cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration

sets fire, by night, to an inhabited house in a large town for the purpose of facilitating a robbery, and thus causes the death of a person. Here A may not have intended to cause death, and may even 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.

38. (1) Except in the Chapter and sections mentioned in subsections (2) and (3), the word " offence " denotes a thing made punishable by this Code.

" Offence

(2) In Chapter IV, and in the following sections, namely, sections 67, 100, 101, 101A, 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 113A, 113B, 184, 191, 192, 200, 208, 210, 211, 216, 217, 218, 219, 220, 318, 319, 320, 321, 322, 338, 339, 377, 378, and 431, the word " offence " denotes a thing punishable in Sri Lanka under this Code, or under any law other than this Code.

(3) And in sections 138, 174, 175, 198, 199, 209, 213, and 427, the word " offence " has the same meaning as in subsection (2) when the thing punishable under any law other than this Code is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

"Spec ial law".

39. A " special law" is a law applicable to a particular subject.

" Local law ".

40. A "local law" is a law applicable only to a particular part of Sri Lanka.

" Illegal " .
" Illegally ".

41. The words "illegal" and "illegally" are applicable to everything which is an offence, or which is prohibited by law, or which furnishes ground for a civil action.

" Legally bound to do "

42. A person is said to be "legally bound to do" whatever it is illegal in him to omit.

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"Injury,"
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43. The word "injury " denotes any harm whatever illegally caused to any person in body, mind, reputation, or property.

"Life " .

44. The word " life " denotes the life of a human being, unless the contrary appear from the context.

" Death " .

45. The word " death "denotes the death of a human being, unless the contrary appear from the context.

" Animal" .

46. The word " animal" denotes any living creatu re other than a human being, unless the contrary appear from the context.

47. The word " vessel" denotes anything made for the conveyance by water of human beings or of property.

" Vessel " .

48. 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 calendar.

" Year "

" Month

49. The word " section " denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

" Section " .

50. The word "oath " includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public officer, or to be used for the purpose of pro of, whether in a Court or not.

" Oath

51. Nothing is said to be done or believed in good faith which is done or believed without due care and attention.

"Good faith".

CHAPTER III

OF PUNISHMENTS

52. The punishments to which offender are liable under the provisions of this Code are—

Firstly—Death.

Punishments.

Secondly—Imprisonment, which is of two descriptions, namely—

- (a) rigorous, that is, with hard labour;
- (b) simple.

Thirdly—Whipping.

Fourthly—Forfeiture of property.

Fifthly—Fine.

Punishment of detention in lieu of death for persons under eighteen years of age. [§ 2, 50 of 1980.]

53. Sentence of death shall not be pronounced on or recorded against any person who, in the opinion of the court, is under the age of eighteen, years ; but, in lieu of that punishment, the court shall sentence such person to be detained during the President's pleasure.

Punishment of imprisonment in lieu of death for pregnant women.

54. Sentence of death shall not be pronounced on or recorded against any woman who is found in accordance with the provisions of section 282 of the Code of Criminal Procedure Act, No. 15 of 1979, to be pregnant at the time of her conviction; but, in lieu of that punishment, the court shall sentence her to imprisonment of either description for life or for any other term.

Sentences may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

55. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent for 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.

Sentence of forfeiture of property.

56. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned.

2 See section 301 of the Code of Criminal Procedure Act, No. 15 of 1979 and section 14 (3) of the Primary Courts Procedure Act. 294

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Illustration

A, being convicted of waging war against the Government, is liable to forfeiture of all his property. After sentence, and while the same is in force A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of the Government.

57. No female shall in any case be punished with whipping. Nor shall any person who may be sentenced to death or to imprisonment for more than five years be punished with whipping.

No female or person sentenced to death or imprisonment for more than five years to be punished with whipping.

67. *t Where anything which is an offence is made up of parts, any of 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.

Limit of punishment of offence which is made up of several offences.

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.

Illustrations

- (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 by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might 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 interferes, 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.

*Section 58 repealed by section 3 of Ordinance No. 50 of 1939.

Sections 59 to 66 repealed by section 2 of Ordinance No 20 of 1938.

t See section 301 of the Code of Criminal Procedure Act, No. 15 of 1979 and section 14(3) of the Primary Courts Procedure Act.

Punishment of a person found guilty of one of several offences, when it is doubtful of which of the offences he is guilty.

Punishment of persons convicted after a previous conviction of an offence punishable with three years' imprisonment.

Act done by a person bound, or by mistake of fact believing himself bound by law to do it.

Act of Judge when acting judicially.

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67A. In all cases in which judgment is given that a person is guilty of one 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 for all.

68. Whoever, having been convicted 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, shall be guilty of any offence punishable under either of those Chapters with imprisonment of either description for a term of three years or upwards, shall be liable for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same:

Provided that he shall not in any case be liable to imprisonment for a term exceeding twenty years or to a whipping which shall exceed twenty-four lashes or twenty-four strokes.

CHAPTER IV

GENERAL EXCEPTIONS

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

Illustrations

(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, being ordered by that court to arrest Y, and, after due inquiry, believing Z to be Y, arrests Z. A has committed no offence.

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

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Act done pursuant to the judgment or order of a Court.

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

72. Nothing is an offence which is done by any person who is justified 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.

Act done by a person justified or by mistake of fact believing himself justified by law.

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.

73. Nothing is an offence which is done by accident or misfortune, and 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.

Accident in the doing of a law- full act.

Illustration

A is at work with a hatchet; the head flies off and 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.

74. Nothing is an offence merely by reason of its being done with the 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 avoiding other harm to person or property.

Act likely to cause harm but done without a criminal intent, and to prevent other harm.

Explanation.—It is a question of fact in such a case whether the 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 the boat 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 the offence.

Act of a child under eight years of age. [§ 4,50 of 1939.] Act of a child above eight and under twelve years of age who has not sufficient maturity of understanding. (§ 4,50 of 1939.) Act of a person of unsound mind.

75. **Nothing is an offence which is done by a child under eight years of age.**

76. **Nothing is an offence which is done by a child above eight years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.**

77. **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.**

78. **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 the thing which intoxicated him was administered to him without his knowledge or against his will.

Act of a person incapable of judgment by reason of intoxication caused against his will.

79. **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 intoxicated him was administered to him without his knowledge or against his will.**

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

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80. 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.

Act not intended and not known to be likely to cause death or grievous hurt done by consent.

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 hurts Z, A commits no offence.

81. 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 express or implied, to suffer that harm, or to take the risk, of that harm.

Act not intended to cause death done by consent in good faith for the benefit of a person.

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.

82. 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:

Act done in good faith for ie benefit of a child or person of unsound mind, by or by consent of guardian.

Provided—

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

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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 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 consent 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, inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

83. 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

Consent of a child or person of unsound mind.

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

Acts which are offences independently of harm caused to the person, consenting are not within the exceptions in sections 80, 81, and 82.

84. The exceptions in sections 80, 81 and 82 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.

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85. Nothing is an offence by reason of any harm ^{Act d 5 n? . ^}

good faith tor

which it may cause to a person for whose benefit it the benefit of a 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—

Firstly—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 af 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.

Illustrations

- (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 attacked by a bear. A fires at the bear 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 gives 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 not time to apply to the child's guardian. A performs 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 house 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 81, 82, and 85.

Communica-
tion made in
good faith.

86. 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.

Act to which a
person is com-
pelled by
threats.

87. Except murder and offences against the State punishable with death, 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 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 housebreakers, 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 housebreakers, 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 housebreakers to enter and plunder it,— is entitled to the benefit of this exception.

88. Nothing is an offence by reason that it causes, or that it is intended 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

Act causing
slight harm.

89. Nothing is an offence which is done in the exercise of the right of private defence.

Nothing done in
private defence
is an offence.

90. Every person has a right, subject to the restrictions contained in section 92, to defend—

Right of private defence of the body and of property.

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

Secondly—The property, whether movable 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.

91. 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.

Right of private defence against the act of a person of unsound mind, &c.

Illustrations

(a) Z, under the influence of madness, attempts to kill A ; Z . is guilty of no offence. But A has the same 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 housebreaker, 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.

92. (1) 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 a public officer acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

Acts against which there is no right of private defence.

(2) 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 officer acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

(3) There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to , way^{ch}*e right to the inflicting of more harm than it is necessary to exercised. inflict for the purpose of defence.

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 officer, as such, unless he knows or has reason to believe, that the person doing the act is such public officer.

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 officer, 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.

When the right 93. The right of private defence of the body extends, defence^v of the under the restrictions mentioned in the last preceding body extends section, to the voluntary causing of death or of any

t o c a using death .

other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

Firstly—Such an assault as may reasonably cause the apprehension that 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.

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94. If the offence be not of any of the descriptions enumerated in the 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 restrictions mentioned in section 92, to the voluntary causing to the assailant of any harm other than death.

When such right extends to causing any harm other than death.

95. The right of private defence of the body commences as soon as 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 it continues as long as such apprehension of danger to the body continues.

Commencement and continuance of the right of private defence of the body.

96. The right of private defence of property extends, under the restrictions mentioned in section 92, 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 to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely—

When the right of private defence of property extends to causing death.

Firstly—Robbery;

Secondly—House-breaking by night;

Thirdly—Mischief by fire, or explosives 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.

97. 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, or criminal trespass not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but

When such right extends to causing any harm other than death.

does extend, subject to the restrictions mentioned in section 92, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property.

98. *Firstly*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Secondly—The right of private defence of property against theft continues till the offender has effected his retreat with the property or the assistance of the public authorities is obtained, or the property has been recovered.

Thirdly—The right of private defence of property against robbery continues as 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.

Fourthly—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.

Fifthly—The right of private defence of property against house-breaking by night continues as long as the house-trespass which has begun by such housebreaking continues.

Right of private 99. If in the exercise of the right of private defence deader^e aS? against an assault which reasonably causes the appre- when fthere is hension of death, the defender be so situated that he an irmocxa^{to} cannot effectually exercise that right without risk of ^{person.} harm to an innocent person, his right of private

defence extends to the running of that risk.

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence, if by so firing, he harms any of the children.

CHAPTER V

OF ABETMENT

100. A person abets the doing of a thing who-

Abetment of the doing of a thing.

Firstly— Instigates any person to do that thing; or

Secondly—Engages in any conspiracy for 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 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.—A conspiracy for the doing of a thing is when two or more persons agree to do that thing or cause or procure that thing to be done. A person within the jurisdiction of the court abets an offence by engaging with one or more other persons beyond the jurisdiction of the court in a conspiracy for the commission of an offence by them, or either of them, or by any other person.

Explanation 3.—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.

101. 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. Abettor.

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, stabs 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 same 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 person of unsound mind 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 eight years of age, to do an act which causes Z's death. B, in consequence of the abetment does the act, 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 this 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 the 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 engaged in the conspiracy in pursuance of which the offence is committed.

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Illustration

A consents 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, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers 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 this section, and is liable to the punishment for murder.

101A. A person abets an offence within the meaning of this Code who in Sri Lanka abets the commission of any act without and beyond Sri Lanka which would constitute an offence if committed in Sri Lanka.

Abetment in Sri Lanka of offences outside it.

102. 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.

Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.

Illustrations

- (a) A offers a bribe to B, a public officer, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 158.
- (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.

103. Whoever abets the commission of an offence shall, if the person 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.

Punishment of abetment, if the person abetted does the act with a different intention from that of the abettor.

Liability of
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one act is
abetted and a
different act is
done.

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104. 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 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 Y.

(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. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if the murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

105 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 officer. 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.

Abettor when
liable to cumu-
lative punish-
ment for act
abetted and for
act done.

6

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106. 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 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 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.

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

Illustration

A writes to B telling him that C is likely to pass along a certain road with treasure, and instigates B to lie in wait for and rob C. B on such instigation lies in wait for and robs C, A accompanying C along the journey. A is guilty under this section.

108. Whoever abets the commission of an offence punishable with death 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.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor. **Cap. 19**

Abettor present when offence is committed.

Abetment of an offence punishable with death, if the offence be not committed in consequence of the abetment.

If an act which causes harm be done in consequence of the abetment.

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Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z he would have been subject to the punishment of death. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine ; and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment.

109. 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 officer, 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 fine as is provided for the offence, or with both.

If the abettor or the person abetted be a public officer whose duty it is to prevent the offence.

Illustrations

(a) A offers of bribe to B, a public officer as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigate 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 that offence, and also to fine.

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

110 Whoever abets the commission of an offence by the public generally, 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 both.

Abetting the commission of an offence by the public, or by more than ten persons.

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Illustration

A fixes in a public place a 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.

111. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or imprisonment for twenty years 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 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 may extend to three years; and in either case shall also be liable to fine.

Concealing a design to commit an offence punishable with death or imprisonment for twenty years.

If the offence be committed

If the offence be not committed.

Illustration

A, knowing that murder is about to be committed at B, falsely informs the Magistrate that a murder 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 murder is committed at B in pursuance of the design. A is punishable under this section.

112. Whoever, being a public officer, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence, the commission of which it is his duty as such public officer 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, shall if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of 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, 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

A, public officer concealing a design to commit an offence which it is his duty to prevent.

If the offence be committed.

If the offence be punishable with death.

If the offence be not committed.

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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 designs to commit murder which may come to his knowledge, and knowing that B designs to commit murder, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

Concealing a design to commit an offence punishable with imprisonment.

If the offence be committed.

If not committed.

1131 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

OF CONSPIRACY

Definition of conspiracy.

113A. (1) If two or more persons agree to commit or abet or act together with a common purpose for or in committing or abetting an offence, whether with or without any previous concert or deliberation, each of them is guilty of the offence of conspiracy to commit or abet that offence, as the case may be.

(2) A person within Sri Lanka can be guilty of conspiracy by agreeing with another person who is beyond Sri Lanka for the commission or abetment of any offence to be committed by them or either of them, or by any other person, either within or beyond Sri Lanka, and for the purposes of this subsection as to an offence to be committed beyond Sri Lanka, "offence" means any act which if done within Sri Lanka would be an offence under this Code or under any other law.

Explanation- This section shall not exceed to the case in which the conspiracy is between a husband and his wife.

113B. If two or more persons are guilty of the offence of conspiracy for the commission or abetment of any offence, each of them shall be punished in the same manner as if he had abetted such offence.

Punishment for conspiracy.

CHAPTER VI

OF OFFENCES AGAINST THE STATE

114 . Whoever wages war against the State, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment of either description which may be extended to twenty years, and shall forfeit all his property.

Waging or attempting to wage war, or abetting the waging of war against the State.

Illustration

A joins an insurrection against the State A has committed the offence defined in this section.

115. Whoever conspires to commit any of the offences punishable by the next preceding section, or conspires to overawe, by means of criminal force or the show of criminal force, the State, shall be punished with imprisonment of either description which may extend to twenty years, and shall also be liable to fine.

Conspiracy to commit offence punishable by preceding section.

Explanation— To constitute a conspiracy under this section it is not necessary that any act or illegal omission shall take place in pursuance thereof.

116. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the State, shall be punished with imprisonment of either description for a term not exceeding twenty years, and shall forfeit all his property.

Collecting arms &c. with the intention of waging war against the State.

117. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the State intending by such concealment

Concealing with intent to facilitate a design to wage war.

to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also, be liable to fine.

118. Whoever, by means of any contumacious, insulting or
disparaging words, whether spoken or intended to be read, or
by signs or visible representations, shall attempt to bring the
State into contempt, shall be punishable with simple imprison-

ment for a period which may extend to two years, and shall also be liable to fine.

Assaulting
President &c.,
with intent to
compel or
restrain the
exercise of any
lawful power.

119. Whoever, with the intention of inducing or compelling
the President, or a Member of Parliament, to exercise or
refrain from exercising in any manner any of the lawful powers
of such President, or Member of Parliament, assaults or
wrongfully restrains, or attempts wrongfully to restrain, or
overawes, by means of criminal force or the show of criminal
force, or attempts so to overawe such President, or Member of
Parliament, shall be punished with imprisonment of either
description for a term which may extend to seven years, and
shall also be liable to fine.

Exciting or
attempting to
excite
disaffection.

120. Whoever by words, either spoken or intended to be
read, or by signs, or by visible representations, or otherwise,
excites or attempts to excite feelings of disaffection to the State,
or excites or attempts to excite hatred to or contempt of the
administration of justice, or excites or attempts to excite the
People of Sri Lanka to procure, otherwise than by lawful
means, the alteration of any matter by law established, or
attempts to raise discontent or disaffection amongst the People
of Sri Lanka, or to promote feelings of ill-will and hostility
between different classes of such People, shall be punished with
simple imprisonment for a term which may extend to two

years.

*Explanation-*It is not an offence under this section by intending to show that the State have been misled or mistaken in measures, or to point out errors or defects in the Government or any part of it, or in the administration of justice,

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with a view to the reformation of such alleged error or defects, or to excite the People of Sri Lanka to attempt to procure by lawful means, the alteration of any matter by law established, or to point out in order to their removal matters which are producing or have tendency to produce feelings of hatred or ill-will between different classes of the People of Sri Lanka.

121*. Whoever wages war against the Government of any power in alliance, or at peace with the Queen, or attempts to, wage such war, or abets the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, to which fine may be added, or with fine.

Waging war
against any
power in
alliance or at
peace with
the Queen.

122*. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any power in alliance or at peace with the Queen, 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.

Committing
depredation
on the terri-
tories of any
power in
alliance or at
peace with

123*. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 121 and 122 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 the property so received.

the Queen.

124. Whoever being a public officer, and having the custody of any State prisoner or prisoner of war, voluntarily allow such prisoner to escape from any place in which such prisoner is confined, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Receiving
property taken
by war or
depredation
mentioned in
sections 121 and
122

125. Whoever, being a public officer and having the custody of any 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 punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Public officer
voluntarily
allowing
prisoner of
State or war in
his custody to
escape.

Public
officer
negligently
suffering
prisoner of
State or war
in his
custody to
escape.

*Redundant after the 1972 Constitution

Aiding escape of, rescuing, or harbouring such prisoner.

126. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the re-capture of such prisoner, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

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

Authority of Attorney-General required for prosecution under this Chapter.

127. No prosecution shall be instituted under this Chapter except by, or with the written authority of, the Attorney-General.

CHAPTER VII

OF OFFENCES RELATING TO THE NAVY, ARMY, AND AIR FORCE

Abetting mutiny or attempting to seduce a sailor, soldier, or airman, from his duty.

128. Whoever abets the committing of mutiny by an officer, sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army, or Sri Lanka air force or attempts to seduce any such officer, sailor, soldier, or airman from his allegiance or his duty, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

129. Whoever abets the committing of mutiny by an officer, sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army, or Sri Lanka air force shall, if mutiny be committed in consequence of that abetment, be punished with death or imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

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130. Whoever abets an assault by an officer, sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army or Sri Lanka air force, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of an assault by a sailor soldier or airman on his superior officer, when in the execution of his office.

131. Whoever abets an assault by an officer, sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army or Sri Lanka air force, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence 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.

Abetment of such assault, if the assault is committed.

132. Whoever abets the desertion of any officer, sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army or Sri Lanka air force shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Abetment of the desertion of a sailor, soldier or airman.

133. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army or Sri Lanka air force has deserted, harbours such officer, sailor, soldier, 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.

Harbouring a deserter.

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

134. The master or person in charge of a merchant vessel on board of which any deserter from the Sri Lanka navy, Sri Lanka army or Sri Lanka air force is concealed, shall, though ignorant of such concealment, be liable to a penalty 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 but for some want of discipline on board of the vessel.

Deserter concealed on board merchant vessel through negligence of master.

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Abetment of act of insubordination by a sailor, soldier, or airman.

Persons subject to Navy Act, Army Act or Air Force Act not punishable for offences in this Chapter.

Wearing the dress of a sailor, soldier, or airman.

Unlawful assembly.

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135. Whoever abets what he knows to be an act of insubordination by an officer, sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army or Sri Lanka air force shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

136. No person subject to the provisions of the Navy Act, the Army Act, or the Air Force Act, or any similar law for the time being in force, or to any regulations made thereunder, is subject to punishment under this Code for any of the offences defined in this Chapter.

137. Whoever, not being a sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army or Sri Lanka air force wears any grab, or carries any token resembling any grab or token used by such a sailor, soldier, or airman, with the intention that it may be believed that he is such a sailor, soldier, 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 one hundred rupees, or with both.

CHAPTER VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

138. An assembly of five or more persons is designated an "unlawful assembly" if the common object of the persons composing that assembly-

Firstly-To overawe by criminal force, or show of criminal force, the State or Parliament or any public officer in the exercise of the lawful power of such public officer; or

Secondly-To resist the execution of any law or of any legal process; or

Thirdly-To commit any mischief or criminal trespass or other offence; or

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Fourthly—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person or the public of the enjoyment of a right of way or of the use of water or other incorporeal right of which such person or public is in possession or enjoyment, or to enforce any right or supposed right; or

Fifthly—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 ; or

Sixthly—That the persons assembled, or any of them, may train or drill themselves, or be trained or drilled to the use of arms, or practising military movements or evolutions, without the consent of the President.

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

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

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

141. 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 imprison- ment of either description for a term which may .extend to two years, or with fine, or with both.

Joining an unlawful assembly armed with any deadly weapon.

142. Whoever joins or continues in an unlawful assembly knowing that such unlawful assembly has been commanded by lawful authority to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in an unlawful assembly knowing that it has been commanded to disperse.

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Force used **143. Whenever force or violence is used by an member unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.**

Punishment for rioting. **144. 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, or with both.**

Every member of unlawful assembly to be deemed guilty of a y offence committed in prosecution of common object. **145. 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 may extend to three years, or with fine, or with both.**

Hiring or conniving at hiring of persons to join an unlawful assembly. **146. 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 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.**

Knowingly joining, or continuing in any assembly of five or more persons after it has been commanded to disperse. **147. Whoever hires, or engages, or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any 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.**

148. Whoever knowingly joins or continues in any assembly or 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.

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Explanation.—If the assembly is an unlawful assembly within the meaning of section 188, the offender will be punishable under section 142.

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

Assaulting or obstructing public officer when suppressing riot,&c.

150. **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 one year, 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.**

Wantonly giving provocation with intent to cause riot, If rioting be committed. If not committed,

151. **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 is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he, 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 power to the nearest police officer, and do not, in the case of his having reason to believe that it was about to be committed, use all lawful means in his power to prevent it, and in the event of its taking place do not use all lawful means in his power to disperse or suppress the riot or unlawful assembly.**

Owner or occupier of land on which an unlawful assembly is held.

152. **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**

Liability of person for whole benefit a riot is committed.

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, 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 or riot from taking place and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit a riot is committed.

153. 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, 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 law- full means in his power to prevent such riot, or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

154. Whoever harbours, receives, or assembles in any house or premises 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, 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.

Being hired 155. Whoever is engaged or hired, or offers or m an uipawful attempts to be hired or engaged, to do or assist in assembly or doing any of the acts specified in section 138, shall be ^{riot.} punished with imprisonment of either description for a term which may extend to six months, or with fine, Or to go armed. or with both ; and whoever, as aforesaid, goes armed or engages or officers to go armed with any deadly weapons or with anything which, used as a weapon of offence, is likely to cause

being so engaged or hired

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death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

156. When two or more persons, by fighting in a public place disturb the public peace, they are said to " commit an affray ". "Affray".

157. 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. Punishment for committing affray.

CHAPTER IX

OF OFFENCES BY OR RELATING TO PUBLIC OFFICERS

158. Whoever, being or expecting to be a public officer, 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 Government of Sri Lanka, or with any public officer 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. Public officer taking a gratification other than legal remuneration in respect of an official act.

Explanations.—" Expecting to be a public officer": 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 officer can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

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Illustration

An attorney-at-law 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.

161. Whoever, being a public officer, 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.

Punishment for abetment by public officer of the offences above defined.

Illustration

A is a public officer. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a 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.

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

Public officer disobeying a direction of the law with intent to cause injury to any

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, 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 in this section.

Public officer disobeying a direction of the law with intent to cause injury to any person or the Government.

163. Whoever, being a public officer, and being as such public officer, charged with the preparation or translation of any document, frames or 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.

Public officer framing an incorrect document with intent to cause injury.

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169. Whoever, not belonging to a certain class of public officers, wears any garb or carries any token resembling any garb or token used by that class of public officers, 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 of public officers, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Wearing garb or
token resembling
that used by public
officers with
fraudulent
intent.

CHAPTER IX A

OF OFFENCES

RELATING TO

ELECTIONS

169A. 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:

" Candidate" and
" Electoral right. "

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.

169B. (1) Whoever—

(a) 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

(b) 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:

Bribery in
connection
with an
election.

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 officers 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.

169C. (1) Whoever voluntarily interferes, or attempts to interfere, with 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 subsection (1), whoever—

Undue influence at elections.

(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 subsection (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.

Personation at elections.

169D. (1) 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 once at such election applies at the same

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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.

(2) For the purposes of this section, the word " election " includes any proceeding in which a poll or ballot is taken for the purpose of ascertaining the opinion of the majority of any specified set of persons on any question held under or by virtue of any enactment or any rules or regulations made thereunder.

169E. Whoever commits the offence of bribery Pums.hment shall be liable on summary conviction to a fine not exceeding five hundred rupees :

Provided that bribery by treating shall be punished with a fine not exceeding two hundred rupees.

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

169F. Whoever commits the offence of undue Punishment influence at an election shall be liable on summary ^unncefM- conviction to a fine not exceeding five hundred rupees, ^{personation} a_ndat an election.

whoever commits the offence of personation at an election shall be liable on summary conviction to a fine not exceeding three hundred rupees.

169G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false 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 guilty of an offence and shall be punished with fine.

False statement in connection with an election.

169H. Whoever being required by any law for the time being in force or 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 on conviction be punished with fine which may extend to three hundred rupees.

Failure to keep election accounts.

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CHAPTER X

OF CONTEMPTS OF THE LAWFUL

AUTHORITY OF PUBLIC OFFICERS

Absconding to avoid service of summons or other proceeding from a public officer.

170. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public officer, legally competent, as such public officer, to 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 fifty rupees, or with both; or, if the summons, notice, or order is to attend in person or by agent, or to produce a document in a Court, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Preventing service of summons or other proceeding or preventing publication thereof.

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

or intentionally prevents the lawful affixing to any place of any such 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 officer legally competent, as such public officer, 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 fifty rupees, or with both ;

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

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172. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public officer legally competent, as such public officer, 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 fifty rupees, or with both;

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

Illustrations

- (a) A, being legally bound to appear before the Supreme Court, at Colombo, in obedience to a summons, intentionally omits to appear. A has committed the offence defined in this section.
- (b) A, being legally bound to appear before a District Judge as a witness in obedience to a summons issued by that District Judge, intentionally omits to appear. A has committed the offence defined in this section.

173. Whoever, being legally bound to produce or deliver up any document to any public officer, 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 fifty rupees, or with both;

or, if the document is to be produced or delivered up to a Court, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Illustrations

A, being legally bound to produce a document before a District Court, intentionally omits to produce the same. A has committed the offence defined in this section.

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Non-attendance in obedience to an order from the public officer.

Omission to produce a document to a public officer by a person legally bound to produce such document

Omission to give notice or information to a public officer by a person legally bound to give notice or information.

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174. Whoever, being legally bound to give any notice or to furnish information on any subject to any public officer, 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 fifty 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 hundred rupees, or with both.

Furnishing false information.

175. Whoever, being legally bound to furnish information on any subject to any public officer, 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 hundred 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 landowner, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the division 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.

Refusing oath when duly required to take oath by a public officer.

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

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

Refusing to answer a public officer authorized to question.

178. Whoever refuses to sign any statement made by him, when required to sign that statement by a public officer legally competent to require that he 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 one hundred rupees, or with both.

Refusing to sign statement.

179. Whoever, being legally bound by an oath or an affirmation to state the truth on any subject to any public officer or other person authorized by law to administer such oath or affirmation, makes to such public officer 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 a fine.

False statement on oath to public officer or person authorized to administer an oath.

180. Whoever gives to any public officer 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 officer to use the lawful power of such public officer to the injury or annoyance of any person, or to do or omit anything which such public officer ought not to do or omit, if the true state of facts respecting which such information is given were known by him, 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.

False information with intent to cause a public officer to use his lawful power to the injury of another person.

Illustrations

- (a) A informs the Inspector-General of Police that Z, a police officer, has been guilty of neglect of duty or misconduct, knowing such information to be false,

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and knowing it to be likely that the information will cause the Inspector-General to dismiss Z. A has committed the offence defined in this section.

(b) A falsely inform, a public officer 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.

Resistance to taking of property by the lawful authority of a public officer.

181. Whoever offers any resistance to the taking of any property by the lawful authority of any public officer, knowing or having reason to believe that he is such public officer, 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 hundred rupees, or with both.

Obstructing sale of property offered for sale by authority of a public officer.

182. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public officer, 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 one hundred rupees, or with both.

Obstructing public officer in discharge of his public functions.

183 Whoever voluntarily obstructs any public officer or any person acting under the lawful orders of such public officer 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 one hundred rupees, or with both.

Omission to assist public officer when bound by law to give assistance.

184. Whoever, being bound by law to render or furnish assistance to any public officer 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 fifty rupees, or with both;

and if such assistance be demanded of him by a public officer legally competent to make such demand for the purposes of executing any process lawfully issued by a Court, or of preventing the commission of an offence, or of suppressing a riot, unlawful assembly, 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 one hundred rupees, or with both.

185. Whoever, knowing that by an order Disobedience promulgated by a public officer lawfully empowered dify promuf to promulgate such order, he is directed to abstain from gatedhy^a a certain act, or to take certain order with certain Pfc property in his possession or 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 fifty rupees, or with both ;

and if such disobedience causes or tends to cause dagger 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 hundred 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 officer 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.

186. Whoever holds out any threat of injury to any public officer, or to any person in whom he believes that public officer to be interested, for the purpose of inducing that public officer to do any act, or to forbear or delay to do any act, connected with the exercise of

Threat of injury to a public officer.

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the public functions of such public officer, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public officer.

187. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application, for protection against any injury, to any public officer legally empowered as such to give such protection or to cause such protection to be given, shall be punished 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

Giving "false evidence".

188. Whoever, being legally bound by an oath or affirmation, or by any express provision 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 ".

Wherever in any enactment the word " perjury" occurs, such enactment shall be read as if the words " giving false evidence " were therein used instead of the word "perjury".

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 ne does not know.

Illustrations

(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.

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- (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) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, 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.

189. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, 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 officer 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 fabricate false evidence"

"Fabricating false evidence".

Illustrations

- (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. 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 a 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

Punishable for giving or fabricating false evidence.

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190. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any 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 or before a military court of requests is a judicial proceeding.

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

Illustration

A, in an inquiry 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 inquiry is a stage of a judicial proceeding, A has given false evidence.

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

Illustration

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

191. 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 punishable with death by this Code, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

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 with death.

Giving or fabricating false evidence with intent to procure conviction of a capital offence.

If innocent person be thereby convicted and executed.

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192. 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 this Code is not capital, but punishable with 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, intending thereby to cause Z to be convicted of a robbery. The punishment of robbery is rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such imprisonment, with or without fine.

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

194. 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.

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

196. Whoever, in any declaration made or subscribed by him, which declaration any Court, or any public officer or other person, is bound or authorized by law to receive, 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.

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Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for seven years or upwards.

Using evidence known to be false.

Issuing or signing a false certificate.

Using as a true certificate one known to be false in a material point.

False statement made in any declaration which is by law receivables as evidence.

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Using as true any such declaration known to be false.

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197. 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 196 and 197.

Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender.

198. Whoever, knowing or having reason to believe that an offence has been committed, 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,

If a capital offence.

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;

If punishable with ten years' imprisonment.

and if the offence is punishable 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 ;

If punishable with less than ten years' imprisonment.

and if the offence is punishable with imprisonment for any term 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 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.

Intentional omission to information of an offence by a person bound to inform.

199. 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.

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200. 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.

Giving false information respecting an offence committed.

201. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court, or in any proceeding lawfully held before a public officer 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 officer 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.

Destruction of document to prevent its production as evidence.

202. 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.

203. 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 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 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.

False personation for the purpose of any act or proceeding in a suit.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

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204. 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 practices 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 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 in 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.

Fraudulently suffering a decree for a sum not due.

205. 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 that 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 decree 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.

Illustrations

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 to a 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 committed an offence under this section.

Fraudulently or dishonestly making a false claim in a Court.

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

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207. Whoever fraudulently obtains a decree or order against any person for 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 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.

Fraudulently obtaining a decree for a sum not due.

208. 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 no 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;

False charge of offence made with intent to injure,

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, or imprisonment for seven 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.

209. Whenever an offence has been committed, whoever harbours, conceals, assists, or maintains 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 imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

Harbouring an offender.

and if the offence is punishable 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;

If a capital offence.

If punishable with ten years' imprisonment.

If punishable with less than ten years' imprisonment.

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.

Explanation.—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 robbery, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to imprisonment which may extend to ten years A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gratification, &c., to screen an offender from punishment.

210. 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 of 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 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;

If capital offence.

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;

If punishable with ten years' imprisonment.

and if the offence is punishable with fine, shall be punished with fine.

If punishable with less than ten years' imprisonment.

If punishable with fine.

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211. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person in consideration of that person's concealing an offence, or of 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,

Offering gratification or restoration of property in consideration of screening offender.

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;

If a capital offence.

and if the offence is punishable 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;

If punishable with ten years' imprisonment.

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 ;

If punishable with less than ten years' imprisonment.

and if the offence is punishable with fine, shall be punished with fine.

Exception.—The provisions of sections 210 and 211 do not extend to any case in which the offence may lawfully be compounded.

If punishable with fine.

212. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, 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.

Taking gratification for help to recover stolen property, &c.

Harbouring an offender who has escaped from custody or whose apprehension has been ordered.

If a capital offence.

If punishable with ten years' imprisonment.

If punishable with less than ten years' imprisonment.

Public officer disobeying a direction of law with intent to save person from punishment or property from forfeiture.

213 Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public officer, in the exercise of the lawful powers of such public officer, orders to certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals 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 imprisonment for a term which may extend to 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.

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.

214. Whoever, being a public officer knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public officer, 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.

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215. Whoever, being a public officer and being, as such public officer, 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.

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Public officer framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

216. Whoever, being a public officer, legally bound as such public officer 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—

Intentional omission to apprehend on the part of a public officer bound by law to apprehend,

- (a) 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
- (b) 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 imprisonment for a term which may extend to ten years ; or
- (c) 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.

Punishment.

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Intentional omission to apprehend on the part of a public officer bound by law to apprehend person under sentence or lawfully committed.

217. Whoever, being a public officer, legally bound as such public officer to apprehend or to keep in confinement any person under sentence of a Court for any offence, or if the person was lawfully committed to custody, 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—

Punishment.

- (a) with imprisonment of either description 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
- (b) 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, or by virtue of a commutation of such sentence, to imprisonment for a term of ten years or upwards; or
- (c) 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, is subject, by a sentence of a Court, to imprisonment for a term not extending to ten years, or if the person was lawfully committed to custody.

Escape from confinement of custody negligently suffered by a public officer.

218. Whoever, being a public officer legally bound as such public officer 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 confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension.

219. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or for which, he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully

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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.

219A. Whoever intentionally offers any resistance or obstruction to the lawful apprehension of himself or of any other person on any civil process issued by any competent Court, or who escapes or attempts to escape from any custody in which he is lawfully detained on such process, or who rescues or attempts to rescue any other person from any custody in which that person is lawfully detained on such process, shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for any term not exceeding six months, or to both.

Resistance or obstruction to the lawful apprehension of another person.

220. Whoever intentionally offers any resistance or obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully 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

Punishment.

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 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 which may extend to seven years, and shall also be liable to fine ; or

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if the person to be apprehended or rescued, or attempted to be rescued, is liable, under the sentence of a Court, or by virtue of a commutation of such a sentence, to 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 imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Resistance, obstruction, escape or rescue in cases not otherwise provided for.

220A. Whoever, in any case not provided for in sections 219, 219A, 220 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 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, or with fine, or with both.

Escape from lawful custody.

221. Whoever escapes or attempts to escape from any custody in which he is lawfully detained for failing to furnish good security for the peace or good behaviour, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Violation of condition of remission of punishment.

222. Whoever, having accepted any conditional pardon or remission of punishment, knowingly violates any condition on which such remission was granted, shall, if his original sentence is one of death, be punished with imprisonment of either description which may extend to twenty years, and if his original sentence be not one of death, be punished with the punishment to which he was originally sentenced if he has already suffered no part of punishment, and if he has suffered any part of the punishment,

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then with so much of that punishment as he has not already suffered.

223. Whoever intentionally offers any insult or causes any interruption to any public officer, while such public officer is sitting in any stage of a judicial proceeding, 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.

Intentional insult or interruption of a public officer, sitting in any stage of a judicial proceeding.

224. Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as juryman 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**

225. "Coin" is a metal used as money stamped and issued by the authority of the Government of Ceylon or under the Monetary Law Act (Chapter 422), or any enactment in operation for the time being relating to the issue of coins in Sri Lanka or by the authority of the Government of any foreign country in order to be so used.

Meaning of "coin" and "current coin".
[§ 2,6 of 1968.]

"Current coin" means coin which is lawfully current in Sri Lanka or in any foreign country.

Illustrations

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

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coin.

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226. 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.

Counterfeiting
current coin.
[§ 3, 54 of 1939.]

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

Making or selling
instru- mentfor
counterfeiting
coin.

228. 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, and shall also be liable to fine.

Making or sellig
instrument for
counterfeiting
current coin.

229. 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 current 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.

[§3,54 of 1939.]

230. 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 ;

Possession of
instrument or
material for the
purpose of using
the same for
counterfeiting
coin.

and if the coin to be counterfeited is current coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

[§3, 54 of 1939.]

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231. Whoever, being within Sri Lanka, abets the counterfeiting of coin out of Sri Lanka, shall be punished in the same manner as if he abetted the counterfeiting of such coin within Sri Lanka.

Abetting in Sri Lanka, the counterfeiting out of Sri Lanka of coin.

232. Whoever imports into Sri Lanka, 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.

Import or export of counterfeit coin.

233. Whoever imports into Sri Lanka, or exports therefrom, any counterfeit current 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 ten years, and shall also be liable to fine.

Import or export of counterfeit of current coin.
[§4, 54 of 1939.]

234. Whoever, having any counterfeit coin, which at the time 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.

Delivery to another of counterfeit coin possessed with the knowledge that it is

235. Whoever, having any counterfeit current coin, which at the time 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 ten years, and shall also be liable to fine.

counterfeit.

Delivery of current coin possessed with the knowledge that it is counterfeit.

236. 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 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

[§ 5, 54 of 1939.]

Delivery to another of coin as genuine which when first possessed the deliverer did not know to be counterfeit.

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years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

237. Whoever, fraudulently or with intent that fraud may be committed, 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 imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of counterfeit current coin by a person who knew it to be counterfeit when he became possessed hereof.
[§ 6,54 of 1939.]

238. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit current coin, having known at the time when he became possessed thereof that such coin was 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.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

239. 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.

Fraudulently or dishonestly diminishing the weight or altering the composition of current coin.
[§ 7,54 of 1939]

240. Whoever fraudulently or dishonestly performs on any current 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 seven years, and shall also be liable to fine.

Altering appearance of any coin with intent, that it shall pass as a coin of a different description.

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

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Altering appearance of current coin with intent that it shall pass as a coin of a different description. [§7,54 of 1939] **Cap. 19**

242. Whoever performs on any current coin any operation which alters the appearance of that coin with the intention that the said coin 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 also be liable to fine.

243. Whoever, having coin in his possession with respect to which the offence defined in sections 239 or 241 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 for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

244. Whoever, having coin in his possession with respect to which the offence defined in section 240 or 242 has been committed, and having known at the time when he became possessed of such coin that such offence has 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 for a term which may extend to ten years, and shall also be liable to fine.

Delivery of coin with the knowledge that it is altered.

245. 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 239 or 241 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.

Possession of altered coin by a person who knew it to be altered, when he became possessed thereof.

Possession of current coin by a person who knew it to be altered when he became possessed thereof. [§ 8,54 of 1939.]

Delivery to another of coin as genuine which when first possessed the deliverer did not know to be altered.

Counterfeiting a Government stamp.

Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.

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246. Whoever, fraudulently or with intent that fraud may be committed is in possession of current coin, with respect to which the offence defined in either of the sections 240 or 242 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such current coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

247. Whoever delivers to any other person as genuine, or as a coin of a different description from which it is, or attempts to induce any person to receive as genuine or as a different coin from which it is, any coin in respect of which he knows that any such operation as that mentioned in sections 239, 240, 241, or 242 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.

248 .* 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 imprisonment of either description for a term which may extend to fifteen 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 denomi-

249. * 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

Sections 248 to 256 apply to Savings Stamps in like manner as those provisions apply to stamps issued by the Government for purposes of revenue.-Section 74 (3) of the National Savings Bank Act.

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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.

250. 3 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.

Making or selling instrument for the purpose of counterfeiting a Government stamp.

251. * Whoever sells, or offers for sale, 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, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

252. * Whoever has in his possession any stamp which he knows 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 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.

Having possession of a counterfeit Government stamp.

253. * 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 with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Using as genuine a Government stamp known to be counterfeit.

3 Sections 248 to 256 apply to Savings Stamps in like manner as those provisions apply to stamps issued by the Government for purposes of revenue.-Section 74 (3) of the National Savings Bank Act.359

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Effacing any writing from a substance bearing a Government stamp or removing from a document a stamp used for it with intent to cause loss to Government.

Using Government stamp known to have been before used.

fine,
or with both.

Erasure of

ftatktdmn ha^s loss to Government, erases or removes from a stamp been used. 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 fraudulently or with such intent alters any such mark, or knowingly has in his possession, or sells, or disposes of, any such stamp from which such mark has been erased or removed, or on which such mark has been altered, 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.

Some of the expression word "Government" when used in connection with "Government" or in reference to, any stamp issued for the purpose in sections 248

256A. In sections 248 to 256, both inclusive, the expression word "Government" when used in connection with "Government" or in reference to, any stamp issued for the purpose of denoting a rate of postage shall, notwithstanding to 256. _____

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254. 4 Whoever, fraudulently or with intent to cause loss to the Government, 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 has been used, or removes from any writing or document a stamp which has been used for such 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.

255. * 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 imprisonment of either description for a term which may extend to two years, or with

256. * Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp been used. 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 fraudulently or with such intent alters any such mark, or knowingly has in his possession, or sells, or disposes of, any such stamp from which such mark has been erased or removed, or on which such mark has been altered, 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.

256A. In sections 248 to 256, both inclusive, the expression word "Government" when used in connection with "Government" or in reference to, any stamp issued for the purpose of denoting a rate of postage shall, notwithstanding to 256. _____

4 Sections 248 to 256 apply to Savings Stamps in like manner as those provisions apply to stamps issued by the Government for purposes of revenue-Section 74 (3) of the National Savings Bank Act.

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anything in section 14, be deemed to include Government of Sri Lanka.

*Explanation-*The word "stamp" where used in this Chapter includes postage stamps.

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

***257. Whoever fraudulently uses any weighing or measuring instrument, 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.**

Fraudulent use of false weighing or measuring instrument.
[§ 60,37 of 1946]

***258. 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 from 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.**

Fraudulent use of false weight or measure.

***259. Whoever is in possession of any false weighing or measuring instrument, or of any false weight, or of any false measure of length or capacity, 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.**

Being in possession of false weights or measures.
[§60.37 of 1946.]

***260. Whoever makes, sells, or disposes of any weighing or measuring instrument, 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 three years, or with fine, or with both.⁵**

Making or selling false weights or measures.
[§ 60,37 of 1946.]

5 Sections 257 to 260 are repealed by section 58 of the Measurement Units, Standards and Services Act. No. 35 of 1995.
(Effective from 01. 01. 1997)

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CHAPTER XIV

**OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY,
AND MORALS**

Public

261. A person is guilty of a public nuisance who does any act, or is guilty 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, obstruction, danger, or annoyance to persons who may have occasion to use any public right.

A public nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of any disease dangerous to life.

262. Whoever unlawfully or negligently does any act which is, and which 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 description for a term which may extend to six months, or with fine, or with both.

Malicious act **263. Whoever maliciously does any act which is, and in which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life,**

dangerous to life

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

Disobedience **264. Whoever knowingly disobeys any rule made and promulgated by 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.**

Adulteration of food or drink which is intended for sale.

265. Whoever adulterates any article of food or drink so as to make 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, 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 hundred rupees, or with both.

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Sale of
noxious food or
drink. [Cap. 19

266. Whoever sells, 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 hundred rupees, or with both.

267. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or 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 fine which may extend to one hundred rupees, or with both.

Adulteration of
drugs.

268. 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 hundred rupees, or with both.

Sale of
adulterated
drugs.

269. Whoever knowingly sells, or offers or exposes for sale, or issues 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 hundred rupees, or with both.

Sale of any drug
as a different
drug or
preparation.

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Fouling the water of a public spring or reservoir.

270. Whoever voluntarily corrupts or fouls the water of any public spring 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 fifty rupees, or with both.

Making atmosphere noxious to health.

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

Rash driving or riding on a public way.

272. 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 six months, or with fine which may extend to one hundred rupees, or with both.

Rash navigation of a vessel.

273. 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 hundred rupees, or with both.

Exhibition of a false light, mark, or buoy.

274. 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.

Conveying person by water for hire in a vessel overloaded or unsafe.

275. 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 hundred rupees, or with both.

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276. 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 one hundred rupees.

Danger or obstruction in a public way or line of navigation.

277. 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 injury to any other person,

Negligent conduct with respect to any poisonous substance.

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any 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 hundred rupees, or with both.

278. 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 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 or hurt or injury to any other person from such fire or combustible matter,

Negligent conduct with respect to any fire or combustible matter.

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 hundred rupees, or with both.

279. 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,

Negligent conduct with respect to any explosive substance.

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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 six months, or with fine which may extend to one hundred rupees, or with both.

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

280. 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,

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 hundred rupees, or with both.

Negligence with respect to pulling down or repairing buildings.

281. Whoever, in pulling down or repairing any building knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of 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 hundred rupees, or with both.

Negligence with respect to any animal.

282. 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 hundred rupees, or with both.

Punishment for public nuisance in cases not otherwise provided for.

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

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or with imprisonment of either description which may extend to three months, or with both.

284. Whoever repeats or continues a public nuisance having been enjoined by any public officer 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.

Continuance of nuisance after injunction to discontinue.

285. Whoever sells or distributes, imports, or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, photograph, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Sale, &c., of obscene books, &c.

286. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Having in possession obscene books, &c., for sale or exhibition.

286 A. (1) Any person who-

(a) hires, employs, assists, persuades, uses, induces or coerces, any child to appear or perform, in any obscene or indecent exhibition or show or to pose or model for, or to appear in, any obscene or indecent photograph or film or who sells or distributes, or otherwise publishes, or has in his possession, any such photograph or film; or

(b) being the parent, guardian or person having the custody of, a child, causes or allows such child to be employed, or to participate, in any obscene or indecent exhibition or show or to pose or model for, or to appear in, any such photograph or film as is referred to in paragraph (a);

- (c) (i) takes, or assists in taking of any indecent photograph of a child; or**
- (ii) distributes or shows any such photograph or any publication containing such photograph ;**
- (iii) has in his possession for distribution or showing, any such photograph or publication;**
- (iv) publishes or causes to be published, any such photograph or publishes or causes to be published, any advertisement capable of conveying the message that the advertiser or person named in the advertisement distributes or shows any such photograph or publication or intends to do so,**

Obscene publication, exhibition &c. relating to children.
[§ 2,22 of 1995.]

commits the offence of obscene publication and exhibition relating to children and shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding ten years and may also be punished with fine.

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[§ 2,29 of 1998.]

(2) Any person who, being a developer of photographs or films, discovers that any photograph or film given to him for developing is an indecent or obscene photograph or a film of a child, shall, forthwith on such discovery, inform the officer in charge of the nearest police station that he has in his possession, such photograph or film.

[§ 2,29 of 1998.]

(3) Whoever being a developer of photographs or films acts in contravention of the provisions of subsection (2) shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

[§ 2,29 of 1998.]

(4) in this section-

**"child " means a person under eighteen years of age;
and**

"film " includes any form of video recording.

Obscene songs.

287. Whoever sings, recited, or utters in or near any public place, any obscene song, ballad, or words to the annoyance of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Causing or procuring children to beg.

[§3,29 of 1998.]

288.* (1) Whoever causes or procures a child to be in any street, premises or place for the purposes of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise), shall on conviction be punished with imprisonment of either description for a term not exceeding five years and may also be liable to a fine.

(2) In this section "child" means a person under eighteen years of age.

Hiring or employing children to act as procurers for sexual intercourse.
[§ 3, 29 of 1998.]

288A. (1) Whoever knowingly, hires, employs, persuades, uses, induces or coerces a child to procure any person for illicit sexual intercourse shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding five years and may also be liable to a fine .

*Section 288 is repealed by section 10 of Ordinance No.6 of 1944, and replaced by section 3 of Act No. 29 of 1998.

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(2) In this section "child" means a person under eighteen years of age.

288B. (1) Whoever knowingly , hires, employs, persuades, uses, induces or coerces a child to traffic in any restricted article shall on conviction be punished with imprisonment of either description for a term not less than five years and not exceeding seven years and may also be liable to a fine .

Hiring or employing children to traffic in restricted articles.
[§ 3,29 of 1998.]

(2) In this section-

"child" means a person under eighteen years of age;

"restricted article" has the meaning assigned to it by the Poisons, Opium and Dangerous Drugs Ordinance (Chapter 218);

"trafficking" includes selling, giving, procuring, storing, administering, transporting, sending, delivering or distributing.

289. Whoever wilfully neglects or omits to perform any duty imposed upon him by, or wilfully disobeys or infringes any provision of, any enactment or statute heretofore or hereafter to be enacted, for which neglect, omission, disobedience, or infringement no punishment is or shall be by this Code or any other enactment or statute otherwise specially provided, shall be punished with a fine.

Wilful omission of statutory duty.

CHAPTER XV

OF OFFENCES RELATING TO RELIGION

Injuring or defiling a place of worship with intent to insult the religion of any class.

290. Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of 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.

Acts in relation to places of worship, &c., with intent to insult the religion of any class.
[§ 2,62 of 1939.]

290A. Whoever does any act, in or upon, or in the vicinity of, any place of worship or any object which is held sacred or in veneration by any class of persons, with the intention of wounding the religious feelings of any class of persons or with the knowledge that any class of persons is likely to consider such act as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Disturbing a religious assembly.

291. 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.

Uttering words, &c., with deliberate intent to wound religious feelings.

291A. 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 extend to one year, or with fine, or with both.

Deliberate and malicious acts intended to outrage religious feelings of any class, by insulting its religion or religious beliefs.
[§ 2.40 of 1945.]

291B. Whoever, with the deliberate and malicious intention of outraging the religious feelings of any class of persons, 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.

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Trespassing
on burial
places, &c.

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

CHAPTER XVI

OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE

293. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Culpable
homicide.

Illustrations

- (a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in, and is killed. A has committed the offence of culpable homicide.
- (b) A knows Z to be behind a bush. B does not know it. A intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.
- (c) A by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush, A not knowing that he was there. Here although A was doing an unlawful act, he is not guilty of culpable homicide, as he did not intend to kill B or to cause death by doing an act that he knew was likely to cause death.

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Explanation 1.—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.

Explanation 2.—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 skillful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not 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.

Murder.

294. Except in the cases hereinafter excepted, culpable homicide is murder—

Firstly—If the act by which the death is caused is done with the intention of causing death ; or

Secondly—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or

Thirdly—If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death ; or

Fourthly—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations

- (a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.
- (b) A knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in sound state of health here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(d) A, without any excuse, fires a loaded gun into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Explanation 1.—Culpable homicide is not murder if the offender whilst deprived of the power of self-control by grave and sudden provocation, cause the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

When culpable homicide is not murder.

The above exception is subject to the following provisos :—

Firstly—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 officer, in the lawful exercise of the powers of such public officer:

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 prevent the offence from amounting to murder is a question of fact.

Illustrations

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a Fiscal's officer. A is excited to sudden and violent passion by the arrest and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public officer in the exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words and kills Z. This is murder.

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of a right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if the offender, 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.

Illustration

Z attempts to horse-whip A not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A, believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public officer or aiding a public officer acting 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 his duty as such public officer and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender 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.

[§3, 62 of 1939.] Exception 5.----- Culpable homicide is not murder if the offender, being the mother of a child under the age of twelve months, causes its death whilst the balance of her mind is disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child.

Culpable homicide by causing the death of a Person other than the person whose death was intended.

295. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide 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.

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296. Whoever commits murder shall be punished with death.

Punishment for murder.

297. Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death ;

Punishment for culpable homicide not amounting to murder.

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

298. Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Causing death by negligence.

299. If any person commits suicide, whoever abets the commission of such suicide shall be punished with death.

300. Whoever does any act with such intention or knowledge and under 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 to imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Abetment of suicide.

Attempt to murder.

Illustrations

- (a) **A shoots 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.**

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- (b) A, with the intention, of causing the death of a, child on 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 a gun and loads it. A has not yet committed the offence. A fires the 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 this section.
- (d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping. A has not yet committed the offence defined 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 defined in this section.

Attempt to commit culpable homicide.

301. Whoever does any act with such intention or knowledge and under such circumstances, that if he 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 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.

Illustrations

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.

OF THE CAUSING OF MISCARRIAGE, OR INJURIES TO UNBORN CHILDREN, OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTHS

Causing miscarriage

303*. Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life

^Section 302 is repealed by section 4 of Act No. 29 of 1998.

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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.

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

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

Causing miscarriage without woman's consent.

305. Whoever, with intent to cause the miscarriage D_{ea}th_{cause} of a woman with child, does any act which causes the b_on_a with death of such woman, shall be punished with imprison- intent to ment of either description for a term which may

extend to twenty years, and shall also be liable to fine.

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

306. 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 saving 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.

Act done with intent to prevent a child being born alive or to cause it to die after birth.

307. Whoever, does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, 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 to fine.

Causing death of a quick unborn child by an act amounting to culpable homicide.

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Illustration

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die ; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

Exposure and abandonment of a child under twelve years by parent or person having care of it.

308. 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 the 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.

Cruelty to children.

308 A. (1) Whoever, having the custody, charge or care of any person under eighteen years of age, wilfully ^{1,3,22} of ^{1,51} assaults, ill-treats, neglects, or abandons such person or causes or procures such person to be assaulted, ill-treated neglected, or abandoned in a manner likely to cause him suffering or injury to health (including injury to, or loss of, sight at hearing, or limb or organ of the body or any mental derangement), commits the offence of cruelty to children.

(2) Whoever commits the offence of cruelty to children shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding ten years and may also be punished with fine and be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.

Concealment of birth by secret disposal of dead body.

309. Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after 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.

O F HURT

" Cause hurt".

3101 Whoever causes bodily pain, disease, or infirmity to any person is said to " cause hurt.

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311. The following kinds of hurt only are designated as "grievous":-

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"Grivous hurt". [§4, 22
of 1995.]

- (a) emasculation;**
- (b) permanent privation or impairment of the sight of either eye;**
- (c) permanent privation or impairment of the hearing of either ear;**
- (d) privation of any member or joint;**
- (e) destruction or permanent impairment of the powers of any member or joint;**
- (f) permanent disfiguration of the head or face ;**
- (g) cut or fracture, of bone, cartilage or tooth or dislocation or subluxation, of bone, joint or tooth;**
- (h) any injury, which endangers life or in consequence of which an operation involving the opening of the thoracic, abdominal or cranial cavities is performed;**
- (i) any injury which causes the sufferer to be in severe bodily pain or unable to follow his ordinary pursuits, for a period of twenty days either because of the injury or any operation necessitated by the injury .**

312. 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, and does thereby cause hurt to any person, is said "voluntarily to cause hurt".

"Voluntarily causing hurt".

313. 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".

"Voluntarily causing grievous

Explanation—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends to know 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,

hurt".

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's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

314. Whoever, except in the case provided for by section 325, 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 thousand rupees, or with both.

Punishment for voluntarily causing hurt.

315. Whoever, except in the case provided for by section 325, 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

Voluntarily causing hurt by dangerous weapons or means.

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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.

Punishment for voluntarily causing grievous hurt.

316. Whoever, except in the case provided for by section 326, 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; and if the person to whom the grievous hurt is caused shall be a woman or a child, may in addition be punished with whipping.

Voluntarily causing grievous hurt by dangerous weapons or means.

317. Whoever, except in the case provided for by section 326, voluntarily causes grievous 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 ten years, and shall also be liable to fine; and if the person to whom the grievous hurt is caused shall be a woman or a child, may in addition be punished with whipping.

Voluntarily causing hurt to extort property, or to constrain to an illegal act.

318. Whoever, voluntarily causes hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal .or which may facilitate the commission of an 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.

Causing hurt by means of poison, &c., with intent to commit an offence.

319. Whoever administers to, or causes to be taken by any person any poison or any stupefying, intoxicating, or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will 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.

320. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine or to whipping.

Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.

321. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from 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 seven years, and shall also be liable to fine.

Voluntarily causing hurt to extort confession or to compel restoration of property.

Illustrations

- (a) A, a police officer tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.
- (b) A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.
- (c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z, A is guilty of an offence under this section.
- (d) A, a landowner, tortures his tenant in order to compel him to pay his rent. A is guilty of an offence under this section.

322. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from 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,

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

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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.

Voluntarily causing hurt to deter public officer from his duty.

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

Voluntarily causing grievous hurt to deter public officer from his duty.

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

Voluntarily causing hurt on provocation.

325. 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 fifty rupees, or with both.

Voluntarily causing grievous hurt on provocation.

326. 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 punished with imprisonment of either

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description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Explanation.—Sections 325 and 326 are subject to the same provisos as exception 1, section 294.

327. Whoever does 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 three months, or with fine which may extend to one hundred rupees, or with both.

Punishment for act which endangers life or the personal safety of others.

328. 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 six months, or with fine which may extend to one hundred rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

329. 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 two years, or with fine which may extend to one thousand rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

OF WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT

330. 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.

Exception.—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.

"Wrongful restraint".

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. ZT is thereby prevented from passing. A wrongfully restrains Z.

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"Wrongful
confinement".

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331. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said "wrongfully to confine" that person.

Illustrations

(a) A causes Z to go within a walled space and locks Z in, Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for
wrongful
restraint.
Punishment for
wrongful
confinement.

332. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

333. Whoever wrongfully confines any 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.

Wrongful
confinement
for three or
more days.

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

Wrongful
confinement for
ten or more days.

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

Wrongful
confinement of
person for whose
liberation a writ
has been issued.

336. 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 of either description 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 Code.

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337. 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 officer, or that the place of such confinement may not be known to or discovered by any such person or public officer as herein before mentioned, shall be punished with imprisonment of either description 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.

Wrongful confinement in secret.

338. 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 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.

Wrongful confinement for the purpose of extorting property, or constraining to an illegal act.

339. 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 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 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.

Wrongful confinement for the purpose of extorting confession, or of compelling restoration of property.

OF CRIMINAL FORCE AND ASSAULT

340. 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

Force.

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—

Firstly—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.

"Criminal force" **341.** Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending illegally by the use of such force to cause, or knowing it to be likely that by the use of such force he will illegally 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 act 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.
- (b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.
- (c) 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. A has therefore used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

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- (d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done 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.
- (e) A throws a stone, intending or knowing it to be likely that the stone will thus be brought into contact with Z or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z ■ and if he did so without Z's consent, intending thereby to injur, frighten, or annoy Z, he has used criminal force to Z.
- (f) 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 to Z.
- (h) 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.
- (i) A, a schoolmaster, in the reasonable exercise of his discretion as master, flogs B, one of his scholars. A does not use criminal force to B, because although A intends to cause fear and annoyance to B, he does not use force illegally.

342. 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".

"Assault".

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

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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, saying 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 assault.

Punishment for using criminal force otherwise than on grave and sudden provocation.

343. Whoever assaults or uses criminal force to any 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 three months, or with fine which may extend to fifty rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate 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 officer , in the lawful exercise of the powers of such public officer; 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.

Using criminal force to deter a public officer from discharge of his duty.

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

Sexual harassment.

[§5,22 of 1995.]

345. Whoever, by assault or use of criminal force, sexually harasses another person, or by the use of words or actions, causes sexual annoyance or harassment to such other person commits the offence of sexual harassment and shall on conviction be punished with imprisonment of either description for a term which may extend to five years or with fine or with both and may also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.

Explanation

1. Unwelcome sexual advance by words or action used by a person in authority, in a working place or any other place, shall constitute the offence of sexual harassment.

2. For the purposes of this section an assault may include any act that does not amount to rape under section 363.

346. 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.

Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.

347. 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.

Assault or criminal force in attempt to commit theft of property carried by a person.

348. 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.

Assaulting or criminal force in attempt wrongfully to confine person.

349. 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 fifty rupees, or with both.

Assaulting or using criminal force on grave and sudden provocation.

Explanation.—Section 348 is subject to the same explanation as section 343.

OF KIDNAPPING AND ABDUCTION

350. Kidnapping is of two kinds—
kidnapping from Sri Lanka, and
kidnapping from lawful guardianship.

[§ 6, 22 of 1995.]

351. Whoever conveys any person beyond the limits of Sri Lanka 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 Sri Lanka".

Kidnapping.

352. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind,

Kidnapping from Sri Lanka.

"Kidnapping from lawful guardianship".

out of the keeping of the lawful guardian of such minor or person of 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.

Explanation—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.

353. Whoever by force compels, or by any deceitful means, or by abuse of authority or any other means of compulsion, induces any person to go from any place, is said to " abduct " that person,

"Abduction".
Punishment
for
kidnaping.

354. Whoever kidnaps any person from Sri Lanka or from 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.

Kidnapping an
abducting in
order to murder.

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

Illustrations

(a) A kidnaps Z from Sri Lanka ,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 B away from his home in order that B may be murdered. A has committed the offence defined in this section.

Kidnapping or
abducting
with intent
secretly and
wrongfully to
confine a person.

356. Whoever kidnaps or abducts any person with intent to cause that 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.

Kidnapping
or abducting
a woman to
compel her
marriage,
&c. **[Cap. 19**

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357. Whoever kidnaps or abducts any woman with intent that she may 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 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 for a term which may extend to ten years, and shall also be liable to fine.

Kid:
or abducting in
order to subject
a person to
grievous hurt,
slavery, &c.

358. Whoever kidnaps or abducts any person in order that such person may be subjected, 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, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

359. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or keeps such person in confinement, shall be punished in the same manner as if he kidnapped or abducted such person with the same intention or knowledge or for the same purpose as that with or for which he conceals or detains such person in confinement.

Wrongfully
concealing or
keeping in
confinement a
kidnapped
person.

360. Whoever kidnaps or abducts any child under the age of ten years, with the intention of taking dishonestly any movable property from the person of such 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.

Kidnapping or
abducting child
under ten years
with intent to
steal movable
property from
the person of
such child.

360A. Whoever—

- (1) procures, or attempts to procure, any person. Procuration.
whether male or female of whatever age [§7,22 of 1995] (whether with or without the consent of such person) to become, within or outside Sri Lanka, a prostitute;
- (2) procures, or attempts to procure, any person, under sixteen years of age, to leave Sri Lanka (whether with or without the consent of such person) with a view to illicit sexual intercourse with any person outside Sri Lanka, or removes, or attempts to remove, from Sri Lanka any such person (whether with or without the consent of such person) for the said purpose;

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- (3) procures, or attempts to procure, any person of whatever age, to leave Sri Lanka (whether with or without the consent of such person) with intent that such person may become the inmate of, or frequent, a brothel elsewhere, or from Sri Lanka any such person (whether with or without the consent of such person) for the said purpose;**
- (4) brings, or attempts to bring, into Sri Lanka any person under sixteen years of age with a view to illicit sexual intercourse with any other person, in Sri Lanka or outside Sri Lanka ;**
- (5) procures, or attempts to procure, any person of whatever age (whether with or without the consent of such person) to leave such person's usual place of abode in Sri Lanka with a view to illicit sexual intercourse within or outside Sri Lanka;**
- (6) detains any person without the consent of such person in any premises with a view to illicit sexual intercourse or sexual abuse of such person,**

[§ 5,29 of 1998.]

[§5,29 of 1998.]

commits the offence of procuration and shall on conviction be punished with imprisonment of either description for a term of not less than two years and not exceeding ten years and may also be punished with a fine.

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Sexual exploitation of
children.
[§8,22 of 1995.]

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360B. (1) Whoever—

- (a) knowingly permits any child to remain in any premises, for the purposes of causing such child to be sexually abused or to participate in any form or sexual activity or in any obscene or indecent exhibition or show;
- (b) acts as a procurer of a child for the purposes of sexual intercourse or for any form of sexual abuse;
- (c) induces a person to be a client of a child for sexual intercourse or for any form of sexual abuse, by means of print or other media, oral advertisements or other similar means ;
- (d) takes advantage, of his influence over, or his relationship to, a child, to procure such child for sexual intercourse or any form of sexual abuse;
- (e) threatens, or uses violence towards, a child to procure such child for sexual intercourse or any form of sexual abuse;
- (d) gives monetary consideration, goods or other benefits to a child or his parents with intent to procure such child for sexual intercourse or any form of sexual abuse,

commits the offence of sexual exploitation of children and shall on conviction be punished with imprisonment of either description for a term not less than five years and not exceeding twenty years and may also be punished with fine.

(2) In this section " child " means a person under eighteen years of age.

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Trafficking.
[§ 8,22 of 1995.]

360c. (1) Whoever—

- (a) engages in the act of buying or selling or bartering of any person for money or for any other consideration;

- (b) for the purpose of promoting, facilitating or inducing the buying or selling or bartering or the placement in adoption, of any person for money or for any other consideration —
 - (i) arranges for, or assists, a child to travel to a foreign country without the consent of his parent or lawful guardian; or
 - (ii) obtains an affidavit of consent from a pregnant woman, for money or for any other consideration, for the adoption of the unborn child of such woman; or
 - (iii) recruits women or couples to bear children ; or
 - (iv) being a person concerned with the registration of births, knowingly permits the falsification of any birth record or register ; or

engages in procuring children from hospitals, shelters for women, clinics, nurseries, day care centres, or other child care institutions or welfare centres, for money or other consideration or procures a child for adoption from any such institution or centre, by intimidation of the mother or any other person ; or

(vi) impersonates the mother or assists in such impersonation,

commits the offence of trafficking and shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding twenty years and may also be punished with fine and where such offence is committed in respect of a child, be punished with imprisonment of either description for a term not less than five years and not exceeding twenty years and may also be punished with fine.

(2) In this section " child " means a person under eighteen years of age.

*362A. Every man, who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him, and to cohabit 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, and shall also be liable to fine.

Cohabitation caused by a man deceitfully inducing a belief of lawfull marriage.

362R Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment or either description for a term which may extend to seven years, and shall also be liable to fine.

Marrying again during the lifetime of husband or wife.

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 the 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 as far as the same are within his or her knowledge.

362C. Whoever commits the offence defined in the last preceding section, having concealed from the person with whom the subsequent marriage is contracted the fact of 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.

Same offence with concealment of the former marriage from the person with whom subesequent marriage is contracted.

362D. Whoever dishonestly or with a fraudulent intention goes through the ceremony of being 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. ⁶

Marriage ceremony gone through with fraudulent intent without lawful marriage.

6 Sections 361 and 362 are repealed by section 9 and section 10 of Act No. 22 of 1995.

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[§ 11,22 of 1995.]

OF RAPE AND INCEST

Rape.

363. **A man is said to commit "rape" who has sexual intercourse with a woman under circumstances falling under any of the following descriptions :—**

[§ 12,22 of 1995.] [§

(a) without her consent even where such woman is his wife and she is judicially separated from the man;

6, 29 of 1998.]

(b) with her consent, while she was in lawful or unlawful detention or when her consent has been obtained, by use of force or intimidation, or by threat of detention or by putting her in fear of death or hurt ;

(c) with her consent when her consent has been obtained at a time when she was of unsound mind or was in a state of intoxication induced by alcohol or drugs, administered to her by the man or by some other person ;

(d) with her consent when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is, or believed herself to be, lawfully married;

(e) with or without her consent when she is under sixteen years of age, unless the woman is his wife who is over twelve years of age and is not judicially separated from the man.

Explanation —

(i) Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape ;

(ii) Evidence of resistance such as physical injuries to the body

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is not essential to prove that sexual intercourse took place without consent.

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Punishment for
rape.
[§ 13,22 of 1995]

364. (1) **Whoever commits rape shall, except, in the cases provided for in subsections (2) and (3), be punished with rigorous imprisonment for a term not less than seven years and not exceeding twenty years and with fine, and shall in addition be ordered to pay compensation of an amount determined by court, to the person in respect of whom the offence was committed for the injuries caused to such person.**

(2) Whoever—

- (a) being a public officer or person in a position of authority, takes advantage of his official position, and commits rape on a woman in his official custody or wrongfully restrain and commits rape on a woman;**
- (b) being on the management, or on the staff of a remand home or other place of custody, established by or under law, or of a women's or children's institution, takes advantage of his position and commits rape on any woman inmate of such remand home, place of custody or institution ;**
- (c) being on the management or staff of a hospital, takes advantage of his position and commits rape on a woman in that hospital;**
- (d) commits rape on a woman knowing her to be pregnant;**
- (e) commits rape on a woman under eighteen years of age;**
- (f) commits rape on a woman who is mentally or physically disabled;**

(g) commits gang rape,

shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall in addition be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person :

Provided however, that where the offence is committed in respect of a person under sixteen years of age, the court may, where the offender is a person under eighteen years of age and the intercourse has been with the consent of the person, impose a sentence of imprisonment for a term less than ten years.

Explanation 1

Where the offence of rape is committed by one or more persons in a group of persons, each person in such group committing, or abetting the commission of such offence is deemed to have committed gang rape.

Explanation 2

"women's or children's institution " means an institution for the reception and care of women or children, howsoever described.

Explanation 3

"hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.

(3) Whoever commits rape on a woman under sixteen years of age and the woman stands towards the man in any of the degrees of relationships enumerated in section 364A shall on conviction be punished with rigorous imprisonment, for a term not less than fifteen years and not exceeding twenty years and with fine.

(4) Where any person fails to pay the compensation he is ordered to pay under subsection (1) or subsection (2), he shall in addition to the imprisonment imposed on him under subsection (1) or subsection (2) be punished with a further term of imprisonment of either description for a term which may extend up to two years.

Incest.

***364A.** (1) Whoever has sexual inter-
[§15,22 of 1995] course with another, who stands towards him in any of the following enumerated degrees of relationship, that is to say—

- (a) either party is directly descended from the other or is the adoptive parent, adoptive grand parent, adopted child or adopted grand child of the other; or
- (b) the female, is the sister of the male, either by the full or the half blood or by adoption, or is the daughter of his brother or of his sister, by the full or the half blood or by adoption, or is a descendant from either of them, or is the daughter of his wife by another father, or is his son's or grandson's or father's or grandfather's widow; or
- (c) the male, is the brother of the female either by the full or the half blood or by adoption, or is the son of her brother or sister by the full or the half blood or by adoption or is a descendant from either of them, or is the son of her husband by another mother, or is her deceased daughter's or grand daughter's or mother's or grand mother's husband,

commits the offence of 'incest'.

*The heading "OF CARNAL INTERCOURSE WITH YOUNG GIRLS" is omitted by section 14 of Act No. 22 of 1995.

(2) The offence of incest shall not be affected or negated by reason of the existence of any defect in the legality of any relationship given in this section, such as absence of a valid marriage or adoption.

(3) **Whoever-**

- (a) commits incest, shall be punished with rigorous imprisonment for a term not less than seven years and not exceeding twenty years and with fine;
- (b) attempts to commit incest shall be punished with imprisonment of either description for a term which may extend to two years.

(4) No prosecution shall be commenced for an offence under this section except with the written sanction of the Attorney-General.

OF UNNATURAL OFFENCES AND GRAVE SEXUAL ABUSE [§16,22 of 1995.]

365. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be punished with fine and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for injuries caused to such person. Unnatural offences. [§17, 22 of 1995]

Explanation- Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

Acts of gross indecency between persons.
[§ 18,22 of 1995.]

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365A. Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, shall be guilty of an offence, and shall be punished with imprisonment of either the description for a term which may extend to two years or with fine or with both and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.

Grave sexual abuse.
[§19,22 of 1995.]

365B. (1) Grave sexual abuse is committed by any person who, for sexual gratification, does any act, by the use of his genitals or any other part of the human body or any instrument on any orifice or part of the body of any other person, being an act which does not amount to rape under section 363, in circumstances falling under any of the following descriptions, that is to say—

(a) without the consent of the other person;

[§7, 29 of 1998.]

(aa) with or without the consent of the other person when the other person is under sixteen years of age;

[§ 7, 29 of 1998.]

(b) with the consent of the other person while on such other person was in lawful or unlawful detention or where that consent has been obtained, by use of force, or intimidation or threat of detention or by putting such other person in fear of death or hurt;

(c) with the consent of the other person where such consent has been obtained at a time the other person was of unsound mind or was in a state of intoxication induced by alcohol or drugs.

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(2) Whoever —

- (a) commits grave sexual abuse shall be punished with rigorous imprisonment for a term not less than seven years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person;**

- (b) commits grave sexual abuse on any person under eighteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.**

**OF PUBLICATION OF MATTER RELATING TO
CERTAIN OFFENCES**

[§20, 22 of 1998.]

365C. (1) Whoever prints or publishes, the name, or any matter which may make known the identity, of any person against whom an offence under section 345 or section 360A or section 360B or section 363 or section 364A or section 365 or section 365A or section 365B, is alleged or found to have been committed (hereinafter in this section referred to as the "victim") shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.

Publication of matter relating to certain offences.
[§ 21, 22 of 1998.]

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(2) Nothing in subsection (1) shall apply to the printing or publication of the name, or any matter which may make known the identity, of the victim, if such printing or publication is—

- (a) by or under the order of the officer in charge of the police station or the police officer, making investigation into such offence, acting in good faith for the purposes of such investigation ; or
- (b) by or with the authorization in writing of the victim ; or
- (c) by or with the authorization in writing of the next of kin of the victim where the victim is dead or the parent or guardian of the victim, where the victim is a minor or is of unsound mind :

Provided no such authorization shall be given by such next of kin to any person other than to the Chairman, Secretary or Manager, how so ever described, of any welfare institution or organization recognized by the State.

(3) Whoever prints or publishes any matter in relation to any proceeding in any court with respect to an offence referred to in subsection (1), without the previous permission of such court, 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 printing or publication of a judgement of the Court of Appeal or the Supreme Court does not amount to an offence within the meaning of this section.

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

OF THEFT

366. Whoever, intending to take dishonestly any movable 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 movable 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 expressed 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.

Illustrations

- (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 it. Here, if A's intention be 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 meets 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, going 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 ring 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 security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

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- (j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a 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, inasmuch 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, inasmuch 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, being on friendly terms with Z, goes in to 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 probably 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 charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.
- (o) A is the paramour of Z's wife. She gives a valuable property which A knows to belong to her husband Z and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.
- (p) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

367. 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.

Punishment for theft.

368. Whoever commits theft—

- (a) of any bull, cow, steer, buffalo, heifer or calf
or
- (b) of any fruit, vegetable, or other praedial production, or any cultivated root or plant used or capable of being used for the food of man or beast, or for medicine, distilling, or dyeing, or in the course of any manufacture,

Theft of cattle.

Of praedial products

may, in addition to any other punishment for theft, be punished with whipping.

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Theft in dwelling house, &c

369. Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or 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.

Theft by clerk or servant of property in possession of master.

370. Whoever, being a clerk or servant, or being employed in the 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.

Theft after preparation made for causing death or hurt, in order to the committing of the theft.

371. 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 while committing this theft, he has a loaded pistol under his garment, 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, ^ having posted several of his companions near him, in order that they ^ may restrain Z, if Z should perceive what is passing and should resist or should attempt to apprehend A. A has committed the offence defined in this section.

OF EXTORTION

"Extortion."

372. 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 ".

Illustrations

- (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 moneys to A. Z signs and delivers the note. A has committed extortion.
- (c) 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.

373. 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.

Punishment for extortion.

374. 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.

Putting person in fear of injury in order to commit extortion.

375. 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.

Extortion by putting a person in fear of death or grievous hurt.

376. 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.

Putting person in fear of death or of grievous hurt in order to commit extortion.

377. 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 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

Extortion by threat of accusation of an offence punishable with death or imprisonment for ten years, &c.

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 365, may be punished with rigorous imprisonment for a term which may extend to twenty years, and shall also be liable to fine.

Putting person in fear of accusation of offence in order to commit extortion.

378. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of any accusation against that person or any other of having committed or attempted to commit an offence punishable with death, or with imprisonment for a term which may extend to ten years or more, 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 365 may be punished with rigorous imprisonment which may extend to twenty years, and shall also be liable to fine.

OF ROBBERY

Robbery.

379. In all robbery there is either theft or extortion.

When theft is robbery.

Theft is "robbery", if, in order to the committing of the theft, or in 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 extortion is robbery.

Extortion is " robbery ", if the offender, at the time of committing the extortion, is in the persence 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.

Illustrations

- (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 exerted 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 gang, and will be put to death unless you send us ten thousand rupees ". This extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

380. 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.

Punishment for robbery.

381. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

382. 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 rigorous imprisonment for a term which may extend to twenty years, and shall also be liable to fine or to whipping.

Attempt to commit robbery.

383. If, at the time of committing robbery, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death

Voluntarily causing hurt in committing robbery.

Robbery with attempt to cause death or grievous hurt.

or grievous hurt to any person, the imprisonment with which such offender shall be punished may be extended to twenty years.

Attempt to commit robbery when armed with deadly weapon.

384. If, at the time of attempting to commit a robbery, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished may be extended to twenty years.

Punishment for belonging to wandering gang of thieves.

385. Whoever shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

OF CRIMINAL MISAPPROPRIATION OF PROPERTY

386. Whoever dishonestly misappropriates or converts to his own use any movable property shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest misappropriation of property.

Illustration

- (a) A takes property belonging to Z out of Z's possession in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if 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 was 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 a horse, A takes the horse out of B's 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 appropriates 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 misappropriation within the meaning of this section.

Illustration

A finds a promissory note belonging to Z, payable to bearer. A, knowing that the note belongs to Z, pledges it with a banker as security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

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Explanation 2.—(i) A person who finds property not in the possession of any other 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.

- (ii) What are reasonable means, or what is a reasonable time in such a case, is a question of fact.
- (iii) 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.

Illustration

- (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.
- (c) 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.
- (e) 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.
- (f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately, without attempting to discover

387. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's death, 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

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is guilty of an offence under this section

Dishonest misappropriation of property possessed by person at the time of his death.

to three years, and shall also be liable to fine; and if the offender at the time of such 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 A 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

"Criminal breach of trust."

388. 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".

Illustrations

- (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 sells the goods. A has committed criminal breach of trust.
- (c) A residing in Colombo, is agent for Z, residing in England. 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 ten thousand rупpes to A, with directions to A to invest the same on mortgage of coffee estates. 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 it will be more for Z's advantage to hold shares in a company, disobeys Z's directions and buys shares in a company in Z's name instead of investing the money on mortgage, 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.

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- (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 Kachcheri all the public money which he holds. A dishonestly appropriates 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.

389. Whoever commits criminal breach of trust P_{un}i_{hm}e_nt shall be punished with imprisonment of either ^{for} o_jmmd description for a term which may extend to three trust. years, or with fine, or with both.

390. Whoever, being entrusted with property as a Criminal carrier, wharfinger, or warehouse-keeper, commits t_{rus}t by criminal breach of trust in respect of such property ^carrier,&^c. shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

391. Whoever, being a clerk or servant or employed b^{'nmi}h^{'al} as a clerk or servant, and being in any manner tru_t by a entrusted in such capacity with property, or with any se[^]mt 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.

392. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public officer 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 imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Criminal breach of trust by public officer, or by banker, merchant, or agent.

392A. Whoever, being entrusted with or having the dominion of any money in his capacity as a public officer, fails forthwith to pay over or produce, when required to do so by the head of his department or by the Secretary or Deputy Secretary to the Treasury, Auditor-General, Assistant Auditor-General, or any officer specially appointed by the Secretary to the

Criminal breach of trust by public officer in respect of money or balance of money.

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Treasurer to examine the accounts of his department, any money or balance of any money shown in the books or accounts or statements kept or signed by him to be held by or to be due from him as such public officer, or to duly account therefor, shall be guilty of the offence of criminal breach of trust, and shall on conviction be subject to the penalty provided by section 392.

Criminal breach of trust by agent in respect of postal articles.

392B. Any person who, acting or purporting to act as the agent of any other person, receives from a postal officer any postal article for delivery to such other person and—

- (a) wilfully throws away, destroys, keeps or secretes; or**
- (b) without reasonable excuse (the burden of proving which shall lie upon him) fails duly to account for such article, or unduly delay such delivery,**

shall be deemed guilty of criminal breach of trust and shall be liable to the punishment prescribed therefor.

OF THE RECEIVING OF STOLEN PROPERTY

" Stolen property

393. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, or by forgery, or by cheating, 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 Sri Lanka. 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.

Dishonestly receiving stolen property.

394. 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.

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395. Whoever habitually receives or deals in 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 twenty years, and shall also be liable to fine.

Habitually
dealing in
stolen
property.

396. 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.

Assisting in
concealment
of stolen
property.

397. If the stolen property referred to in the three preceding sections shall be of any of the descriptions mentioned in section 368, the offender may, in addition to the punishments by the three preceding sections imposed, be punished with whipping.

Receiving
stolen cattle
or
agricultural
products.

OF CHEATING

398. Whoever, by deceiving any person, fraudulently or dishonestly 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, or damage or loss to the Government is said to "cheat".

"Cheating

Explanation-A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations

- (a) A, by falsely pretending to be in the Sri Lanka Administrative 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 cheque on a bank with which A keeps no money, and by which A expects that the cheque 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.
- (g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of copra, 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 copra, 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.
- (h) 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.
- (i) 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.

" Cheating by personation".

399. A person is said to " cheat by personation " if he cheats by 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.

Illustrations

(a) A cheats by pretending to be a certain rich merchant 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.

Punishment for cheating.

400. 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.

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401. 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 a 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.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

402. 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,

Punishment for cheating by personation.

403. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a 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.

Cheating and dishonestly inducing a delivery of property.

OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY

404. Whoever dishonestly or fraudulently removes, conceals, or delivers to any person or transfers or causes to be transferred to any person, without adequate consideration, any property intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any 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.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

405. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such 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.

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

Dishonest or fraudulent removal or concealment of property or release of claim.

"Mischief".

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406. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

407. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

OF MISCHIEF AND ILLEGAL REMOVAL OF WRECKS

408. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits "mischief".

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation. 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act or to that person and others jointly.

ILLustrations

- (a) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.
- (b) A introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

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- (c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.
- (d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.
- (e) A, having insured a ship voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.
- (f) A causes a ship to be cast away intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.
- (g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.
- (h) A causes cattle to enter upon a field belonging to Z, intending to cause, and knowing that he is likely to cause, damage to Z's crop. A has committed mischief.

409. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Punishment for committing mischief.

410. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of fifty rupees.

411 Whoever commits mischief by killing, poisoning, maiming, or rendering useless any animal or animals of the value of ten rupees or upwards shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of ten rupees.

412. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, ass, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by killing or maiming cattle & c, or any animal of the value of fifty rupees.

Mischief by injury to works of irrigation or by wrongfully diverting water.

413. Whoever commits mischief by doing any act which causes, or which 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.

Mischief by injury to public road, bridge, or

414. Whoever commits mischief by doing any act which renders, or 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 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.

Mischief by causing inundation or obstruction to public drainage attended with damage.

415. Whoever commits mischief by doing any act which causes, or which 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.

Mischief by destroying or moving or rendering less useful a lighthouse or seamark.

416. Whoever commits mischief by destroying or moving any lighthouse or other light used as a seamark, or any seamark or buoy or other thing placed as a guide for navigators, or by any act which renders any such lighthouse, seamark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving, &c., a landmark fixed by authority of a public officer.

417. Whoever commits mischief by destroying or moving any landmark fixed by the authority of a public officer, or by any act which renders such landmark 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 both.

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418. .Whoever commits mischief by fire or any explosive substance, 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, shall be punished with imprisonment of either description for a term which may extent to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to cause damage to the amount of one hundred rupees.

419. Whoever commits mischief by fire or any explosive substance, 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 imprisonment of either description for a term which may extend to fifteen years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house,&c.

420. Whoever commits mischief to any decked vessel or any vessel of a burden of ten tons or upwards, intending to destroy or render unsafe, or 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 which may extend to ten years, and shall also be liable to fine.

421. 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 imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of a burden of ten tons or upwards.

422. 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.

Punishment for the mischief described in the last section when committed by fire or any explosive substance.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

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Punishment for impeding the saving of a vessel.

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423. Whoever, without lawful excuse, endeavours in any way to prevent or impede the saving of any vessel stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel of such vessel or any wreck, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Punishment for removing or secreting wreck.

424. Whoever illegally carries away or removes any part of any vessel stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof or any wreck, and whoever illegally secretes any wreck or obliterates or defaces any marks thereon, shall be punished with imprisonment of either description which may extend to one year, or with fine, or with both.

Taking wreck into foreign port.

425. Whoever illegally takes into any foreign port or place any vessel stranded or derelict or otherwise in distress on or near the seashore or the shore of any tidal water of Sri Lanka, or any part of the Cargo or apparel thereof, or anything belonging thereto or any wreck found on or near such seashore or shore aforesaid, and there sells the same, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Explanation.—The word wreck used in sections 423, 424 and 425 includes jetsam, flotsam, lagan and derelict.

426. 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

Mischief committed after preparation made for causing death or hurt.

427. Whoever enters into or upon property in the occupation of another with intent to commit an

” Criminal trespass ”.

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offence, or to intimidate, insult, or annoy any person in occupation 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 ".

428. 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 ".

" House-trespass".

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

429. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit " lurking house-trespass ".

" Lurking house-trespass".

430. Whoever commits lurking house-trespass after sunset and before sunrise is said to commit " lurking house-trespass by night".

431. 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—

" Lurking house-trespass by night ".

" House-breaking

Firstly—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 by an abettor of the house-trespass.

Explanation.—Any outhouse 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 house 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.

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432. Whoever commits house-breaking after sunset and before sunrise is said to commit "house-breaking by night".

"House-breaking by night."

433. 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 one hundred rupees, or with both.

Punishment for criminal trespass.

434. 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.

Punishment for house-trespass.

435. Whoever commits house-trespass in order to the committing of any offence punishable with death shall be punished with rigorous imprisonment for a term not exceeding twenty years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with death.

436. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for ten years or more shall be punished with imprisonment of either description for a term not exceeding ten years, shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with imprisonment for ten years or more. House-trespass in order to the commission of an offence punishable with imprisonment for less than ten years.

437. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for less than ten years 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 the imprisonment may be extended to seven years.

House-trespass in order to the commission of an offence punishable with imprisonment for less than ten years.

438. 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

House-trespass after preparation made for causing hurt to any person.

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

Punishment for lurking house-trespass or house-breaking.

439. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Lurking house-trespass or housebreaking in order to the commission of an offence punishable with imprisonment.

440. Whoever commits lurking- house-trespass or house-breaking 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 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.

Lurking house-trespass or housebreaking after preparation made for causing hurt to any person.

441. 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.

Punishment for lurking house-trespass by night or house-breaking by night.

442. Whoever commits lurking house-trespass by night or house-breaking by night shall be punished with imprisonment or either description for a term which may extend to three years, and shall also be liable to fine.

Lurking house-trespass by night or house-breaking by night, in order to the commission of an offence punishable with imprisonment.

443. 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 imprisonment may be extended to fourteen years.

444. 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.

Lurking house-trespass by night or house-breaking by night after preparation made for causing hurt to any person.

445. Whoever, whilst committing lurking house- trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or greivous hurt to any person, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine, or to whipping.

Grievous hurt caused whilst committing lurking house-trespass or housebreaking.

446. 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-breaking by night shall be punished with imprisonment of either description for a term which may extend to twenty years and shall also be liable to fine.

All persons jointly concerned in lurking house-trespass by night or housebreaking by night to be punishable for death or grievous hurt caused by one of their number.

447. Whoever dishonestly, or with intent to commit mischief, breaks open or unfastens 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.

448. 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 cammit 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.

Dishonestly breaking open any closed receptacle containing or supposed to contain property.

Punishment for same offence when committed by person entrusted with custody.

Unlawful possession of housebreaking instrument or being armed with offensive weapon.

449. Whoever is found having in his custody or possession without lawful excuse, the proof of which lies on him, any instrument of house-breaking, or being armed with any dangerous or offensive weapon with intent to commit any unlawful act, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both, and such instrument or weapon shall be forfeited to the State.

Being found in a building, &c., for unlawful purpose.

450. Whoever is found in or upon any building or enclosure for any unlawful purpose, and whoever is found in or upon any building or enclosure and fails to give a satisfactory account of himself, shall be punished with imprisonment of either description for a term which may extend to three months, or with a fine not exceeding fifty rupees, or with both.

Loitering about by reputed thief.

451. Whoever, being a reputed thief, loiters or lurks about any public place or any wharf or warehouse or any vessel in any harbour or other water with intent to commit theft or any other unlawful act shall be punished with imprisonment of either description for a term which may extend to three months, or with a fine not exceeding fifty rupees, or with both.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS, PROPERTY-MARKS, CURRENCY NOTES AND BANK NOTES

(§2,19 of 1941.)

452. 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 the Government, 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 commit fraud, or that fraud may be committed, commits forgery.

Forgery.

453. A person is said to make a false document—

Making a false document.

Firstly—Who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed, by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, or at a time at which he knows that it was not made, signed, sealed, or executed ; or

Secondly—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material 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 a 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 100,000, intending that it may be believed by B that Z 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.

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- (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 promissory note and makes it payable to Z or his order, by writing on the note 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 the 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 alms 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 expressed or implied contract for service.

Explanation 1. A man's signature of his own name may amount to forgery.

Illustrations

- (a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.
- (b) A writes the word "accepted" on a piece of paper and signs 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 draws 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 same 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 granted before the seizure. B, though he executes the lease in his own name, commits forgery by ante-dating 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 ante-dates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of 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.

454. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

455. Whoever forges a document purporting to be a record or proceeding of or in a Court, or a register of birth, baptism, marriage, or burial, or a register kept by a public officer as such, or a certificate or document purporting to be made by a public officer in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgement, 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.

Punishment for forgery.

Forgery of a record of a Court or of a public register of births, &c.

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Forgery of a valuable security or will.

456. Whoever forges a document which purports to be a valuable security or a will, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, movable 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 movable property or valuable security, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Forgery for the purpose of cheating.

457. 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.

458. A false document made wholly or in part by forgery is designated "a forged document".

"A forged document".

459. 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.

Using as genuine a forged document.

460. 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 section 456, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable under section 456.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise.

461. 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 456, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be

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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.

462. 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 455, 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 document is one of the description mentioned in section 456, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Having possession of a forged record or valuable security or will known to be forged, with intent to use it as genuine.

463. 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 456, 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.

Counterfeiting a device or mark used for authenticating documents described in section 456, or possessing counterfeit marked material.

464. 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 456, 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.

Counterfeiting a device or mark used for authenticating documents other than those described in section 456, or possessing counterfeit marked material.

Section 19
Sending of false
message by
telegraph.

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465. Whoever knowingly causes to be transmitted by telegraph or tenders to any public officer employed in the Department of Posts or Department of Telecommunications for transmission any false message with intent to defraud, injure, or annoy any person, or to spread any false rumour, which may be detrimental to the Government or the interests of the public shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent
cancellation,
destruction,
& c., of a will.

466. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, injures, or defaces, or attempts to cancel, destroy, injure, or deface, or secretes or attempts to secrete any document which is or purports to be a will, or any valuable security, or any record, register, book, or document kept by any public officer in his capacity as such or by any person in pursuance of any enactment or Statute, or commits mischief in respect to such record, register, book, or document, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Falsification
of
accounts.

467. Whoever, being a clerk, officer, or servant, or being 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 making 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, or 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 naming 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.

468. (1) Whoever without lawful authority or excuse, the proof whereof shall lie on the person accused, shall have in his possession any imitation of any currency note, bank note or coin which is lawfully current in Sri Lanka or in any foreign country shall be guilty of an offence, and shall be liable to imprisonment of either description for any period not exceeding two years, or to fine, or to both.

Possession of any imitation of any currency note, bank note or coin. [§11,54 of 1939].

(2) For the purposes of this section the expression "imitation" includes cotton, silk or other woven goods impressed with designs in imitation of any currency note, bank note or coin lawfully current in Sri Lanka or in any foreign country.

OF PROPERTY-MARKS

469. A mark used for denoting that movable property belongs to a particular person is called a property-mark.

Property-mark.

470. Whoever marks any movable property or goods, or any case, package, or other receptacle containing movable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked, belong to a person to whom they do not belong, is said to " use a false property- mark".

" Using a false property mark ,

471. Whoever uses any false property-mark with intent to deceive or injure any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

472. Whoever with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by any 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.

Punishment for using a false property - mark with intent to deceive or injure any person.
Counterfeiting a property- mark used by another with intent to cause damage or injury.

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Counterfeiting property-mark used by a public officer, or any mark used by him to denote the manufacture, quality, &c., of any property.

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473. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public officer, or any mark used by a public officer to denote that any property has been manufactured by a particular person or at a particular time or place, or that the same 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.

Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property-mark.

474. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property-mark with intent to use the same for the purpose of counterfeiting such mark or has in his possession any such property-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandise were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which 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.

Knowingly selling goods marked with a counterfeit property-mark.

475. Whoever sells any goods with a counterfeit property-mark, whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to or impressed upon any goods or merchandise not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

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Fraudulently making a false mark upon any package or receptacle containing goods.

476. Whoever fraudulently makes any false marks upon any package or receptacle containing goods, with intent to cause any public officer or any other person to believe that such package or 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 package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

477. Whoever fraudulently makes use of any such Punishment false mark with intent last aforesaid, knowing such uc>r mAmg mark to be false, shall be punished in the manner such false mentioned in the last preceding section.
mark.

478. Whoever removes, destroys, or defaces any property-mark, intending 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 may extend to one year, or with fine, or with both.

Defacing any property, mark with intent to cause injury.

OF CURRENCY NOTES AND BANK NOTES

478A. (1) Whoever forges or counterfeits, or knowingly performs any part of the process of forging or counterfeiting, any currency note or bank note shall be punished with imprisonment of either description for a term which may extend to twenty years and shall also be liable to fine.

[§3, 19 of 1941.]

Counterfeiting currency notes or bank notes, [§3,19 of 1941.]

(2) For the purposes of this section and of sections 478B, 478C, and 478D—

(a) " 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 ;

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(b) "currency note" means a currency note issued under the Ceylon Paper Currency Ordinance, 1884, the Monetary Law Act (Chapter 422), or any enactment in operation for the time being relating to the issue of paper currency in Ceylon and includes any note of a similar character, by whatever name called, issued by any foreign state.

478B. Whoever sells to, or buys or receives from or 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 imprisonment of either description for a term which may extend to twenty years and shall also be liable to fine.

Possession of forged or counterfeit currency notes or bank notes. [§ 3, 19 of 1941]

478C. Whoever has in his possession any forged or counterfeit currency 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 twenty years or with fine or with both.

Making or possessing instrument or materials for forging or counterfeiting currency notes or bank notes. [§ 3, 19 of 1941.]

478D. 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 reason to believe that it is intended to be used, for forging or counterfeiting any currency note or bank note, shall be punished with imprisonment of either description for a term which may extend to twenty years and shall also be liable to fine.

CHAPTER XIX

OF DEFAMATION

479. 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.

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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 falls 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, falls, 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 falls within one of the exceptions.

First exception.—It is not defamation to impute anything which is true 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.

Second exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public officer 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 defamaton to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and reapecting his character, so far as his character appears in that conduct, and no further.

Imputation of any truth which the public good requires to be made or published. Conduct of a public officer in the discharge of his public functions.

Conduct of any person touching any public question.

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.

Publication of reports of proceedings of Courts.

Fourth exception.—It is not defamation to publish a substantially true report of the proceedings of a Court or of the result of any such proceedings.

Explanation.—A Magistrate or other officer holding an inquiry in open court preliminary to a trial in a Court is a court within the meaning of the above exception.

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

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, or respecting the conduct of any person as a 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 further.

(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.

Merits of a public performance.

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

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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.

(e) 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 any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good' faith any censure on the conduct of that other in matters to which such lawful authority relates.

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

Illustration

A Judge censuring in good faith the conduct of a witness or for 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 master ; if A in good faith complains of the conduct of Z; a child, to Z's father—A is within this exception.

Accusation against a person preferred in good faith to a person having lawful authority over that person.

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 the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations

(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 his honesty". A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

Imputation made in good faith by a person for the protection of his interests.

(b) A, a public officer, in making a report to his 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 the exception.

Caution intended for the good of the person to whom it is conveyed or for the public good. Punishment for defamation.

Printing or engraving matter known to be defamatory.

Sale of printed or engraved substance containing defamatory matter.

Punishment of persons reconvicted under this Chapter.

Criminal intimidation.

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Tenth exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended 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.

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

481. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

482. 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.

482A. Whoever, having been sentenced to a term of twelve months' imprisonment or upwards for an offence punishable under this Chapter shall again be convicted of any offence punishable under this Chapter, shall be liable for every such subsequent conviction, at the discretion of the court, to imprisonment of either description, which may extend to two years, or to fine, or to both such punishments.

CHAPTER XX

OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE

483. 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

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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 threatens 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.

484. 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.

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

485. Whoever circulates or publishes any statement, rumour, or report which he knows to be false, with intent to cause any officer, sailor, soldier, or airman in the Sri Lanka navy, Sri Lanka army, or Sri Lanka air force to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the State, & c.

486. 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 with imprisonment for a term which may extend to seven years, or 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.

Punishment for criminal intimidation.

If threat be to cause death or grievous hurt,

Criminal
intimidation by an
anonymous
communication **Cap. 19]**

PENAL CODE

487. Whoever commits the offence of criminal intimidation by an 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.

Illustration

A, writes an anonymous letter threatening B, and sends it to C, living with B, expecting and believing C would show the letter to B ; A is guilty under this section.

Misconduct in
public by
drunken
person.

488. Whoever, in a state of intoxication, appear in any public place or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER XXI

OF UNLAWFUL OATHS

Administering
or taking or
abetting the
administering
or taking of an
oath to commit
an offence.

489. Whoever administers or causes to be administered, or abets the administering or taking of any oath, engagement, or obligation in the nature of an oath, purporting or intending to bind the person taking the same to commit or abet the commission of any offence, or takes any such oath, engagement, or obligation, if the offence to which the oath, engagement, or obligation relates be punishable with death or imprisonment for twenty years, shall be punished with imprisonment of either description which may extend to twenty years, or with fine, or both, and if the offence is punishable with imprisonment for less than twenty years shall be punished with such punishment as may be awarded for the offence to which such oath, engagement, or obligation relates.

PENAL CODE

Cap. 19]

CHAPTER XXII

OF ATTEMPTS TO COMMIT OFFENCES

490. Whoever attempts to commit an offence punishable by this Code with 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 imprisonment of either description provided for the offence, for a term 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.

Punishment for attempting to commit offences punishable with imprisonment.

Illustrations

- (a) A, makes an attempt 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 consequence of Z having nothing in his pocket. A is guilty under this section.

(* See foot-note at page 284)

The Constitution of the Democratic Socialist Republic of Sri Lanka

The definition of "public officer" contained in Article 170 of the Constitution as follows :—

"public officer" means a person who holds any paid office under the Republic, other than a judicial officer but does not include—

- (a) the President ;
- (b) the Speaker;
- (c) a Minister;
- (d) a member of the Judicial Service Commission ;
- (e) a member of the Public Service Commission ; f) a Deputy Minister;
- (g) a Member of Parliament;
- (h) the Secretary-General of Parliament;
- (i) a member of the President's staff;
- (j) a member of the staff of the Secretary-General of Parliament.