

**THE INDIAN EVIDENCE ACT, 1872**

ACT No. 1 OF 1872\*

[15th March, 1872.]

Preamble.

Preamble.-WHEREAS it is expedient to consolidate, define and amend the law of Evidence;

It is hereby enacted as follows:--

PART I

RELEVANCY OF FACTS

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CHAPTER I

PRELIMINARY

CHAPTER I.-PRELIMINARY

1.

Short title.

Extent.

Commencement of Act.

1. Short title.-This Act may be called the Indian Evidence Act, 1872.

Extent.

Extent.-It extends to the whole of India 1\*[except the State of Jammu and Kashmir] and applies to all judicial proceedings in or before any Court, including Courts-martial, 2\*[other than Courts-martial convened under the Army Act, (29 & 30 Vict., c. 109)] 3\*[the Naval Discipline Act or 4\*\*\* the Indian Navy (Discipline) Act, 1934 (34 of 1934),] 5\*[or the Air Force Act] (7 Geo. 5, c. 51.) but not to affidavits 6\*

presented to any Court or officer, nor to proceedings before an arbitrator;

Commencement of Act.

Commencement of Act.-And it shall come into force on the first day of September, 1872.

2.

Repeal of enactments.

2. [Repeal of enactments.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

3.

Interpretation clause.

3. Interpretation clause.-In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context:-

"Court."

"Court" includes all Judges 7\* and Magistrates 8\*, and all persons, except arbitrators, legally authorized to take evidence.

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1 Extended to and brought into force in Dadra and Nagar Haveli (w.e.f. 1.7.65) by Reg. 6 of 1963, s.2 & Sch. I.

2 The Act comes into force in Pondicherry on 1.10.1963 vide Re. 7 of 1963, s. 3 and Sch. I.

3 Extended to Goa, Daman and Diu by Reg. 11 of 1963, s. 3 & Sch.

4 Extended to Laccadive, Minicoy and Amindivi Islands (w.e.f. 1-10-1067); vide Reg. 8 of 1965, s. 3 & Sch.  
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1. Subs. by Act 3 of 1951, s. 3 and Sch., for "except Part B States".

2. Ins. by Act 18 of 1919, s. 2 and Sch. I. See s. 127 of the Army Act (44 and 45 Vict., c. 58).

3. Ins. by Act 35 of 1934, s. 2 and Sch.

4. The words "that Act as modified by" rep. by the A. O. 1950.

5. Ins. by Act 10 of 1927, s. 2 and Sch. I.

6. As to practice relating to affidavits, see the Code of Civil Procedure, 1908 (Act 5 of 1908), s. 30 (c) and Sch. I, Order XIX.

See also the Code of Criminal Procedure, 1898 (Act 5 of 1898), ss. 539 and 539A.

7. Cf. the Code of Civil Procedure, 1908 (Act 5 of 1908), s. 2, the Indian Penal Code (Act 45 of 1860), s. 19; and, for a definition of "District Judge", the General Clauses Act, 1897 (10 of 1897), s. 3 (17).
8. Cf. the General Clauses Act, 1897 (10 of 1897), s. 3 (32) and Code of Criminal Procedure, 1898 (Act 5 of 1898).

\*Amended in W. Bengal by W. Ben. Act 20 of 1960.

Amended in Tamil Nadu by T.N. Act 67 of 1979.

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"Fact."

"Fact" means and includes--

(1) any thing, state of things, or relation of things, capable of being perceived by the senses;

(2) any mental condition of which any person is conscious.

#### Illustrations

(a) That there are certain objects arranged in a certain order in a certain place, is a fact.

(b) That a man heard or saw something, is a fact.

(c) That a man said certain words, is a fact.

(d) That a man holds a certain opinion, has a certain intention, acts in good faith or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.

(e) That a man has a certain reputation, is a fact.

"Relevant."

One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Act relating to the relevancy of facts.

"Facts in issue."

The expression "facts in issue" means and includes--

any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.

Explanation.--Whenever, under the provisions of the law for the time being in force relating to Civil Procedure, 1\* any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue is a fact in issue.

#### Illustrations

A is accused of the murder of B.

At his trial the following facts may be in issue:--

that A caused B's death;

that A intended to cause B's death;

that A had received grave and sudden provocation from B;

that A, at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.

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1. See now Code of Civil Procedure, 1908 (Act 5 of 1908); as to the settlement of issues, see Sch. I, Order XIV.

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"Document".

"Document" 1\* means 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, for the purpose of recording that matter.

#### Illustrations

A writing 2\* is a document:

2\* Words printed lithographed or photographed are documents:

A map or plan is a document:

An inscription on a metal plate or stone is a document:

A caricature is a document.

"Evidence."

"Evidence" means and includes--

(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry;

such statements are called oral evidence;

(2) all documents produced for the inspection of the Court;

such documents are called documentary evidence.

"Proved."

A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

"Disproved."

A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

"Not proved."

A fact is said not to be proved when it is neither proved nor disproved.

"India."

3\*["India" means the territory of India excluding the State of Jammu and Kashmir.]

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1. Cf. the Indian Penal Code (Act 45 of 1860), s. 29 and the General Clauses Act, 1897 (10 of 1897), s. 3 (18).
  2. Cf. definition of "writing" in the General Clauses Act, 1897 (10 of 1897), s. 3 (65).
  3. Subs. by Act 3 of 1951, s. 3 and Sch., for the definition of "State" and "States" which was ins. by the A. O. 1950.

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4.

"May presume."

"Shall Presume."

"Conclusive proof."

4. "May presume."-Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it:

"Shall presume."-Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved:

"Conclusive proof."-When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.

## CHAPTER II

### OF THE RELEVANCY OF FACTS

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5.

Evidence may be given of facts in issue and relevant facts.

5. Evidence may be given of facts in issue and relevant facts.- Evidence may be given in any suit or proceeding of the existence of non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others.

Explanation.--This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure. 1\*

#### Illustrations

(a) A is tried for the murder of B by beating him with a club with the intention of causing his death.

At A's trial the following facts are in issue:--

A's beating B with the club;

A's causing B's death by such beating;

A's intention to cause B's death.

(b) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure 1\*.

6.

Relevancy of facts forming part of same transaction.

6. Relevancy of facts forming part of same transaction.-Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

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1. See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

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#### Illustrations

(a) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.

(b) A is accused of waging war against the 1\*[Government of India] by taking part in an armed insurrection in which property is destroyed, troops are attacked and gaols are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.

(c) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself.

(d) The question is, whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.

7.

Facts which are the occasion, cause or effect of facts in issue.

7. Facts which are the occasion, cause or effect of facts in issue.-Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, which afforded an opportunity for their occurrence or transaction, are relevant.

#### Illustrations

(a) The question is, whether A robbed B.

The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it or mentioned the fact that he had it, to third persons, are relevant.

(b) The question is, whether A murdered B.

Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts.

(c) The question is, whether A poisoned B.

The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.

8.

Motive, preparation and previous or subsequent conduct.

8. Motive, preparation and previous or subsequent conduct.--Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

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1. Subs. by the A. O. 1950 for "Queen".

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Explanation 1.--The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Act.

Explanation 2.--When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

#### Illustrations

(a) A is tried for the murder of B.

The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.

(b) A sues B upon a bond for the payment of money. B denies the making of the bond.

The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant.

(c) A is tried for the murder of B by poison.

The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.

(d) The question is, whether a certain document is the will of A.

The facts that, not long before the date of the alleged will, A made inquiry into matters to which the provisions of the alleged will relate, that he consulted vakils in reference to making the will, and that he caused drafts of other wills to be prepared of which he did not approve, are relevant.

(e) A is accused of a crime.

The facts that, either before or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.

(f) The question is, whether A robbed B.

The facts that, after B was robbed, C said in A's presence- "the police are coming to look for the man who robbed B," and that immediately afterwards A ran away, are relevant.

(g) The question is, whether A owes B rupees 10,000.

The facts that A asked C to lend him money, and that D said to C in A's presence and hearing- "I advise you not to trust A, for he owes B 10,000 rupees," and that A went away without making any answer, are relevant facts.

(h) The question is, whether A committed a crime.

The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter, are relevant.

(i) A is accused of a crime.

The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the

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crime, or attempted to conceal things which were or might have been used in committing it, are relevant.

(j) The question is, whether A was ravished.

The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though it may be relevant as a dying declaration under section 32, clause (1),

or as corroborative evidence under section 157.

(k) The question is, whether A was robbed.

The fact that, soon after the alleged robbery, he made a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that he said he had been robbed without making any complaint, is not relevant, as conduct under this section, though it may be relevant as a dying declaration under section 32, clause (1), or as corroborative evidence under section 157.

9.

Facts necessary to explain or introduce relevant facts.

9. Facts necessary to explain or introduce relevant facts.-Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of any thing or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

#### Illustrations

(a) The question is, whether a given document is the will of A.

The state of A's property and of his family at the date of the alleged will may be relevant facts.

(b) A sues B for a libel imputing disgraceful conduct to A ; B affirms that the matter alleged to be libellous is true.

The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue.

The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.

(c) A is accused of a crime.

The fact that, soon after the commission of the crime, A absconded from his house, is relevant under section 8, as conduct subsequent to and affected by facts in issue.

The fact that at the time when he left home he had sudden and urgent business at the place to which he went, is relevant, as tending to explain the fact that he left home suddenly.

The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.

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(d) A sues B for inducing C to break a contract of service made by him with A. C, on leaving A's service, says to A-"I am leaving you because B has made me a better offer." This statement is a relevant fact as explanatory of C's conduct, which is relevant as a fact in issue.

(e) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B says as he delivers it-"A says your are to hide this." B's statement is relevant as explanatory of a fact which is part of the transaction.

(f) A is tried for a riot and is proved to have marched at the head of a mob. The cries of the mob are relevant as explanatory of the nature of the transaction.

10.

Things said or done by conspirator in reference to common design.

10. Things said or done by conspirator in reference to common design. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

#### Illustration

Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the 1\*[Government of India].

The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Calcutta for a like object, D persuaded persons to join the conspiracy in Bombay, E published writings advocating the object in view at Agra, and F transmitted from Delhi to G at Kabul the money which C had collected at Calcutta, and the contents of a letter written by H giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.

11.

When facts not otherwise relevant become relevant.

11. When facts not otherwise relevant become relevant.--Facts not otherwise relevant are relevant--

(1) if they are inconsistent with any fact in issue or relevant fact;

(2) if by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

#### Illustrations

(a) The question is whether A committed a crime at Calcutta on a certain day.

The fact that, on that day, A was at Lahore is relevant.

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1. Subs. by the A. O. 1950 for "Queen".

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The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant.

(b) The question is, whether A committed a crime.

The circumstances are such that the crime must have been committed either by A, B, C or D. Every fact which shows that the crime could have been committed by no one else and that it was not committed by either B, C or D, is relevant.

12.

In suits for damages, facts tending to enable Court to determine amount are relevant.

12. In suits for damages, facts tending to enable Court to determine amount are relevant. In suits in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded, is relevant.

13.

Facts relevant when right or custom is in question.

13. Facts relevant when right or custom is in question.-Where the question is as to the existence of any right or custom, the following facts are relevant:-

- (a) any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted or denied, or which was inconsistent with its existence:
- (b) particular instances in which the right or custom was claimed, recognized or exercised, or in which its exercise was disputed, asserted or departed from.

Illustration.

The question is whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcilable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours, are relevant facts.

14.

Facts showing existence of state of mind, or of body, or bodily feeling.

14. Facts showing existence of state of mind, or of body, of bodily feeling.-Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling, is in issue or relevant.

1\*[Explanation 1.--A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

Explanation 2.--But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is

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1. Subs. by Act 3 of 1891, s. 1, for the original Explanation.  
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relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact. 1\*]

Illustrations.

- (a) A is accused of receiving stolen goods knowing them to be

stolen. It is proved that he was in possession of a particular stolen article.

The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.

2\*[(b) A is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant.

The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant.]

(c) A sues B for damage done by a dog of B's which B knew to be ferocious.

The facts that the dog had previously bitten X, Y and Z, and that they had made complaints to B, are relevant.

(d) The question is whether A, the acceptor of a bill of exchange, knew that the name of a payee was fictitious.

The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant, as showing that A knew that the payee was a fictitious person.

(e) A is accused of defaming B by publishing an imputation intended to harm the reputation of B.

The fact of previous publications by A respecting B, showing ill-will on the part of A towards B is relevant, as proving A's intention to harm B's reputation by the particular publication in question.

The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B.

(f) A is sued by B for fraudulently representing to B that C was solvent, whereby B, being induced to trust C, who was insolvent, suffered loss.

The fact that, at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith.

(g) A is sued by B for the price of work done by B, upon a house of which A is owner, by the order of C, a contractor.

A's defence is that B's contract was with C.

The fact that A paid C for the work in question is relevant, as proving that A did, in good faith, make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.

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1. See the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 311.
  2. Subs. by Act 3 of 1891, s. 1, for the original illustration (b).

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(h) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found.

The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found.

The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and wished to set up a false claim to it, is relevant, as showing that the fact that A knew of the notice did not disprove A's good faith.

(i) A is charged with shooting at B with intent to kill him, In order to show A's intent the fact of A's having previously shot at B may be proved.

(j) A is charged with sending threatening letters to B. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters.

(k) The question is, whether A has been guilty of cruelty towards B, his wife.

Expressions of their feeling towards each other shortly before or after the alleged cruelty are relevant facts.

(l) The question is whether A's death was caused by poison.

Statements made by A during his illness as to his symptoms are relevant facts.

(m) The question is, what was the state of A's health at the time when an assurance on his life was effected.

Statements made by A as to the state of his health at or near the time in question are relevant facts.

(n) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use, whereby A was injured.

The fact that B's attention was drawn on other occasions to the defect of that particular carriage is relevant.

The fact that B was habitually negligent about the carriages

which he let to hire is irrelevant.

(o) A is tried for the murder of B by intentionally shooting him dead.

The fact that A on other occasions shot at B is relevant as showing his intention to shoot B.

The fact that A was in the habit of shooting at people with intent to murder them, is irrelevant.

(p) A is tried for a crime.

The fact that he said something indicating an intention to commit that particular crime is relevant.

The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant.

15.

Facts bearing on question whether act was accidental or intentional.

15. Facts bearing on question whether act was accidental or intentional.-When there is a question whether an act was accidental or intentional, 1\*[or done with a particular knowledge or intention,] the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

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1. Ins. by Act 3 of 1891, s. 2.  
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#### Illustrations

(a) A is accused of burning down his house in order to obtain money for which it is insured.

The facts that A lived in several houses successively each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that the fires were not accidental.

(b) A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.

The question is, whether this false entry was accidental or intentional.

The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are

relevant.

(c) A is accused of fraudulently delivering to B a counterfeit rupee.

The question is, whether the delivery of the rupee was accidental.

The facts that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E are relevant, as showing that the delivery to B was not accidental.

16.

Existence of course of business when relevant.

16. Existence of course of business when relevant.-When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

#### Illustrations

(a) The question is, whether a particular letter was despatched.

The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that particular letter was put in that place are relevant.

(b) The question is, whether a particular letter reached A. The facts that it was posted in due course, and was not returned through the Dead Letter Office, are relevant.

#### ADMISSIONS

17.

Admission defined.

17. Admission defined.-An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.

18.

Admission-by party to proceeding or his agent;

by suitor in representative character;

by party interested in subject matter;

by person from whom interest derived.

18. Admission by party to proceeding or his agent.-Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions.

by suitor in representative character-Statements made by parties to suits suing or sued in a representative character, are not admissions, unless they were made while the party making them held that character.

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Statements made by--

by party interested in subject matter;

- (1) persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested, or

by person from whom interest derived.

- (2) persons from whom the parties to the suit have derived their interest in the subject-matter of the suit,

are admissions, if they are made during the continuance of the interest of the persons making the statements.

19.

Admissions by persons whose position must be proved as against party to suit.

19. Admissions by persons whose position must be proved as against party to suit.-Statements made by persons whose position or liability it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.

#### Illustration

A undertakes to collect rents for B.

B sues A for not collecting rent due from C to B.

A denies that rent was due from C to B.

A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.

20.

Admissions by persons expressly referred to by party to suit.

20. Admissions by persons expressly referred to by party to suit.- Statements made by person to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.

#### Illustration

The question is, whether a horse sold by A to B is sound.

A says to B--"Go and ask C, C knows all about it." C's statement is an admission.

21.

Proof of admissions against persons making them, and by or on their behalf.

21. Proof of admissions against persons making them, and by or on their behalf.-Admissions are relevant and may be proved as against the person who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases:-

- (1) An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under section 32.
- (2) An admission may be proved by or on behalf of the person making it, when it consists of a statement of the existence

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of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.

- (3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.

#### Illustrations

(a) The question between A and B is, whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged.

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that deed is forged; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.

(b) A, the captain of a ship, is tried for casting her away.

Evidence is given to show that the ship was taken out of her proper course.

A produces a book kept by him in the ordinary course of his business showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties, if he were dead, under section 32, clause (2).

(c) A is accused of a crime committed by him at Calcutta.

He produces a letter written by himself and dated at Lahore on that day, and bearing the Lahore post-mark of that day.

The statement in the date of the letter is admissible, because, if A were dead, it would be admissible under section 32, clause (2).

(d) A is accused of receiving stolen goods knowing them to be stolen.

He offers to prove that he refused to sell them below their value.

A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.

(e) A is accused of fraudulently having in his possession counterfeit coin which he knew to be counterfeit.

He offers to prove that he asked a skilful person to examine the coin as he doubted whether it was counterfeit or not, and that that person did examine it and told him it was genuine.

A may prove these facts for the reasons stated in the last preceding illustration.

22.

When oral admissions as to contents of documents are relevant.

22. When oral admissions as to contents of documents are relevant.-Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the

genuineness of a document produced is in question.

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23.

Admissions in civil cases when relevant.

23. Admissions in civil cases when relevant.-In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.

Explanation.--Nothing in this section shall be taken to exempt any barrister, pleader, attorney or vakil from giving evidence of any matter of which he may be compelled to give evidence under section 126.

24.

Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.

24. Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.-A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise 1\* having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

25.

Confession to police-officer not to be proved.

25. Confession to police-officer not to be proved.-No confession made to a police-officer2\*, shall be proved as against a person accused of any offence.

26.

Confession by accused while in custody of police not to be proved

against him.

26. Confession by accused while in custody of police not to be proved against him.-No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, 3\* shall be proved as against such person.

4\*[Explanation.--In this section "Magistrate" does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George 5\*\*\* or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 18826\* (10 of 1882).]

27.

How much of information received from accused may be proved.

27. How much of information received from accused may be proved.- Provided that, when any fact is proved to be as discovered in consequence of information received from a person accused of any

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1. For prohibition of such inducements, etc., see the Code of Criminal Procedure 1898 (Act 5 of 1898), s. 343.
  2. As to statements made to a police-officer investigating a case, see s. 162, *ibid*.
  3. A Coroner has been declared to be a Magistrate for the purposes of this section, see the Coroners Act, 1871 (4 of 1871), s. 20.
  4. Ins. by Act 3 of 1891, s. 3.
  5. The words "or in Burma" rep. by the A. O. 1937.
  6. See now the Code of Criminal Procedure, 1898 (Act 5 of 1898).
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offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

28.

Confession made after removal of impression caused by inducement, threat or promise, relevant.

28. Confession made after removal of impression caused by inducement, threat or promise, relevant.-If such a confession as is referred to in section 24 is made after the impression caused by any such inducement, threat or promise has, in the opinion of the Court, been fully removed, it is relevant.

29.

Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.

29. Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.-If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

30.

Consideration of proved confession affecting person making it and others jointly under trial for same offence.

30. Consideration of proved confession affecting person making it and others jointly under trial for same offence.-When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.

1\*[Explanation.-"Offence" as used in this section, includes the abetment of, or attempt to commit, the offence.\*2]

#### Illustrations

(a) A and B are jointly tried for the murder of C. It is proved that A said--"B and I murdered C". The Court may consider the effect of this confession as against B.

(b) A is on his trial for the murder of C. There is evidence to show that C was murdered by A and B, and that B said--"A and I murdered C".

This statement may not be taken into consideration by the Court against A, as B is not being jointly tried.

31.

Admissions not conclusive proof, but may estop.

31. Admissions not conclusive proof, but may estop.-Admissions

are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained.

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1. Ins. by Act 3 of 1891, s. 4.
  2. Cf. the Indian Penal Code (Act 45 of 1860), Explanation 4 to s. 108.
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STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES

32.

Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.

When it relates to cause of death;

or is made in course of business;

or against interest of maker;

or gives opinion as to public right or custom, or matters of general interest;

or relates to existence of relationship;

or is made in will or deed relating to family affairs;

or in document relating to transaction mentioned in section 13, clause (a);

or is made by several persons and expresses feelings relevant to matter in question;

32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.-Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:--

When it relates to cause of death.-

- (1) When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant whether the person who made them was or was not, at the time when they were made,

under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

or is made in course of business;

- (2) When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.

or against interest of maker;

- (3) When the statement is against the pecuniary or proprietary interest of the person making it, or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.

or gives opinion as to public right or custom, or matters of general interest;

- (4) When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter had arisen.

or relates to existence of relationship.-

- (5) When the statement relates to the existence of any relationship 1\*[by blood, marriage or adoption] between persons as to whose relationship 1\*[by blood, marriage or adoption]

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1. Ins. by Act 18 of 1872, s. 2.

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the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.

or is made in will or deed relating to family affairs;

- (6) When the statement relates to the existence of any relationship 1\*[by blood, marriage or adoption] between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such

deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.

or in document relating to transaction mentioned in section 13, clause (a);

- (7) When the statement is contained in any deed, will or other document which relates to any such transaction as is mentioned in section 13, clause (a).

or is made by several persons and expresses feelings relevant to matter in question.

- (8) When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

#### Illustrations.

- (a) The question is, whether A was murdered by B; or

A dies of injuries received in a transaction in the course of which she was ravished. The question is whether she was ravished by B; or

The question is, whether A was killed by B under such circumstances that a suit would lie against B by A's widow.

Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape and the actionable wrong under consideration, are relevant facts.

- (b) The question is as to the date of A's birth.

An entry in the diary of a deceased surgeon regularly kept in the course of business, stating that, on a given day he attended A's mother and delivered her of a son, is a relevant fact.

- (c) The question is, whether A was in Calcutta on a given day.

A statement in the diary of a deceased solicitor, regularly kept in the course of business, that on a given day the solicitor attended A at a place mentioned, in Calcutta, for the purpose of conferring with him upon specified business, is a relevant fact.

(d) The question is, whether a ship sailed from Bombay harbour on a given day.

A letter written by a deceased member of a merchant's firm by which she was chartered to their correspondents in London, to whom the cargo was consigned, stating that the ship sailed on a given day from Bombay harbour, is a relevant fact.

(e) The question is, whether rent was paid to A for certain land.

A letter from A's deceased agent to A, saying that he had received the rent on A's account and held it at A's orders, is a relevant fact.

(f) The question is, whether A and B were legally married.

The statement of a deceased clergyman that he married them under such circumstances that the celebration would be a crime, is relevant.

(g) The question is, whether A, a person who cannot be found, wrote a letter on a certain day. The fact that a letter written by him is dated on that day is relevant.

(h) The question is, what was the cause of the wreck of a ship.

A protest made by the Captain, whose attendance cannot be procured, is a relevant fact.

(i) The question is, whether a given road is a public way.

A statement by A, a deceased headman of the village, that the road was public, is a relevant fact.

(j) The question is, what was the price of grain on a certain day in a particular market.

A statement of the price, made by a deceased banya in the ordinary course of his business, is a relevant fact.

(k) The question is, whether A, who is dead, was the father of B.

A statement by A that B was his son, is a relevant fact.

(l) The question is, what was the date of the birth of A.

A letter from A's deceased father to a friend, announcing the birth of A on a given day, is a relevant fact.

(m) The question is, whether, and when, A and B were married.

An entry in a memorandum-book by C, the deceased father of B, of his daughter's marriage with A on a given date, is a relevant fact.

(n) A sues B for a libel expressed in a painted caricature exposed in a shop window. The question is as to the similarity of the caricature and its libellous character. The remarks of a crowd of spectators on these points may be proved.

the truth of facts therein stated.

33. Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.-Evidence given by a witness in a judicial proceeding, or before any person authorized by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable;

Provided--

that the proceeding was between the same parties or their representatives in interest;

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that the adverse party in the first proceeding had the right and opportunity to cross-examine;

that the questions in issue were substantially the same in the first as in the second proceeding.

Explanation.--A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this section.

#### STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES

34.

Entries in books of account when relevant.

34. Entries in books of account when relevant.-1\* Entries in books of account, regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

#### Illustration

A sues B for Rs. 1,000, and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient, without other evidence, to prove the debt.

35.

Relevancy of entry in public record made in performance of duty.

35. Relevancy of entry in public record made in performance of duty.-An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact.

36.

Relevancy of statements in maps, charts and plans.

36. Relevancy of statements in maps, charts and plans.-Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of 2\*[the Central Government or any State Government], as to matters usually represented or stated in such maps, charts or plans, are themselves relevant facts.

37.

Relevancy of statement as to fact of public nature contained in certain Acts or notifications.

37. Relevancy of statement as to fact of public nature contained in certain Acts or notifications.-When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Act of Parliament 3\*[of the United Kingdom] or in

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1. Cf. the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. I, Order VII, Rule 17. As to admissibility in evidence of certified copies of entries in Bankers' books, see the Bankers' Books Evidence Act, 1891 (18 of 1891), s. 4.
  2. Subs. by the A. O. 1948 for "any Govt. in British India".
  3. Ins by the A. O. 1950.

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any 1\*[Central Act, Provincial Act or 2\*[a State Act] or in a Government notification or notification by the Crown Representative appearing in the Official Gazette or in any printed paper purporting to be the London Gazette or the Government Gazette of any Dominion, colony or possession of his Majesty is a relevant fact].

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38.

Relevancy of statements as to any law contained in law-books.

38. Relevancy of statements as to any law contained in law-books.- When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.

#### HOW MUCH OF A STATEMENT IS TO BE PROVED

39.

What evidence to be given when statement forms part of a conversation, document, book or series of letters or papers.

39. What evidence to be given when statement forms part of a conversation, document, book or series of letters or papers.-When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.

#### JUDGMENTS OF COURTS OF JUSTICE WHEN RELEVANT

40.

Previous judgments relevant to bar a second suit or trial.

40. Previous judgments relevant to bar a second suit or trial.- The existence of any judgment, order or decree which by law prevents any Court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such Court ought to take cognizance of such suit or to hold such trial.

41.

Relevancy of certain judgments in probate, etc., jurisdiction.

41. Relevancy of certain judgments in probate, etc., jurisdiction.-A final judgment, order or decree of a competent Court, in the exercise of probate, matrimonial, admiralty or insolvency jurisdiction,

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1. The original words were "Act of the Governor General of India in Council or of the Governors in Council of Madras or Bombay, or of the Lieutenant-Governor in Council of Bengal, or in a notification of the Govt. appearing in the Gazette of India, or in the Gazette of any L. G., or in any printed paper purporting to be the London Gazette or the Govt. Gazette of any colony or possession of the Queen, is a relevant fact". This was amended first by the Repealing and Amending Act, 1914 (10 of 1914), and then by the

A.O.

1937, the A. O. 1948 and the A. O. 1950 to read as above.

2. Subs. by Act 3 of 1951, s. 3 and Sch., for "an Act of the Legislature of a Part A State or a Part C State".
3. The last paragraph omitted by Act 10 of 1914.

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which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.

Such judgment, order or decree is conclusive proof-

that any legal character which it confers accrued at the time when such judgment, order or decree came into operation;

that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment 1\*[order or decree] declares it to have accrued to that person;

that any legal character which it takes away from any such person ceased at the time from which such judgment, 1\*[order or decree] declared that it had ceased or should cease;

and that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, 1\*[order or decree] declares that it had been or should be his property.

42.

Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 41.

42. Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 41.-Judgments, orders or decrees other than those mentioned in section 41 are relevant if they relate to matters of a public nature relevant to the enquiry; but such judgments, orders or decrees are not conclusive proof of that which they state.

#### Illustration

A sues B for trespass on his land. B alleges the existence of a public right of way over the land, which A denies.

The existence of a decree in favour of the defendant, in a suit by A against C for a trespass on the same land, in which C alleged the existence of the same right of way, is relevant, but it is not conclusive proof that the right of way exists.

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Judgments, etc., other than those mentioned in sections 40 to 42, when relevant.

43. Judgments, etc., other than those mentioned in sections 40 to 42, when relevant.-Judgments, orders or decrees, other than those mentioned in sections 40, 41 and 42, are irrelevant, unless the existence of such

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1 Ins. by Act 18 of 1872, s. 3.  
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judgment, order or decree is a fact in issue, or is relevant under some other provision of this Act.

#### Illustrations

(a) A and B separately sue C for a libel which reflects upon each of them. C in each case says that the matter alleged to be libellous is true, and the circumstances are such that it is probably true in each case, or in neither.

A obtains a decree against C for damages on the ground that C failed to make out his justification. The fact is irrelevant as between B and C.

(b) A prosecutes B for adultery with C, A's wife.

B denies that C is A's wife, but the Court convicts B of adultery.

Afterwards, C is prosecuted for bigamy in marrying B during A's

lifetime. C says that she never was A's wife.

The judgment against B is irrelevant as against C.

(c) A prosecutes B for stealing a cow from him. B is convicted.

A afterwards sues C for the cow, which B had sold to him before his conviction. As between A and C, the judgment against B is irrelevant.

(d) A has obtained a decree for the possession of land against B. C, B's son, murders A in consequence.

The existence of the judgment is relevant, as showing motive for a crime.

1\*[(e) A is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.

(f) A is tried for the murder of B. The fact that B prosecuted A for libel and that A was convicted and sentenced is relevant under section 8 as showing the motive for the fact in issue.]

44.

Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.

44. Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.-Any party to a suit or other proceeding may show that any judgment, order or decree which is relevant under section 40,41 or 42, and which has been proved by the adverse party, was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion.

#### OPINIONS OF THIRD PERSONS WHEN RELEVANT

45.

Opinions of experts.

45. Opinions of experts.-When the Court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of handwriting 2\*[or finger impressions], the opinions upon that point of persons specially skilled in such foreign law, science or art, 3\*[or in questions as to identity of handwriting] 2\*[or finger impressions] are relevant facts.

Such persons are called experts.

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1. Ins. by Act 3 of 1891, s. 5.
2. Ins. by Act 5 of 1899, s. 3. For discussion in Council as to whether "finger impressions" include "thumb impressions," see Gazette of India, 1898, Pt. VI, p. 24.
3. Ins. by Act 18 of 1872, s. 4.

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#### Illustrations

(a) The question is, whether the death of A was caused by poison.

The opinions of experts as to the symptoms produced by the poison by which A is supposed to have died, are relevant.

(b) The question is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.

(c) The question is, whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.

The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.

46.

Facts bearing upon opinions of experts.

46. Facts bearing upon opinions of experts.-Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.

#### Illustrations

(a) The question is, whether A was poisoned by a certain poison.

The fact that other persons, who were poisoned by that poison, exhibited certain symptoms which experts affirm or deny to be the symptoms of that poison, is relevant.

(b) The question is, whether an obstruction to a harbour is caused by a certain sea-wall.

The fact that other harbours similarly situated in other

respects, but where there were no such sea-walls, began to be obstructed at about the same time, is relevant.

47.

Opinion as to handwriting, when relevant.

47. Opinion as to hand-writing, when relevant.--When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.

Explanation.--A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

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#### Illustration

The question is, whether a given letter is in the handwriting of A, a merchant in London.

B is a merchant in Calcutta, who has written letters addressed to A and received letters purporting to be written by him. C, is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising with him thereon.

The opinions of B, C and D on the question whether the letter is in the handwriting of A are relevant, though neither B, C nor D ever saw A write.

48.

Opinion as to existence of right or custom, when relevant.

48. Opinion as to existence of right or custom, when relevant.--When the Court has to form an opinion as to the existence of any general custom or right, the opinions, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, are relevant.

Explanation.--The expression "general custom or right" includes customs or rights common to any considerable class of persons.

### Illustration

The right of the villagers of a particular village to use the water of a particular well is a general right within the meaning of this section.

49.

Opinion as to usages, tenets, etc., when relevant.

49. Opinion as to usages, tenets, etc., when relevant.-When the Court has to form an opinion as to--

the usages and tenets of any body of men or family,

the constitution and government of any religious or charitable foundation, or

the meaning of words or terms used in particular districts or by particular classes of people,

the opinions of persons having special means of knowledge thereon, are relevant facts.

50.

Opinion on relationship, when relevant.

50. Opinion on relationship, when relevant.-When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact:

Provided that such opinion shall not be sufficient to prove a marriage in proceedings under the Indian Divorce Act (4 of 1869), or in prosecutions under sections 494, 495, 497 or 498 of the Indian Penal Code (45 of 1860).

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### Illustrations

(a) The question is, whether A and B, were married.

The fact that they were usually received and treated by their friends as husband and wife, is relevant.

(b) The question is, whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is

relevant.

51.

Grounds of opinion, when relevant.

51. Grounds of opinion, when relevant.-Whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant.

#### Illustration

An expert may give an account of experiments performed by him for the purpose of forming his opinion.

#### CHARACTER WHEN RELEVANT

52.

In civil cases character to prove conduct imputed, irrelevant.

52. In civil cases character to prove conduct imputed, irrelevant.-In civil cases the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him is irrelevant, except in so far as such character appears from facts otherwise relevant.

53.

In criminal cases previous good character relevant.

53. In criminal cases previous good character relevant.-In criminal proceedings the fact that the person accused is of a good character is relevant.

54.

Previous bad character not relevant, except in reply.

1\*[54. Previous bad character not relevant, except in reply.-In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

Explanation 1.--This section does not apply to cases in which the

bad character of any person is itself a fact in issue.

Explanation 2.--A previous conviction is relevant as evidence of bad character.]

55.

Character as affecting damages.

55. Character as affecting damages.--In civil cases the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.

Explanation.--In sections 52, 53, 54 and 55, the word "character" includes both reputation and disposition; but, 2\*[except as provided in section 54], evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.

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1. Subs. by Act 3 of 1891, s. 6, for the original section.
  2. Ins. by s. 7, *ibid.*

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PART II

ON PROOF

PART II

ON PROOF

CHAPTER III

FACTS WHICH NEED NOT BE PROVED

CHAPTER III.

FACTS WHICH NEED NOT BE PROVED

56.

Fact judicially noticeable need not be proved.

56. Fact judicially noticeable need not be proved. No fact of

which the Court will take judicial notice need be proved.

57.

Facts of which Court must take judicial notice.

57. Facts of which Court must take judicial notice. The Court shall take judicial notice of the following facts:--

- 1\*[(1) All laws in force in the territory of India;]
- (2) All public Acts passed or hereafter to be passed by Parliament 2\*[of the United Kingdom], and all local and personal Acts directed by Parliament 2\*[of the United Kingdom] to be judicially noticed;
- (3) Articles of War for 3\*[the Indian] Army 4\*[Navy or Air Force];
- 5\*[(4) The course of proceeding of Parliament of the United Kingdom, of the Constituent Assembly of India, of Parliament and of the legislatures established under any laws for the time being in force in a Province or in the States;]
- (5) The accession and the sign manual of the Sovereign for the time being of the United Kingdom of Great Britain and Ireland:
- (6) All seals of which English Courts take judicial notice; the seals of all the 6\*[Courts in 7\*[India]] and of all Courts out of 7\*[India] established by the authority of 8\*[the Central Government or the Crown Representative]: the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public, and all seals which any person

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1. Subs. by the A. O. 1950 for the former para.
  2. Ins. *ibid.*
  3. Subs., *ibid.*, for "Her Majesty's".
  4. Subs. by Act 10 of 1927, s. 2 and Sch. I, for "or Navy".
  5. Subs. by the A. O. 1950 for the former para. (4).
  6. Subs. by the A. O. 1948 for "Courts of British India".
  7. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  8. Subs. by the A. O. 1937 for "the G. G. or any L. G. in Council".

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is authorized to use by 1\*[the Constitution or an Act of Parliament of the United Kingdom or an] Act or Regulation having the force of law in 2\*[India];

- (7) The accession to office, names, titles, functions and signatures of the persons filling for the time being

any public office in any State, if the fact of their appointment to such office is notified in 3\*[any Official Gazette];

- (8) The existence, title and national flag of every State or Sovereign recognized by 4\*[the Government of India];
- (9) The divisions of time, the geographical divisions of the world, and public festivals, fasts and holidays notified in the Official Gazette;
- (10) The territories under the dominion of 4\*[the Government of India];
- (11) The commencement, continuance and termination of hostilities between 4\*[the Government of India] and any other State or body of persons;
- (12) The names of the members and officers of the Court and of their deputies and subordinate offices and assistants, and also of all officers acting in execution of its process, and of all advocates, attorneys, proctors, vakils, pleaders and other persons authorized by law to appear or act before it;
- (13) The rule of the road 5\*[on land or at sea].

In all these cases and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.

If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

58.

Facts admitted need not be proved.

58. Facts admitted need not be proved. No fact need be proved in any proceeding which the parties thereto their agents agree to admit at the hearing, or which, before

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- 1. Subs. by the A. O. 1950 for "any Act of Parliament or other".
  - 2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  - 3. Subs. by the A. O. 1937 for "the Gazette of India or in the Official Gazette of any L. G."
  - 4. Subs. by the A. O. 1950 for "the British Crown".
  - 5. Ins. by Act 18 of 1872, s. 5.

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the hearing, they agree to admit by any writing under their hands, or

which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

#### CHAPTER IV

#### OF ORAL EVIDENCE

#### CHAPTER IV.

#### OF ORAL EVIDENCE

59.

Proof of facts by oral evidence.

59. Proof of facts by oral evidence. All facts, except the contents of documents, may be proved by oral evidence.

60.

Oral evidence must be direct.

60. Oral evidence must be direct. Oral evidence must, in all cases whatever, be direct; that is to say--

if it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

if it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;

if it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;

if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds:

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay

or expense which the Court regards as unreasonable:

Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.

## CHAPTER V

### OF DOCUMENTARY EVIDENCE

#### CHAPTER V.

#### OF DOCUMENTARY EVIDENCE

61.

Proof of contents of documents.

61. Proof of contents of documents. The contents of documents may be proved either by primary or by secondary evidence.

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62.

Primary evidence.

62. Primary evidence. Primary evidence means the document itself produced for the inspection of the Court.

Explanation 1.--Where a document is executed in several parts, each part is primary evidence of the document:

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

Explanation 2.--Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.

#### Illustration

A person is shown to have been in possession of a number of placards, all printed at one time from one original. Any one of the

placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.

63.

Secondary evidence.

63. Secondary evidence. Secondary evidence means and includes--

- (1) certified copies given under the provisions hereinafter contained; 1\*
- (2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;
- (3) copies made from or compared with the original;
- (4) counterparts of documents as against the parties who did not execute them;
- (5) oral accounts of the contents of a document given by some person who has himself seen it.

#### Illustrations

(a) A photograph of an original is secondary evidence of its contents, though the two have not been compared, if it is proved that the thing photographed was the original.

(b) A copy compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.

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1. See s. 76, *infra*.

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(c) A copy transcribed from a copy, but afterwards compared with the original, is secondary evidence; but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.

(d) Neither an oral account of a copy compared with the original, nor an oral account of a photograph or machine-copy of the original, is secondary evidence of the original.

64.

Proof of documents by primary evidence.

64. Proof of documents by primary evidence. Documents must be proved by primary evidence except in the cases hereinafter mentioned.

65.

Cases in which secondary evidence relating to documents may be given.

65. Cases in which secondary evidence relating to documents may be given. Secondary evidence may be given of the existence, condition or contents of a document in the following cases:--

(a) when the original is shown or appears to be in the possession or power--

of the person against whom the document is sought to be proved, or

of any person out of reach of, or not subject to, the process of the Court, or

of any person legally bound to produce it,

and when, after the notice mentioned in section 66, such person does not produce it;

(b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;

(c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;

(d) when the original is of such a nature as not to be easily movable;

(e) when the original is a public document within the meaning of section 74;

(f) when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in 1\*[India] to be given in evidence; 2\*

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1. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".

2. Cf. the Bankers' Books Evidence Act, 1891 (18 of 1891), s. 4.

(g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court and the fact to be proved is the general result

of the whole collection.

In cases (a), (c) and (d), any secondary evidence of the contents of the document is admissible.

In case (b), the written admission is admissible.

In case (e) or (f), a certified copy of the document, but no other kind of secondary evidence, is admissible.

In case (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

66.

Rules as to notice to produce.

66. Rules as to notice to produce. Secondary evidence of the contents of the documents referred to in section 65, clause (a), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, 1\*[or to his attorney or pleader,] such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case:

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it:--

- (1) when the document to be proved is itself a notice;
- (2) when, from the nature of the case, the adverse party must know that he will be required to produce it;
- (3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;
- (4) when the adverse party or his agent has the original in Court;
- (5) when the adverse party or his agent has admitted the loss of the document;
- (6) when the person in possession of the document is out of reach of, or not subject to, the process of the Court.

67.

Proof of signature and handwriting of person alleged to have signed or written document produced.

67. Proof of signature and handwriting of person alleged to have signed or written document produced. If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting

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1. Ins. by Act 18 of 1872, s. 6.

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of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

68.

Proof of execution of document required by law to be attested.

68. Proof of execution of document required by law to be attested. If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:

1\*[Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908 (16 of 1908), unless its execution by the person by whom it purports to have been executed is specifically denied.]

69.

Proof where no attesting witness found.

69. Proof where no attesting witness found. If no such attesting witness can be found, or if the document purports to have been executed in the United Kingdom, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person.

70.

Admission of execution by party to attested document.

70. Admission of execution by party to attested document. The

admission of a party to an attested document of its execution by himself shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.

71.

Proof when attesting witness denies the execution.

71. Proof when attesting witness denies the execution. If the attesting witness denies or does not recollect the execution of the document, its execution may be proved by other evidence.

72.

Proof of document not required by law to be attested.

72. Proof of document not required by law to be attested. An attested document not required by law to be attested may be proved as if it was unattested.

73.

Comparison of signature, writing or seal with others admitted or proved.

73. Comparison of signature, writing or seal with others admitted or proved. In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose.

The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare

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1. Ins. by Act 31 of 1926, s. 2.

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the words or figures so written with any words or figures alleged to have been written by such person.

1\*[This section applies also, with any necessary modifications, to finger-impressions.]

74.

Public documents.

74. Public documents. The following documents are public documents:--

- (1) documents forming the acts or records of the acts--
  - (i) of the sovereign authority.
  - (ii) of official bodies and tribunals, and
  - (iii) of public officers, legislative, judicial and executive, 2\*[of any part of India or of the Common-wealth], or of a foreign country;
- (2) public records kept 3\*[in any State] of private documents.

75.

Private documents.

75. Private documents. All other documents are private.

76.

Certified copies of public documents.

76. Certified copies of public documents. Every 4\* public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.

Explanation.--Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

77.

Proof of documents by production of certified copies.

77. Proof of documents by production of certified copies. Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

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1. Ins. by Act 5 of 1899, s. 3.
  2. The original words "whether of British India, or of any other part of Her Majesty's Dominions" have successively been amended by the A. O. 1948 and the A. O. 1950 to read as above.
  3. Subs. by the A. O. 1950 for "in any Province".
  4. A village-officer in the Punjab has been declared for the purposes of this Act to be a public officer having the custody of a public document--see the Punjab Land-revenue Act, 1887 (17 of 1887), s. 151 (2).

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78.

Proof of other official documents.

78. Proof of other official documents. The following public documents may be proved as follows:--

- (1) Acts, orders or notifications of 1\*[the Central Government] in any of its departments, 2\*[or of the Crown Representative] or of any State Government or any department of any State Government,--

by the records of the departments, certified by the heads of those departments respectively,

or by any document purporting to be printed by order of any such Government 2\*[or, as the case may be, of the Crown Representative];

- (2) the proceedings of the Legislatures,--

by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed 3\*[by order of the Government concerned];

- (3) proclamations, orders or regulations issued by 4\*Her Majesty or by the Privy Council, or by any department of 4\*Her Majesty's Government,--

by copies or extracts contained in the London Gazette, or purporting to be printed by the Queen's Printer;

- (4) the Acts of the Executive or the proceedings of the Legislature of a foreign country,--

by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some 5\*[Central Act]:

(5) the proceedings of a municipal body in 6\*[a State],--

by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body;

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1. Subs. by the A. O. 1937 for "the Executive Govt, of British India".
  2. Ins. *ibid.*
  3. Subs., *ibid.*, for "by order of Govt."
  4. The words "Her Majesty" shall stand unmodified, vide the A. O. 1950.
  5. Subs. by the A. O. 1937 for "public Act of the Governor General of India in Council".
  6. Subs. by the A. O. 1950. for "a Province".

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(6) public documents of any other class in a foreign country,--

by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a Notary Public, or of 1\*[an Indian Consul] or diplomatic agent, that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.

#### PRESUMPTIONS AS TO DOCUMENTS

79.

Presumption as to genuineness of certified copies.

79. Presumption as to genuineness of certified copies. The Court shall presume 2\*[to be genuine] every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer 3\*[of the Central Government or of a State Government, or by any officer 4\*[in the State of Jammu and Kashmir] who is duly authorized thereto by the Central Government]:

Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.

The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it,

the official character which he claims in such paper.

80.

Presumption as to documents produced as record of evidence.

80. Presumption as to documents produced as record of evidence.- Whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence or to be a statement or confession by any prisoner or accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, or by any such officer as aforesaid, the Court shall presume--

that the document is genuine; that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.

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1. Subs. by the A. O. 1950 for "a British Consul".
  2. Ins. by the A. O. 1948.
  3. The original words beginning from "in British India" and ending with the words "to be genuine" have been successively amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.
  4. Subs. by Act 3 of 1951, s. 3 and Sch., for "in a Part B State".

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81.

Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.

81. Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.-The Court shall presume the genuineness of every document purporting to be the London Gazette or 1\*[any Official Gazette, or the Government Gazette] of any colony, dependency or possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament 2\*[of the United Kingdom] printed by the Queen's Printer and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

82.

Presumption as to document admissible in England without proof of seal or signature.

82. Presumption as to document admissible in England without proof of seal or signature.-When any document is produced before any Court, purporting to be a document which, by the law in force for the time being in England or Ireland, would be admissible in proof of any particular in any Court of Justice in England or Ireland, without proof of the seal or stamp or signature authenticating it or of the judicial or official character claimed by the person by whom it purports to be signed, the Court shall presume that such seal, stamp or signature is genuine, and that the person signing it held, at the time when he signed it, the judicial or official character which he claims,

and the document shall be admissible for the same purpose for which it would be admissible in England or Ireland.

83.

Presumption as to maps or plans made by authority of Government.

83. Presumption as to maps or plans made by authority of Government.-The Court shall presume that maps or plans purporting to be made by the authority of 3\*[the Central Government or any State Government] were so made, and are accurate; but maps or plans made for the purposes of any cause must be proved to be accurate.

84.

Presumption as to collections of laws and reports of decisions.

84. Presumption as to collections of laws and reports of decisions.-The Court shall presume the genuineness of every book purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country,

and of every book purporting to contain reports of decisions of the Courts of such country.

85.

Presumption as to powers-of-attorney.

85. Presumption as to powers-of-attorney.-The Court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and

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1. Subs. by the A. O. 1937 for "the Gazette of India. or the Govt. Gazette of any L. G., or".
2. Ins. by the A. O. 1950.
3. The original word "Government" has successively been amended by the A. O. 1937, A. O. 1948, Act 40 of 1949 and the A. O. 1950 to read as above.

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authenticated by, a Notary Public, or any Court, Judge, Magistrate, 1\*[Indian] Consul or Vice-Consul, or representative 2\*\*\* of the 3\*[Central Government], was so executed and authenticated.

86.

Presumption as to certified copies of foreign judicial records.

86. Presumption as to certified copies of foreign judicial records.-The Court may presume that any document purporting to be a certified copy of any judicial record of 4\*[5\*\*\* any country not forming part of India or] of Her Majesty's Dominions is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of 6\*\*\* the 3\*[Central Government] 7\*[in or for] 8\*[such country] to be the manner commonly in use in 9\*[that country] for the certification of copies of judicial records.

10\*[An officer who, with respect to 11\*\*\* any territory or place not forming part of 12\*[India or] Her Majesty's Dominions, is a Political Agent therefor, as defined in section 3, 13\*[clause (43)], of the General Clauses Act, 1897 (10 of 1897), shall, for the purposes of this section, be deemed to be a representative of the 3\*[Central Government] 14\*[in and for the country] comprising that territory or place].

87.

Presumption as to books, maps and charts.

87. Presumption as to books, maps and charts.-The Court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts and which is produced for its inspection, was written and published by the person and at the time and place, by whom or at which it purports to have been written or published.

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1. Subs. by the A. O. 1950 for "British".
  2. The words "of Her Majesty, or" rep., ibid.
  3. Subs. by the A. O. 1937 for "G. of I.".
  4. Subs. by the A. O. 1950 for "any country not forming part".

5. The words "a Part B State or of" omitted by Act 3 of 1951, s. 3 and Sch.
6. The Words "Her Majesty or of" rep. by the A. O. 1950.
7. Subs. by Act 3 of 1891, s. 8 for "resident in".
8. Subs. by Act 3 of 1951, s. 3 and Sch., for "such Part B State or country".
9. Subs. by s. 3 and Sch., ibid., for "that State or country".
10. Subs, by Act 5 of 1899, s.4, for the para, added by Act 3 of 1891, s. 3.
11. The words "a Part B State or "ins. by the A. O.. 1950 omitted by Act 3 of 1951, s. 3 and Sch.
12. Ins. by the A. O. 1950.
13. Subs., ibid., for "clause (40)".
14. Subs. by Act 3 of 1951, s. 3, Sch., for "in and for that Part B State or country".

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88.

Presumption as to telegraphic messages.

88. Presumption as to telegraphic messages.-The Court may presume that a message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a message delivered for transmission at the office from which the message purports to be sent; but the Court shall not make any presumption as to the person by whom such message was delivered for transmission.

89.

Presumption as to due execution, etc., of documents not produced.

89. Presumption as to due execution, etc., of documents not produced.-The Court shall presume that every document, called for and not produced after notice to produce, was attested, stamped and executed in the manner required by law.

90.

Presumption as to documents thirty years old.

90. Presumption as to documents thirty years old.-Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and, in the case

of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Explanation.--Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

This explanation applies also to section 81.

#### Illustrations.

(a) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land showing his titles to it. The custody is proper.

(b) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.

(c) A, a connection of B, produces deeds relating to lands in B's possession which were deposited with him by B for safe custody. The custody is proper.

## CHAPTER VI

### OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE

#### CHAPTER VI

### OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE

91.

Evidence of terms of contracts, grants and other dispositions of property reduced to form of document.

91. Evidence of terms of contracts, grants and other dispositions of property reduced to form of document.--When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be

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reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.

Exception 1.--When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.

Exception 2.--Wills 2\*[admitted to probate in 3\*[India]] may be proved by the probate.

Explanation 1.--This section applies equally to cases in which the contracts, grants or dispositions of property referred to are contained in one document and to cases in which they are contained in more documents than one.

Explanation 2.--Where there are more originals than one, one original only need be proved.

Explanation 3.--The statement, in any document whatever, of a fact other than the facts referred to in this section, shall not preclude the admission of oral evidence as to the same fact.

#### Illustrations

(a) If a contract be contained in several letters, all the letters in which it is contained must be proved.

(b) If a contract is contained in a bill of exchange, the bill of exchange must be proved.

(c) If a bill of exchange is drawn in a set of three, one only need be proved.

(d) A contracts, in writing, with B, for the delivery of indigo upon certain terms. The contract mentions the fact that B had paid A the price of other indigo contracted for verbally on another occasion.

Oral evidence is offered that no payment was made for the other indigo. The evidence is admissible.

(e) A gives B a receipt for money paid by B.

Oral evidence is offered of the payment.

The evidence is admissible.

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1. Where, however, a Criminal Court finds that a confession or other statement an accused person has not been recorded in the manner prescribed, evidence may be taken that the recorded statement was duly made--see the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 533.
  2. Subs. by Act 18 of 1872, s. 7, for "under the Indian Succession Act".
  3. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".

92.

Exclusion of evidence of oral agreement.

92. Exclusion of evidence of oral agreement.--When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from, its terms:

Proviso (1).--Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, 1\*[want or failure] of consideration, or mistake in fact or law.

Proviso (2).--The existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, may be proved. In considering whether or not this proviso applies, the Court shall have regard to the degree of formality of the document.

Proviso (3).--The existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved.

Proviso (4).--The existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant or disposition of property, may be proved, except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.

Proviso (5).--Any usage or custom by which incidents not expressly mentioned in any contract are usually annexed to contracts of that description, may be proved:

Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.

Proviso (6).--Any fact may be proved which shows in what manner the language of a document is related to existing facts.

#### Illustrations

(a) A policy of insurance is effected on goods "in ships from Calcutta to London". The goods are shipped in a particular ship which is lost. The fact that particular ship was orally excepted from the policy cannot be proved.

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1. Subs. by Act 18 of 1872, s. 8, for "want of failure".

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(b) A agrees absolutely in writing to pay B Rs. 1,000 on the first March 1873. The fact that, at the same time an oral agreement was made that the money should not be paid till the thirty-first March cannot be proved.

(c) An estate called "the Rampore tea estate" is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed cannot be proved.

(d) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.

(e) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.

(f) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.

(g) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: "Bought of A a horse of Rs. 500". B may prove the verbal warranty.

(h) A hires lodgings of B, and gives B a card on which is written--"Rooms, Rs. 200 a month." A may prove a verbal agreement that these terms were to include partial board.

A hires lodgings of B for a year, and a regularly stamped agreement, drawn up by an attorney, is made between them. It is silent on the subject of board. A may not prove that board was included in the term verbally.

(i) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount, A may prove this.

(j) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may show the circumstances under which it was delivered.

93.

Exclusion of evidence to explain or amend ambiguous document.

93. Exclusion of evidence to explain or amend ambiguous document.- When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.

#### Illustrations

(a) A agrees, in writing, to sell a horse to B for "Rs. 1,000 or Rs. 1,500".

Evidence cannot be given to show which price was to be given.

(b) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled.

94.

Exclusion of evidence against application of document to existing facts.

94. Exclusion of evidence against application of document to existing facts.-When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.

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#### Illustration

A sells to B, by deed, "my estate at Rampur containing 100 bighas". A has an estate at Rampur containing 100 bighas. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.

95.

Evidence as to document unmeaning in reference to existing facts.

95. Evidence as to document unmeaning in reference to existing facts.-When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.

#### Illustration

A sells to B, by deed, "my house in Calcutta".

A had no house in Calcutta, but it appears that he had a house at Howrah, of which B had been in possession since the execution of the

deed.

These facts may be proved to show that the deed related to the house at Howrah.

96.

Evidence as to application of language which can apply to one only of several persons.

96. Evidence as to application of language which can apply to one only of several persons.-When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.

#### Illustrations

(a) A agrees to sell to B, for Rs. 1,000, "my white horse". A has two white horses. Evidence may be give of facts which show which of them was meant.

(b) A agrees to accompany B to Haidarabad. Evidence may be given of facts showing whether Haidarabad in the Dekkhan or Haiderabad in Sind was meant.

97.

Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.

97. Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.-When the language used applies partly to one set of existing facts, and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.

#### Illustration

A agrees to sell to B "my land at X in the occupation of Y". A has land at X, but not in the occupation of Y, and he has land in the occupation of Y but it is not at X. Evidence may be given of facts showing which he meant to sell.

98.

Evidence as to meaning of illegible characters, etc.

98. Evidence as to meaning of illegible characters, etc.-Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical,

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local and provincial expressions, of abbreviations and of words used in a peculiar sense.

#### Illustration

A, sculptor, agrees to sell to B, "all my mods". A has both models and modelling tools. Evidence may be given to show which he meant to sell.

99.

Who may give evidence of agreement varying terms of document.

99. Who may give evidence of agreement varying terms of document.-Persons who are not parties to a document, or their representatives in interest, may give evidence of any facts tending to show a contemporaneous agreement varying the terms of the document.

#### Illustration

A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months credit shall be given to A. This could not be shown as between A and B, but it might be shown by C, if it affected his interests.

100.

Saving of provisions of Indian Succession Act relating to wills.

100. Saving of provisions of Indian Succession Act relating to wills.-Nothing in this Chapter contained shall be taken to affect any of the provisions of the Indian Succession Act, 1865 (10 of 1865)<sup>1\*</sup> as to the construction of wills.

PART III

PRODUCTION AND EFFECT OF EVIDENCE

PART III

PRODUCTION AND EFFECT OF EVIDENCE

CHAPTER VII

OF THE BURDEN OF PROOF

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OF THE BURDEN OF PROOF

101.

Burden of proof.

101. Burden of proof.—Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations

(a) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

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1. See now the Indian Succession Act, 1925 (39 of 1925), Pt. VI, Ch. VI.

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(b) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true.

A must prove the existence of those facts.

102.

On whom burden of proof lies.

102. On whom burden of proof lies.—The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

### Illustrations

(a) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.

If no evidence were given on either side, B would be entitled to retain his possession.

Therefore the burden of proof is on A.

(b) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

If no evidence were given on either side, A would succeed, as the bond is not disputed and the fraud is not proved.

Therefore the burden of proof is on B.

103.

Burden of proof as to particular fact.

103. Burden of proof as to particular fact.-The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

### Illustration

1\*[(a)] A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission.

B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.

104.

Burden of proving fact to be proved to make evidence admissible.

104. Burden of proving fact to be proved to make evidence admissible.-The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

### Illustrations

(a) A wishes to prove a dying declaration by B. A must prove B's death.

(b) A wishes to prove, by secondary evidence, the contents of a lost document.

A must prove that the document has been lost.

- 1. Sic. In the Act as published in Gazette of India, 1872, pt. IV, p. 1, there is no illustration (b).

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105.

Burden of proving that case of accused comes within exceptions.

105. Burden of proving that case of accused comes within exceptions.-When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code, (45 of 1860) or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

#### Illustrations

(a) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act.

The burden of proof is on A.

(b) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.

The burden of proof is on A.

(c) Section 325 of the Indian Penal Code (45 of 1860) provides that whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be subject to certain punishments.

A is charged with voluntarily causing grievous hurt under section 325.

The burden of proving the circumstances bringing the case under section 335 lies on A.

106.

Burden of proving fact especially within knowledge.

106. Burden of proving fact especially within knowledge.-When any fact is especially within the knowledge of any person, the burden of

proving that fact is upon him.

#### Illustrations

(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

107.

Burden of proving death of person known to have been alive within thirty years.

107. Burden of proving death of person known to have been alive within thirty years.-When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

108.

Burden of proving that person is alive who has not been heard of for seven years.

108. Burden of proving that person is alive who has not been heard of for seven years.-1\*[Provided that when] the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is 2\*[shifted to] the person who affirms it.

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1. Subs. by Act 18 of 1872, s. 9, for "When".
  2. Subs. by s. 9, *ibid.*, for "on".

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109.

Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent.

109. Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent.-When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other

in those relationships respectively, is on the person who affirms it.

110.

Burden of proof as to ownership.

110. Burden of proof as to ownership.-When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

111.

Proof of good faith in transactions where one party is in relation of active confidence.

111. Proof of good faith in transactions where one party is in relation of active confidence.-Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

#### Illustrations

(a) The good faith of a sale by a client to an attorney is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the attorney.

(b) The good faith of a sale by a son just come of age to a father is in question in a suit brought by the son. The burden of proving the good faith of the transaction is on the father.

111A.

Presumption as to certain offences.

1\*[111A. Presumption as to certain offences.-(1) Where a person is accused of having committed any offence specified in sub-section (2), in--

(a) any area declared to be a disturbed area under any enactment, for the time being in force, making provision for the suppression of disorder and restoration and maintenance of public order; or

(b) any area in which there has been, over a period of more than one month, extensive disturbance of the public peace,

and it is shown that such person had been at a place in such area at a time when firearms or explosives were used at or from that place to attack or resist the members of any armed forces or the forces charged with the maintenance of public order acting in the discharge of their duties, it shall be presumed, unless the contrary is shown, that such person had committed such offence.

(2) The offences referred to in sub-section (1) are the following, namely:--

(a) an offence under section 121, section 121A, section 122 or section 123 of the Indian Penal Code (45 of 1860);

(b) criminal conspiracy or attempt to commit, or abetment of, an offence under section 122 or section 123 of the Indian Penal Code (45 of 1860).

112.

Birth during marriage, conclusive proof of legitimacy.

112. Birth during marriage, conclusive proof of legitimacy.-The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.

113.

Proof of cession of territory.

113. Proof of cession of territory.-A notification in the Official Gazette that any portion of British territory has 2\*[before the commencement of Part III of the Government of India Act, 1935 (26 Geo. 5, e. 2)] been ceded to any Native State, Prince or Ruler, shall be conclusive proof that a valid cession of such territory took place at the date mentioned in such notification.

113A.

Presumption as to abetment of suicide by a married woman.

3\*[113A. Presumption as to abetment of suicide by a married woman.-When the question is whether the commission of suicide by a

woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation.--For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860).]

113B.

Presumption as to dowry death.

4\*[113B. Presumption as to dowry death.--When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.

Explanation.--For the purposes of this section, "dowry death" shall have the same meaning as in section 304B of the Indian Penal Code.]

114.

Court may presume existence of certain facts.

114. Court may presume existence of certain facts. The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common

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1. Ins. by Act 61 of 1984, s. 20 (w.e.f. 14.7.1984).
  2. Ins. by the A. O. 1937, Part III of the Govt. of India Act, 1935, came into force on the 1st April, 1937.
  3. Ins. by Act 46 of 1983, s. 7
  4. Ins. by Act 43 of 1986, s. 12 (w.e.f. 19.11.1986).

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course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

#### Illustrations

The Court may presume--

- (a) that a man who is in possession of stolen goods soon

after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;

- (b) that an accomplice is unworthy of credit, unless he is corroborated in material particulars;
- (c) that a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;
- (d) that a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;
- (e) that judicial and official acts have been regularly performed;
- (f) that the common course of business has been followed in particular cases;
- (g) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;
- (h) that if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;
- (i) that when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it:--

as to illustration (a)--a shop-keeper has in his till a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business:

as to illustration (b)--A, a person of the highest character is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself:

as to illustration (b)--a crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable:

as to illustration (c)--A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence:

as to illustration (d)--it is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course:

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as to illustration (e)--a judicial act, the regularity of which is in question, was performed under exceptional circumstances:

as to illustration (f)--the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances:

as to illustration (g)--a man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family:

as to illustration (h)--a man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked:

as to illustration (i)--a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

114A.

Presumption as to absence of consent in certain prosecutions for rape.

1\*[114A. Presumption as to absence of consent in certain prosecutions for rape.-In a prosecution for rape under clause (a) or clause (b) or clause (c) or clause (d) or clause (e) or clause (g) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and she states in her evidence before the Court that she did not consent, the Court shall presume that she did not consent.]

CHAPTER VIII

ESTOPPEL

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ESTOPPEL

115.

Estoppel.

115. Estoppel.-When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

Illustration

A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.

116.

Estoppel of tenant; and of licensee of person in possession.

116. Estoppel of tenant; and of licensee of person in possession.-No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such licence was given.

117.

Estoppel of acceptor of bill of exchange, bailee or licensee.

117. Estoppel of acceptor of bill of exchange, bailee or licensee.-No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it; nor shall any bailee or licensee be permitted to deny that his bailor or licensor had, at the time when the bailment or licence commenced, authority to make such bailment or grant such licence.

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1. Ins. by Act 43 of 1983, s. 6.

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Explanation (1).--The acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn.

Explanation (2).--If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor.

CHAPTER IX

OF WITNESSES

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OF WITNESSES

118.

Who may testify.

118. Who may testify.--All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

Explanation.--A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

119.

Dumb witnesses.

119. Dumb witnesses.--A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court. Evidence so given shall be deemed to be oral evidence.

120.

Parties to civil suit, and their wives or husbands. Husband or wife of person under criminal trial.

120. Parties to civil suit, and their wives or husbands. Husband or wife of person under criminal trial.--In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any

person, the husband or wife of such person, respectively, shall be a competent witness.

121.

Judges and Magistrates.

121. Judges and Magistrates.-No Judge or Magistrate shall, except upon the special order of some Court to which he is subordinate, be compelled to answer any questions as to his own conduct in Court as such Judge or Magistrate, or as to anything which came to his knowledge in Court as such Judge or Magistrate; but he may be examined as to other matters which occurred in his presence whilst he was so acting.

#### Illustrations

(a) A, on his trial before the Court of Session, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of a superior Court.

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(b) A is accused before the Court of Session of having given false evidence before B, a Magistrate. B cannot be asked what A said, except upon the special order of the superior Court.

(c) A is accused before the Court of Session of attempting to murder a police-officer whilst on his trial before B, a Sessions Judge. B may be examined as to what occurred.

122.

Communications during marriage.

122. Communications during marriage.-No person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married; nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other.

123.

Evidence as to affairs of State.

123. Evidence as to affairs of State.-No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

124.

Official communications.

124. Official communications.-No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

125.

Information as to commission of offences.

1\*[125. Information as to commission of offences.-No Magistrate or police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Explanation.--"Revenue-officer" in this section means any officer employed in or about the business of any branch of the public revenue.]

126.

Professional communications.

126. Professional communications.-No barrister, attorney, pleader or vakil shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such barrister, pleader, attorney or vakil, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice

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1. Subs. by Act 3 of 1887, s. 1, for the original s. 125.

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given by him to his client in the course and for the purpose of such

employment:

Provided that nothing in this section shall protect from disclosure--

- (1) any such communication made in furtherance of any 1\*[illegal] purpose:
- (2) any fact observed by any barrister, pleader, attorney or vakil, in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.

It is immaterial whether the attention of such barrister, 2\*[pleader], attorney or vakil was or was not directed to such fact by or on behalf of his client.

Explanation.--The obligation stated in this section continues after the employment has ceased.

#### Illustrations

(a) A, a client, says to B, an attorney--"I have committed forgery and I wish you to defend me."

As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure.

(b) A, a client, says to B, an attorney--"I wish to obtain possession of property by the use of a forged deed on which I request you to sue."

This communication, being made in furtherance of a criminal purpose, is not protected from disclosure.

(c) A, being charged with embezzlement, retains B, an attorney, to defend him. In the course of the proceedings, B observes that an entry has been made in A's account book, charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.

This being a fact observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure.

127.

Section 126 to apply to interpreters, etc.

127. Section 126 to apply to interpreters, etc.--The provisions of section 126 shall apply to interpreters, and the clerks or servants of barristers, pleaders, attorneys and vakils.

128.

Privilege not waived by volunteering evidence.

128. Privilege not waived by volunteering evidence.-If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section 126; and if any

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1. Subs. by Act 18 of 1872, s. 10, for "criminal".
  2. Ins. by s. 10, *ibid*.

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party to a suit or proceeding calls any such barrister, 1\*[pleader], attorney or vakil as a witness, he shall be deemed to have consented to such disclosure only if he questions such barrister, attorney or vakil on matters which, but for such question, he would not be at liberty to disclose.

129.

Confidential communications with legal advisers.

129. Confidential communications with legal advisers.-No one shall be compelled to disclose to the Court any confidential communication which has taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.

130.

Production of title-deeds of witness not a party.

130. Production of title-deeds of witness not a party.-No witness who is not a party to a suit shall be compelled to produce his title-deeds to any property, or any document in virtue of which he holds any property as pledgee or mortgagee or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

131.

Production of documents which another person, having possession, could

refuse to produce.

131. Production of documents which another person, having possession, could refuse to produce.-No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such last-mentioned person consents to their production.

132.

Witness not excused from answering on ground that answer will criminate.

132. Witness not excused from answering on ground that answer will criminate.-A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate, such witness, or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind:

Proviso.

Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

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1. Ins. by Act 18 of 1872, s. 10.

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133.

Accomplice.

133. Accomplice.-An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

134.

Number of witnesses.

134. Number of witnesses.-No particular number of witnesses shall

in any case be required for the proof of any fact.

## CHAPTER X

### OF THE EXAMINATION OF WITNESSES

#### CHAPTER X

#### OF THE EXAMINATION OF WITNESSES

135.

Order of production and examination of witnesses.

135. Order of production and examination of witnesses.-The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure respectively, and, in the absence of any such law, by the discretion of the Court.

136.

Judge to decide as to admissibility of evidence.

136. Judge to decide as to admissibility of evidence.-When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise.

If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first-mentioned, unless the party undertakes to give proof of such fact, and the Court is satisfied with such undertaking.

If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.

#### Illustrations

(a) It is proposed to prove a statement about a relevant fact by a person alleged to be dead, which statement is relevant under section 32.

The fact that the person is dead must be proved by the person proposing to prove the statement, before evidence is given of the statement.

(b) It is proposed to prove, by a copy, the contents of a document said to be lost.

The fact that the original is lost must be proved by the person proposing to produce the copy, before the copy is produced.

(c) A is accused of receiving stolen property knowing it to have been stolen.

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It is proposed to prove that he denied the possession of the property.

The relevancy of the denial depends on the identity of the property. The Court may, in its discretion, either require the property to be identified before the denial of the possession is proved, or permit the denial of the possession to be proved before the property is identified.

(d) It is proposed to prove a fact (A) which is said to have been the cause or effect of fact in issue. There are several intermediate facts (B, C and D) which must be shown to exist before the fact (a) can be regarded as the cause or effect of the fact in issue. The Court may either permit A to be proved before B, C or D is proved, or may require proof of B, C and D before permitting proof of A.

137.

Examination-in-chief.

Cross-examination.

Re-examination.

137. Examination-in-chief.-The examination of witness by the party who calls him shall be called his examination-in-chief.

Cross-examination.-The examination of a witness by the adverse party shall be called his cross-examination.

Re-examination.-The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

138.

Order of examinations.

138. Order of examinations.-Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined.

The examination and cross-examination must relate to relevant facts but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

Direction of re-examination.

The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

139.

Cross-examination of person called to produce a document.

139. Cross-examination of person called to produce a document.-A person summoned to produce a document does not become a witness by the mere fact that he produces it and cannot be cross-examined unless and until he is called as a witness.

140.

Witnesses to character.

140. Witnesses to character.-Witnesses to character may be cross-examined and re-examined.

141.

Leading questions.

141. Leading questions.-Any question suggesting the answer which the person putting it wishes or expects to receive is called a leading question.

142.

When they must not be asked.

142. When they must not be asked.-Leading questions must not, if objected to by the adverse party be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court.

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The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.

143.

When they may be asked.

143. When they may be asked.-Leading questions may be asked in cross-examination.

144.

Evidence as to matters in writing.

144. Evidence as to matters in writing.-Any witness may be asked, whilst under examination whether any contract, grant or other disposition of property, as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which, in the opinion of the Court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.

Explanation.--A witness may give oral evidence of statements made by other persons about the contents of documents if such statements are in themselves relevant facts.

#### Illustration

The question is, whether A assaulted B.

C deposes that he heard A say to D--"B wrote a letter accusing me of theft, and I will be revenged on him." This statement is relevant, as showing A's motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.

145.

Cross-examination as to previous statements in writing.

1\*145. Cross-examination as to previous statements in writing.-A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

146.

Questions lawful in cross-examination.

146. Questions lawful in cross-examination.-When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend-

- (1) to test his veracity,
- (2) to discover who he is and what is his position in life,  
or

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1. As to the application of s. 145 to police-diaries, see the Code of Criminal Procedure, 1898 (Act 5 of 1998), s. 172.

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- (3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

147.

When witness to be compelled to answer.

147. When witness to be compelled to answer.-If any such question relates to a matter relevant to the suit or proceeding, the provisions of section 132 shall apply thereto.

148.

Court to decide when question shall be asked and when witness compelled to answer.

148. Court to decide when question shall be asked and when witness compelled to answer.-If any such question relates to a matter

not relevant to the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the Court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it. In exercising its discretion, the Court shall have regard to the following considerations:--

- (1) such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the Court as to the credibility of the witness on the matter to which he testifies:
- (2) such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the Court as to the credibility of the witness on the matter to which he testifies:
- (3) such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence:
- (4) the Court may, if it sees fit, draw, from the witness's refusal to answer, the inference that the answer if given would be unfavourable.

149.

Question not to be asked without reasonable grounds.

149. Question not to be asked without reasonable grounds.--No such question as is referred to in section 148 ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well-founded.

#### Illustrations

(a) A barrister is instructed by an attorney or vakil that an important witness is a dakait. This is a reasonable ground for asking the witness whether he is a dakait.

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(b) A pleader is informed by a person in Court that an important witness is a dakait. The informant, on being questioned by the pleader, gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dakait.

(c) A witness, of whom nothing whatever is known is asked at random whether he is a dakait. There are here no reasonable ground for the question.

(d) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking him if he is a dakait.

150.

Procedure of Court in case of question being asked without reasonable grounds.

150. Procedure of Court in case of question being asked without reasonable grounds.-If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any barrister, pleader, vakil or attorney, report the circumstances of the case to the High Court or other authority to which such barrister, pleader, vakil or attorney is subject in the exercise of his profession.

151.

Indecent and scandalous questions.

151. Indecent and scandalous questions.-The Court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.

152.

Questions intended to insult or annoy.

152. Questions intended to insult or annoy.-The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.

153.

Exclusion of evidence to contradict answers to questions testing veracity.

153. Exclusion of evidence to contradict answers to questions

testing veracity.--When a witness has been asked and has answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but, if he answers falsely, he may afterwards be charged with giving false evidence.

Exception 1.--If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction.

Exception 2.--If a witness is asked any question tending to impeach his impartiality- and answers it by denying the facts suggested, he may be contradicted.

#### Illustrations

(a) A claim against an underwriter is resisted on the ground of fraud.

The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it.

Evidence is offered to show that he did make such a claim.

The evidence is inadmissible

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(b) A witness is asked whether he was not dismissed from a situation for dishonesty.

He denies it.

Evidence is offered to show that he was dismissed for dishonesty.

The evidence is not admissible.

(c) A affirms that on a certain day he saw B at Lahore.

A is asked whether he himself was not on that day at Calcutta. He denies it.

Evidence is offered to show that A was on that day at Calcutta.

The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Lahore.

In each of these cases the witness might, if his denial was false, be charged with giving false evidence.

(d) A is asked whether his family has not had a bloodfeud with the family of B against whom he gives evidence.

He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.

154.

Question by party to his own witness.

154. Question by party to his own witness.-The Court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.

155.

Impeaching credit of witness.

155. Impeaching credit of witness.-The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:-

- (1) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;
- (2) by proof that the witness has been bribed, or has <sup>1</sup>\*[accepted] the offer of bribe, or has received any other corrupt inducement to give his evidence;
- (3) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted;
- (4) when a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.

Explanation.--A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.

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1. Subs. by Act 18 of 1872, s. 11, for "had".  
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#### Illustrations

(a) A sues B for the price of goods sold and delivered to B. C says that he delivered the goods to B.

Evidence is offered to show that, on a previous occasion, he said that he had not delivered goods to B.

The evidence is admissible.

(b) A is indicted for the murder of B.

C says that B, when dying, declared that A had given B the wound of which he died.

Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence.

The evidence is admissible.

156.

Questions tending to corroborate evidence of relevant fact, admissible.

156. Questions tending to corroborate evidence of relevant fact, admissible.-When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occurred, if the Court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.

#### Illustration

A, an accomplice, gives an account of a robbery in which he took part. He describes various incidents unconnected with the robbery which occurred on his way to and from the place where it was committed.

Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.

157.

Former statements of witness may be proved to corroborate later testimony as to same fact.

157. Former statements of witness may be proved to corroborate later testimony as to same fact.-In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.

158.

What matters may be proved in connection with proved statement

relevant under section 32 or 33.

158. What matters may be proved in connection with proved statement relevant under section 32 or 33.-Whenever any statement, relevant under section 32 or 33, is proved, all matters may be proved either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.

159.

Refreshing memory.

When witness may use copy of document to refresh memory.

159. Refreshing memory. A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that

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the Court considers it likely that the transaction was at that time fresh in his memory. The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.

When witness may use copy of document to refresh memory.

Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document:

Provided the Court be satisfied that there is sufficient reason for the non-production of the original.

An expert may refresh his memory by reference to professional treatises.

160.

Testimony to facts stated in document mentioned in section 159.

160. Testimony to facts stated in document mentioned in section 159.-A witness may also testify to facts mentioned in any such document as is mentioned in section 159, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Illustration

A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.

161.

Right of adverse party as to writing used to refresh memory.

1\*161. Right of adverse party as to writing used to refresh memory.-Any writing referred to under the provisions of the two last preceding sections must be produced and shown to the adverse party if he requires it; such party may, if he pleases, cross-examine the witness thereupon.

162.

Production of documents.

Translation of documents.

162. Production of documents.-A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.

The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

Translation of documents.-If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in

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1. As to the application of s. 161 to police-diaries, see the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 172.
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evidence: and, if the interpreter disobeys such direction, he shall be held to have committed an offence under section 166 of the Indian Penal Code (45 of 1860).

163.

Giving, as evidence, of document called for and produced on notice.

163. Giving, as evidence, of document called for and produced on notice.-When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so.

164.

Using, as evidence, of document production of which was refused on notice.

164. Using, as evidence, of document production of which was refused on notice.-When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the Court.

#### Illustration

A sues B on an agreement and gives B notice to produce it. At the trial A calls for the document and B refuses to produce it. A gives secondary evidence of its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so.

165.

Judge's power to put questions or order production.

165. Judge's power to put questions or order production.-The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing: and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:

Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved:

Provided also that this section shall not authorize any Judge to compel any witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the

Judge ask any question which it would be improper for any other person to ask under section 148 or 149; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.

166.

Power of jury or assessors to put questions.

166. Power of jury or assessors to put questions.-In cases tried by jury or with assessors, the jury or assessors may put any questions to the witnesses, through or leave of the

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Judge, which the Judge himself might put and which he considers proper.

CHAPTER XI

OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE

CHAPTER XI

OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE

167.

No new trial for improper admission or rejection of evidence.

167. No new trial for improper admission or rejection of evidence.-The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

SCHEDULE I

Enactments repealed.

THE SCHEDULE.--[Enactments repealed.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

THE INDIAN PENAL CODE, 1860

ACT NO. 45 OF 1860 1\*

[6th October, 1860.]

CHAPTER I

INTRODUCTION

CHAPTER I

INTRODUCTION

Preamble.-WHEREAS it is expedient to provide a general Penal Code for 2\*[India];

It is enacted as follows:--

1.

Title and extent of operation of the Code.

1. Title and extent of operation of the Code.--This Act shall be called the Indian Penal Code, and shall 3\*[extend to the whole of India 4\*[except the State of Jammu and Kashmir]].

2.

Punishment of offences committed within India.

2. Punishment of offences committed within India.--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 5\*[India] 6\*\*\*\*.

3.

Punishment of offences committed beyond, but which by law may be tried within, India.

3. Punishment of offences committed beyond, but which by law may be tried within, India.--Any person liable, by any 7\*[Indian law], to be tried for an offence committed beyond 5\*[India] shall be dealt with according to the provisions of this Code for any act committed beyond 5\*[India] in the same manner as if such act had been committed within 5\*[India].

4.

Extension of Code to extra-territorial offences.

8\*[4. Extension of Code to extra-territorial offences.--The provisions of this Code apply also to any offence committed by--

9\*[(1) any citizen of India in any place without and beyond India;

(2) any person on any ship or aircraft registered in India wherever it may be.]

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1. The Act has been amended in its application to Madras by Madras Act 25 of 1960, U. P. by U. P. Acts 31 of 1961, 29 of 1970 and 47 of 1975, Andhra Pradesh by Andhra Pradesh Act 16 of 1968, Maharashtra by Maharashtra Act 19 of 1971, Mysore by Mysore Act 8 of 1972, West Bengal by West Bengal Act 42 of 1973.

The Act has been extended to Goa, Daman and Diu with modifications by Reg. 12 of 1962, s. 3 and Sch., extended to and brought into force in Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I (w.e.f. 1-7-1965) and to Laccadive, Minicoy and Amindivi Islands by Reg. 8 of 1965, s. 3 and Sch. (w.e.f. 1-10-1967).

The Act comes into force in Pondicherry vide Reg. 7 of 1963, s. 3 and Sch. I (w.e.f. 1-10-1963).

2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the whole of India except Part B States".

3. Subs. by the A. O. 1948, for "take effect \* \* \* throughout British India". The words and figures "on and from the first day of May, 1861" occurring between the words "effect" and "throughout" were rep. by Act 12 of 1891.

4. Subs. by Act 3 of 1951, s. 3 and Sch., for "except Part B States".

5. Subs. by s. 3 and Sch., *ibid.*, for "the States".

6. The words and figures "on or after the said first day of May, 1861" omitted by Act 12 of 1891.

7. Subs. by the A. O. 1937, for "law passed by the Governor-General

of India in Council".

8. Subs. by Act 4 of 1898, s. 2, for the original s. 4.

9. Subs. by the A. O. 1950, for the original cls. (1) to (4).

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Explanation.

Explanation.--In this section the word "offence" includes every act committed outside 1\*[India] which, if committed in 1\*[India] would be punishable under this Code.

2\*[Illustration]

3\*\*\*A, 4\*[who is 5\*[a citizen of India]], commits a murder in Uganda. He can be tried and convicted of murder in any place in 1\*[India] in which he may be found.

6\* \* \* \* \*

5.

Certain laws not to be affected by this Act.

7\*[5. Certain laws not to be affected by this Act.--Nothing in this Act shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the Government of India or the provision of any special or local law.]

CHAPTER II

GENERAL EXPLANATIONS

CHAPTER II

GENERAL EXPLANATIONS

6.

Definitions in the Code to be understood subject to exceptions.

6. Definitions in the Code to be understood subject to exceptions.--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 the Chapter entitled "General Exceptions", though those exceptions are not repeated in such definition, penal provision, or illustration.

#### Illustrations

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

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

7.

Sense of expression once explained.

7. Sense of expression once explained.--Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

8.

Gender.

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

9.

Number.

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

10.

"Man". "Woman".

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

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1. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
2. Subs. by Act 36 of 1957, s.3 and Sch. II, for "Illustrations".
3. The brackets and letter `6(a)' omitted by s. 3 and Sch. II, ibid.
4. Subs. by the A. O. 1948, for "a coolie, who is a Native Indian subject".
5. Subs. by the A. O. 1950, for "a British subject of Indian domicile".
6. Illustrations (b), (c) and (d) were rep. by the A. O. 1950.
7. Subs., ibid., for the former s. 5.

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11.

"Person".

11. "Person".--The word "person" includes any Company or Association or body of persons, whether incorporated or not.

12.

"Public".

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

13.

[Definition of "Queen".] Rep. by the A. O. 1950.

14.

"Servant of Government".

1\*[14. "Servant of Government".--The words "servant of Government" denote any officer or servant continued, appointed or

employed in India by or under the authority of Government.]

15.

[Definition of "British India".] Rep. by the A. O. 1937.

16.

Definition of "Government of India".] Rep., ibid.

17.

"Government".

2\*[17 "Government".--The word "Government" denotes the Central Government or the Government of a 3\*\*\*\*State.]

18.

"India".

4\*[18. "India".--"India" means the territory of India excluding the State of Jammu and Kashmir.]

19.

"Judge".

19. "Judge".--The word "Judge" denotes not only 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.

#### Illustrations

(a) A collector exercising jurisdiction in a suit under Act 10 of 1859, is a Judge.

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

(c) A member of a panchayat which has power, under 5\*Regulation VII, 1816, of the Madras Code, to try and determine suit, is a Judge.

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

20.

"Court of Justice".

20. "Court of Justice".--The words "Court of Justice" 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.

#### Illustration

A Panchayat acting under 5\*Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

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1. Subs. by the A. O. 1950, for s. 14.
  2. Subs., *ibid.*, for s. 17.
  3. The words and letter "Part A" omitted by Act 3 of 1951, s. 3 and Sch.
  4. Subs. by s. 3 and Sch., *ibid.*, for s. 18.
  5. Rep. by the Madras Civil Courts Act, 1873 (3 of 1873).

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21.

"Public servant".

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

1\*                    \*                    \*                    \*

Second.--Every Commissioned Officer in the Military, 2\*[Naval or Air] Forces 3\*[4\*\*\*\* of India];

5\*[Third.--Every Judge including any person empowered by

law to discharge, whether by himself or as a member of any body of persons. any adjudicatory functions;]

Fourth.--Every officer of a Court of Justice 6\*[(including a liquidator, receiver or commissioner)] whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.--Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

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

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

Eighth.--Every officer of 7\*[the Government] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.--Every officer whose duty it is as such officer, to take, receive, keep or expend any property on behalf of 7\*[the Government], or to make any survey, assessment or contract on behalf of 7\*[the Government], or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of 7\*[the Government], or to make. authenticate or keep any document relating to the pecuniary interests of 7\*[the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of 7\*[the Government] 8\*\*\*\*;

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

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1. Cl. First omitted by the A. O. 1950.
  2. Subs. by Act 10 of 1927, s. 2 and Sch. I, for "or Naval".
  3. Subs. by the A. O. 1948, for "of the Queen while serving under any Government in British India or the Crown Representative".
  4. The words "of the Dominion" omitted by the A. O. 1950.
  5. Subs. by Act 40 of 1964, s. 2, for cl. Third.
  6. Ins. by s. 2, *ibid.*

- 7. Subs. by the A. O. 1950, for "the Crown".
- 8. Certain words omitted by Act 40 of 1964, s. 2.

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1\*[Eleventh.--Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;]

2\*[Twelfth.--Every person--

(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).]

#### Illustration

A Municipal Commissioner is a public servant.

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

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

3\*[Explanation 3.--The word "election" denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

4\* \* \* \* \*

22.

"Movable property".

22. "Movable property".--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.

23.

"Wrongful gain".

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

"Wrongful loss".

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

Gaining wrongfully. Losing wrongfully.

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

24.

"Dishonestly".

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

25.

"Fraudulently".

25. "Fraudulently".--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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1. Ins. by Act 39 of 1920, s. 2.
  2. Subs. by Act 40 of 1964, s. 2, for cl. Twelfth, ins. by Act 2 of 1958, s. 2.
  3. Ins. by Act 39 of 1920, s. 2.
  4. Explanation 4 ins. by Act 2 of 1958, s. 2, omitted by Act 40 of 1964, s. 2.

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26.

"Reason to believe".

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

27.

Property in possession of wife, clerk or servant.

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

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

28.

"Counterfeit".

28. "Counterfeit".--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.

1\*[Explanation 1.--It is not essential to counterfeiting that the imitation should be exact.

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

29.

"Document".

29. "Document".--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.

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

#### Illustrations

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

#### Illustration

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

30.

"Valuable security".

30. "Valuable security".--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 who hereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

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1. Subs. by Act 1 of 1889, s. 9, for the original Explanation.

## 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".

31.

"A will".

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

32.

Words referring to acts include illegal omissions.

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

33.

"Act". "Omission".

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

34.

Acts done by several persons in furtherance of common intention.

1\*[34. Acts done by several persons in furtherance of common intention.--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.]

35.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

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

36.

Effect caused partly by act and partly by omission.

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

#### Illustration

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

37.

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

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

#### 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 the 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, alternatively 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.

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1. Subs. by Act 27 of 1870, s. 1, for the original section.

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(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.

38.

Persons concerned in criminal Act may be guilty of different offences.

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

#### Illustration

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

39.

"Voluntarily".

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

#### Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating 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.

40.

"Offence".

1\*[40. "Offence".--Except in the 2\*[Chapters] and sections mentioned in clauses 2 and 3 of this section, the word "offence" denotes a thing made punishable by this Code.

In Chapter IV, 3\*[Chapter VA] and in the following sections, namely, sections 4\*[64, 65, 66, 5\*[67], 71], 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

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

41.

"Special law".

41. "Special law".--A "special law" is a law applicable to a particular subject.

42.

"Local law".

42. "Local law".--A "local law" is a law applicable only to a particular part of 6\* [7\*\*\*\* 8\*[India]].

-----  
1. Subs. by Act 27 of 1870, s. 2, for the original s. 40.

2. Subs. by Act 8 of 1930, s. 2 and Sch. I, for "chapter".

3. Ins. by Act 8 of 1913, s. 2.

4. Ins. by Act 8 of 1882, s. 1.

5. Ins. by Act 10 of 1886, s. 21 (1).

6. Subs. by the A.O. 1948, for "British India".
  7. The words "the territories comprised in" were rep. by Act 48 of 1952, s. 3 and Sch. II.
  8. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
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43.

"Illegal".

"Legally bound to do".

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

44.

"Injury".

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

45.

"Life".

45. "Life".--The word "life" denotes the life of a human being, unless the contrary appears from the context.

46.

"Death".

46. "Death".--The word "death" denotes the death of a human being unless the contrary appears from the context.

47.

"Animal".

47. "Animal".--The word "animal" denotes any living creature, other than a human being.

48.

"Vessel".

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

49.

"Year".

"Month".

49. "Year". "Month".--Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

50.

"Section".

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

51.

"Oath".

51. "Oath".--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 servant or to be used for the purpose of proof, whether in a Court of Justice or not.

52.

"Good faith".

52. "Good faith".--Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

52A.

"Harbour".

1\*[52A. "Harbour".--Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word "harbour" includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.]

CHAPTER III

OF PUNISHMENTS

CHAPTER III

OF PUNISHMENTS

53.

Punishments.

53. Punishments.--The punishments to which offenders are liable under the provisions of this Code are--

First.--Death;

2\*[Secondly.--Imprisonment for life;]

3\*                   \*                   \*                   \*                   \*

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

(1) Rigorous, that is with hard labour;

(2) Simple;

Fifthly.--Forfeiture of property;

Sixthly.--Fine.

- 
1. Ins. by Act 8 of 1942. s. 2.
  2. Subs. by Act 26 of 1955, s. 117 and Sch., for "Secondly.--Transportation;"(w.e.f. 1-1-1956).
  3. "Thirdly,-Penal seritude;" was rep. by Act 17 of 1949, s. 2 (w.e.f. 6-4-1949).

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53A.

Construction of reference to transportation.

1\*[53A. Construction of reference to transportation.--(1) Subject to the provisions of sub-section (2) and sub-section (3), any reference to "transportation for life" in any other law for the time being in force or in any instrument or order having effect by virtue of any such law or of any enactment repealed shall be construed as a reference to "imprisonment for life".

(2) In every case in which a sentence of transportation for a term has been passed before the commencement of the Code of Criminal Procedure (Amendment) Act, 2\*[1955], (26 of 1955), the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment for the same term.

(3) Any reference to transportation for a term or to transportation for any shorter term (by whatever name called) in any other law for the time being in force shall be deemed to have been omitted.

(4) Any reference to "transportation" in any other law for the time being in force shall,-

(a) if the expression means transportation for life, be construed as a reference to imprisonment for life;

(b) if the expression means transportation for any shorter term, be deemed to have been omitted.]

54.

Commutation of sentence of death.

54. Commutation of sentence of death.--In every case in which sentence of death shall have been passed, 3\*[the appropriate

Government] may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

55.

Commutation of sentence of imprisonment for life.

55. Commutation of sentence of imprisonment for life.--In every case in which sentence of 4\*[imprisonment] for life shall have been passed, 5[the appropriate Government] may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

55A.

Definition of "appropriate Government".

6\*[55A. Definition of "appropriate Government".--In sections fifty-four and fifty-five the expression "appropriate Government" means,-

(a) in cases where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and

(b) in cases where the sentence (whether of death or not) is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within which the offender is sentenced.]

56.

56. [Sentence of Europeans and Americans to penal servitude. Proviso as to sentence for term exceeding ten years but not for life.] Rep. by the Criminal Law (Removal of Racial Discriminations) Act, 1949 (17 of 1949) (w. e. f. 6-4-1949).

57.

Fractions of terms of punishment.

57. Fractions of terms of punishment.--In calculating fractions of terms of punishment, 4[imprisonment] for life shall be reckoned as equivalent to 4[imprisonment] for twenty years.

58.

58. [Offenders sentenced to transportation how dealt with until transported.] Rep. by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), s. 117 and Sch.

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1. Ins. by Act 26 of 1955, s. 117 and Sch. (w.e.f. 1-1-1956).
  2. Subs. by Act 36 of 1957, s. 3 and Sch. II, for "1954".
  3. Subs. by the A. O. 1950, for "the Central Government or the Provincial Government of the Province within which the offender shall have been sentenced".
  4. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation" (w.e.f. 1-1-1956).
  5. Subs. by the A. O. 1950, for "the provincial Government of the Province within which the offender shall have been sentenced".
  6. Subs., *ibid*, for s. 55A which had been ins. by the A. O. 1937.
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59.

59. [Transportation instead of imprisonment.] Rep. by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955) s.117 and Sch., (w.e.f. 1-1-1956).

60.

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

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

61.

61. [Sentence of forfeiture of property.] Rep. by the Indian Penal Code (Amendment) Act, 1921 (16 of 1921), s. 4.

62.

62. [Forfeiture of property, in respect of offenders punishable with death, transportation or imprisonment.] Rep., by s. 4 ibid.

63.

Amount of fine.

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

64.

Sentence of imprisonment for non-payment of fine.

64. Sentence of imprisonment for non-payment of fine.--1\*[In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable 2\*[with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine.]

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

65.

Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.

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

66.

Description of imprisonment for non-payment of fine.

66. Description of imprisonment for non-payment of fine.--The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

67.

Imprisonment for non-payment of fine, when offence punishable with fine only.

67. Imprisonment for non-payment of fine, when offence punishable with fine only.--If the offence be punishable with fine only, 3\*[the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

68.

Imprisonment to terminate on payment of fine.

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

- 
1. Subs. by Act 8 of 1882, s. 2, for "in every case in which an offender is sentenced to a fine".
  2. Ins, by Act 10 of 1886, s. 21(2).
  3. Ins by Act 8 of 1882, s. 3.

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69.

Termination of imprisonment on payment of proportional part of fine.

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

#### Illustration

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

70.

Fine leviable within six years, or during imprisonment. Death not to discharge property from liability.

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

71.

Limit of punishment of offence made up of several offences.

71. Limit of punishment of offence made up of several offences.--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.

1\*[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.

72.

Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.

72. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.--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.

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1. Ins by Act 8 of 1882, s, 4.  
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73.

Solitary confinement.

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

to say--

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

a time not exceeding two months if the term of imprisonment shall exceed six months and 1\*[shall not exceed one] year:

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

74.

Limit of solitary confinement.

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

75.

Enhanced punishment for certain offence under Chapter XII or Chapter XVII after previous conviction.

2\*[75. Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.--Whoever, having been convicted,-

(a) by a Court in 3\*[India], 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, 4\*\*\*\*

4\* \* \* \* \*

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to 5\*[imprisonment for life] or to imprisonment of either description for a term which may extend to ten years.]

CHAPTER IV

GENERAL EXCEPTIONS

CHAPTER IV

GENERAL EXCEPTIONS

76.

Act done by a person bound, or by mistake of fact believing himself bound, by law.--

76. Act done by a person bound, or by mistake of fact believing himself bound, by law.--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 a 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 of Justice, being ordered by that Court to arrest Y, and after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

77.

Act of Judge when acting judicially.

77. Act of Judge when acting judicially.--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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1. Subs. by Act 8 of 1882, s. 5, for "be less than a".
  2. Subs. by Act 3 of 1910, s. 2, for the original section.
  3. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  4. The word "or" at the end of cl. (a) and cl. (b) were omitted by s. 3 and Sch., *ibid*.
  5. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life" (*w.e.f.* 1-1-1956).
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78.

Act done pursuant to the judgment or order of Court.

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

79.

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

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

#### 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 fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80.

Accident in doing a lawful act.

80. Accident in doing a lawful act.--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.

#### 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.

81.

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

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

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 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.

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82.

Act of a child under seven years of age.

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

83.

Act of a child above seven and under twelve of immature

understanding.

83. Act of a child above seven and under twelve of immature understanding.--Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

84.

Act of a person of unsound mind.

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

85.

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

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

86.

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

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

87.

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

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

#### Illustration

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

88.

Act not intended to cause death, done by consent in good faith for person's benefit.

88. Act not intended to cause death, done by consent in good faith for person's benefit.--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.

#### Illustration

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

89.

Act done in good faith for benefit of child or insane person, by or by consent of guardian.

89. Act done in good faith for benefit of child or insane person, by or by consent of guardian.--Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other

person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person: Provided-

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Provisos.

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

Secondly.-That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, 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, in as much as his object was the cure of the child.

90.

Consent known to be given under fear or misconception.

90. Consent known to be given under fear or misconception.--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 insane person.

Consent of insane person.-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

Consent of child.

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

91.

Exclusion of acts which are offences independently of harm cause.

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

#### Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is offence inexpediently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92.

Act done in good faith for benefit of a person without consent.

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

Provisos.

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Provisos.-First.-That this exception shall not extend to the

intentional causing of death or the attempting to cause death;

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

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

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

#### 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 carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball 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 house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

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

93.

Communication made in good faith.

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

#### Illustration

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

94.

Act to which a person is compelled by threats.

94. Act to which a person is compelled by threats.--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 dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

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Explanation 2.-A person seized by a gang of dacoits, 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 dacoits to enter and plunder it, is entitled to the benefit of this exception.

95.

Act causing slight harm.

95. Act causing slight harm.--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

96.

Things done in private defence.

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

97.

Right of private defence of the body and of property.

97. Right of private defence of the body and of property.--Every person has a right, subject to the restrictions contained in section 99, to defend-

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

Secondly.--The property, whether 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.

98.

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

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

#### Illustrations

(a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the 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 house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

99.

Acts against which there is no right of private defence.

99. Acts against which there is no right of private defence.-- 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 servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law.

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

Extent to which the right may be exercised.

Extent to which the right may be exercised.--The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

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

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

100.

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

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

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

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

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

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

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

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

101.

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

101. When such right extends to causing any harm other than death.--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 99, to the voluntary causing to the assailant of any harm other than death.

102.

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

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

103.

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

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

First.-Robbery;

Secondly.-House-breaking by night;

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

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

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104.

When such right to causing any harm other than death.

104. When such right to causing any harm other than death.--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 does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

105.

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

105. Commencement and continuance of the right of private defence of property.--The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

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

The right of private defence of property against robbery continues 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.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

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

106.

Right of private defence against deadly assault when there is risk of harm to innocent person.

106. Right of private defence against deadly assault when there is risk of harm to innocent person.--If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of 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

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### OF ABETMENT

107.

Abetment of a thing.

107. Abetment of a thing.--A person abets the doing of a thing,

who-

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

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

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

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

#### Illustration

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

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

108.

Abettor.

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

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

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

#### Illustrations

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

(b) A instigates B to murder D. B in pursuance of the instigation 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 lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under 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 engages in the conspiracy in pursuance of which the offence is committed.

#### Illustration

A concert 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.

108A.

Abetment in India of offences outside India.

1\*[108A. Abetment in India of offences outside India.--A person abets an offence within the meaning of this Code who, in 2\*[India], abets the commission of any act without and beyond 2\*[India] which would constitute an offence if committed in 2\*[India].

#### Illustration

A, in 2\*[India], instigates B, a foreigner in Goa, to commit a murder in Goa, A is guilty of abetting murder.]

109.

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

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

#### Illustrations

(a) A offers a bribe to B, a public servant, as a reward for

showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110.

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

110. Punishment of abetment if person abetted does act with different intention from that of abettor.--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.

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1. Added by Act 4 of 1898, s. 3.

2. Subs. by Act 3 of 1951, s, 3 and Sch., for "the States".

123

111.

Liability of abettor when one act abetted and different act done.

111. Liability of abettor when one act abetted and different act done.--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:

Proviso.

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

## Illustrations

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of 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 that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112.

Abettor when liable to cumulative punishment for act abetted and for act done.

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

## Illustration

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

113.

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

113. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.--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.

114.

Abettor present when offence is committed.

114. Abettor present when offence is committed.--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.

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115.

Abetment of offence punishable with death or imprisonment for life-if offence is not committed.

115. Abetment of offence punishable with death or imprisonment for life--if offence not committed.-Whoever abets the commission of an offence punishable with death or 1\*[imprisonment for life], shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine:

if act causing harm be done in consequence.

if act causing harm be done in consequence.--and if any act for which the abettor is liable in consequence of the abetment, and which

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

#### Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or 1\*[imprisonment for life]. 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.

116.

Abetment of offence punishable with imprisonment--if offence be not committed.

116. Abetment of offence punishable with imprisonment--if offence be not committed.--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;

if abettor or person abetted be a public servant whose duty it is to prevent offence.

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

#### Illustrations

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

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

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

provided for that offence, and also to fine.

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

117.

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

117. Abetting commission of offence by the public or by more than ten persons.--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 with both.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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#### Illustration

A affixes 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.

118.

Concealing design to commit offence punishable with death or imprisonment for life.

118. Concealing design to commit offence punishable with death or imprisonment for life.--Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or 1\*[imprisonment for life],

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,

if offence be committed-if offence be not committed.

if offence be committed--if offence be not committed.--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.

#### Illustration

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

119.

Public servant concealing design to commit offence which it is his duty to prevent.

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

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

if offence be committed.

if offence be committed.--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;

if offence be punishable with death, etc.

if offence be punishable with death, etc.--or, if the offence be punishable with death or 1\*[imprisonment for life], with imprisonment of either description for a term which may extend to ten years;

if offence be not committed.

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

Illustration

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

120.

Concealing design to commit offence punishable with imprisonment.

120. Concealing design to commit offence punishable with imprisonment.--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,

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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if offence be committed-if offence be not committed.

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

CHAPTER VA

CRIMINAL CONSPIRACY

CRIMINAL CONSPIRACY

120A.

Definition of criminal conspiracy.

120A. Definition of criminal conspiracy.--When two or more persons agree to do, or cause to be done,-

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

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

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

120B.

Punishment of criminal conspiracy.

120B. Punishment of criminal conspiracy.--(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 2\*[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

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

CHAPTER VI

OF OFFENCES AGAINST THE STATE

CHAPTER VI

OF OFFENCES AGAINST THE STATE

121.

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

121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.--Whoever wages war against the 3\*[Government of India], or attempts to wage such war, or abets the waging of such war, shall be punished with death, or 4\*[imprisonment for life] 5\*[and shall also be liable to fine].

6\*[Illustration.]

7\*\*\*A joins an insurrection against the 3\*[Government of India]. A has committed the offence defined in this section.

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1. Ins. by Act 8 of 1913, s. 3.
  2. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation".
  3. Subs. by the A. O. 1950, for "Queen".
  4. Subs. by Act of 1955 s. 117 and Sch., for "transportation for life".
  5. Subs. by Act 16 of 1921, s. 2, for "and shall forfeit all his property".
  6. Subs. by Act 36 of 1957, s. 3 and Sch. II, for "Illustrations".
  7. The brackets and letter "(a)" omitted by s. 3 and Sch. II, *ibid*.
  8. Illustration (b) rep. by the A. O. 1950.

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121A.

Conspiracy to commit offences punishable by section 121.

1\*[121A. Conspiracy to commit offences punishable by section 121.--Whoever within or without 2\*[India] conspires to commit any of the offences punishable by section 121, 3\*\*\* or conspires to overawe, by means of criminal force or the show of criminal force, 4\*[the Central Government or any State Government 5\*\*\*], shall be punished with 6\*[imprisonment for life], or with imprisonment of either description which may extend to ten years, 7\*[and shall also be liable to fine].

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

122.

Collecting arms, etc., with intention of waging war against the Government of India.

122. Collecting arms, etc., with intention of waging war against the Government of India.--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 8\*[Government of India], shall be punished with 9\*[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, 10\*[and shall also be liable to fine].

123.

Concealing with intent to facilitate design to wage war.

123. Concealing with intent to facilitate design to wage war.--Whoever, by any act, or by any illegal omission, conceals the existence of a design to wage war against the 8\*[Government of India], intending by such concealment 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.

124.

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

124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.--Whoever, with the intention of inducing or compelling the 11\*[President] of India, or 12\*[Governor 13\*\*\*] of any State, 14\*\*\* 15\*\*\* 16\*\*\* to exercise or refrain from exercising in any manner any of the lawful powers of such 17\*[President or 12\*[Governor 13\*],

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 17\*[President or 12\*\*\* [Governor 13\*\*\*],

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1. S. 121A ins. by Act 27 of 1870, s. 4.

2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  3. The words "or to deprive the Queen of the sovereignty of the Provinces or of any part thereof" omitted by the A. O. 1950.
  4. Subs. by the A. O. 1937, for "the G. of I. or any L. G.".
  5. The words "or the Govt. of Burma" rep. by the A. O. 1948.
  6. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life or any shorter term".
  7. Ins. by Act 16 of 1921, s. 3.
  8. Subs. by the A. O. 1950, for "Queen".
  9. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  10. Subs. by Act 16 of 1921, s. 2, for "and shall forfeit all his property".
  11. Subs. by the A. O. 1950, for "Governor General".
  12. Subs. by Act 3 of 1951, s. 3 and Sch., for "Governor".
  13. The words "or Rajpramukh" omitted by the Adaptation of Laws (No. 2) Order, 1956.
  14. The words "or a Lieutenant-Governor" rep. by the A. O. 1937.
  15. The words "or a Member of the Council of the Governor General of India" rep. by the A. O. 1948.
  16. The words "or of the Council of any Presidency" rep. by the A. O. 1937.
  17. The original words "Governor General, Governor, Lieutenant-Governor or Member of Council" have successively been amended by the A.O. 1937, A. O. 1948 and A. O. 1950 to read as above.
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shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

124A.

Sedition.

1\*[124A. Sedition.--Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or

attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, 2\*\*\*the Government established by law in 3\*[India], a 4\*\*\*shall be punished with 5\*[imprisonment for life], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.-The expression "disaffection" includes disloyalty and all feelings of enmity.

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

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

125.

Waging war against any Asiatic Power in alliance with the Government of India.

125. Waging war against any Asiatic Power in alliance with the Government of India.--Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the 6\*[Government of India] or attempts to wage such war, or abets the waging of such war, shall be punished with 7\*[imprisonment for life], to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

126.

Committing depredation on territories of Power at peace with the Government of India.

126. Committing depredation on territories of Power at peace with the Government of India.--Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the 6\*[Government of India], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

127.

Receiving property taken by war or depredation mentioned in sections

125 and 126.

127. Receiving property taken by war or depredation mentioned in sections 125 and 126.--Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, 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.

128.

Public servant voluntarily allowing prisoner of state or war to escape.

128. Public servant voluntarily allowing prisoner of state or war to escape.--Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with 7\*[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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1. Subs. by Act 4 of 1898, s. 4, for the original s. 124A which had been ins. by Act 27 of 1870, s. 5.
  2. The words "Her Majesty or" rep. by the A.O. 1950. The words "or the Crown Representative" ins. after the word "Majesty" by the A.O. 1937 were rep. by the A.O. 1948.
  3. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  4. The words "or British Burma" ins. by the A.O. 1937 rep. by the A.O. 1948.
  5. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life or any shorter term".
  6. Subs. by the A.O. 1950, for "Queen".
  7. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".

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129.

Public servant negligently suffering such prisoner to escape.

129. Public servant negligently suffering such prisoner to escape.--Whoever, being a public servant 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.

130.

Aiding escape of, rescuing or harbouring such prisoner.

130. Aiding escape of, rescuing or harbouring such prisoner.--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 recapture of such prisoner shall be punished with 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.-A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in 2\*[India], is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

#### CHAPTER VII

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

#### CHAPTER VII

OF OFFENCES RELATING TO THE ARMY, 3\*[NAVY AND AIR FORCE]

131.

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

131. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.--Whoever abets the committing of mutiny by an officer, soldier, 4\*[sailor or airman], in the Army, 5\*[Navy or Air Force] of the 6\*[Government of India] or attempts to seduce any such officer, soldier, 4\*[sailor or airman] from his allegiance or his duty, shall be punished with 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

7\*[Explanation.-In this section the words "officer", 8\* ["soldier", 9\*["sailor"] and "airman"] include any person subject to the 10\*[Army Act, 11\*[the Army Act, 1950 (46 of 1950)], 9\*[the Naval Discipline Act, 12\*\*\*the Indian Navy (Discipline) Act, 1934 (34 of 1934)] 13\*[the Air Force Act or 14\*[the Air Force Act, 1950 (45 of 1950)]], as the case may be].]

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  3. Subs. by Act 10 of 1927, s. 2 and Sch. I, for "and Navy".
  4. Subs. by s. 2 and Sch. I, *ibid.*, for "or sailor".
  5. Subs. by s. 2 and sch. I, *ibid.*, for "or Navy".
  6. Subs. by the A.O. 1950 for "Queen".
  7. Ins. by Act 27 of 1870, s. 6.
  8. Subs. by Act 10 of 1927, s. 2 and Sch. I, for "and soldier".
  9. Ins. by Act 25 of 1934, s. 2 and Sch.
  10. Subs. by Act 10 of 1927, s. 2 and Sch. I, for "Articles of War for the better government of Her Majesty's Army, or to the Articles of War contained in Act No. 5 of 1869".
  11. Subs. by Act 3 of 1951, s. 3 and Sch., for "the Indian Army Act, 1911".
  12. The words "or that Act as modified by" were rep. by the A.O. 1950.
  13. Subs. by Act 14 of 1932, s. 130 and Sch., for "or the Air Force Act".
  14. Subs. by Act 3 of 1951, s.3 and Sch., for "the Indian Air Force Act, 1932".
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132.

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

132. Abetment of mutiny, if mutiny is committed in consequence thereof.--Whoever abets the committing of mutiny by an officer, soldier, 1\*[sailor or airman], in the Army, 2\*[Navy or Air Force] of the 3\*[Government of India], shall, if mutiny be committed in consequence of that abetment, be punished with death or with 4\*[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

133.

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

133. Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.--Whoever abets an assault by an officer, soldier, 1\*[sailor or airman], in the Army, 2\*[Navy or Air Force] of the 3\*[Government of India], 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.

134.

Abetment of such assault, if the assault committed.

134. Abetment of such assault, if the assault committed.--Whoever abets an assault by an officer, soldier, 1\*[sailor or airman], in the Army, 2\*[Navy or Air Force] of the 3\*[Government of India], 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.

135.

Abetment of desertion of soldier, sailor or airman.

135. Abetment of desertion of soldier, sailor or airman.--Whoever, abets the desertion of any officer, soldier, 1\*[sailor or airman], in the Army, 2\*[Navy or Air Force] of the 3\*[Government of India], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

136.

Harbouring deserter.

136. Harbouring deserter.--Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, 1\*[sailor or airman], in the Army, 2\*[Navy or Air Force] of the 3\*[Government of India], has deserted, harbours such officer, soldier, 1\*[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

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

137.

Deserter concealed on board merchant vessel through negligence of master.

137. Deserter concealed on board merchant vessel through negligence of master.--The master or person in charge of a merchant vessel, on board of which any deserter from the Army, 2\*[Navy or Air Force] of the 3\*[Government of India] 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.

138.

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

138. Abetment of act of insubordination by soldier, sailor or airman.-Whoever abets what he knows to be an act of insubordination by an officer, soldier, 1\*[sailor or airman], in the Army, 2\*[Navy or air Force], of the 3\*[Government of India], 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.

138A.

[Repealed.]

138A. [Application of foregoing sections to the Indian Marine Service.] Rep. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

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1. Subs. by Act 10 of 1927, s. 2 and Sch. I, for "or sailor".
  2. Subs. by s. 2 and Sch. I, *ibid.*, for "or Navy".
  3. Subs. by the A.O. 1950, for "Queen".
  4. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".

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139.

Persons subject to certain Acts.

139. Persons subject to certain Acts.--No person subject to 1\*[the Army Act, 2\*[the Army Act, 1950 (46 of 1950)], the Naval Discipline Act, 3\*[4\*\*\*the Indian Navy (Discipline) Act, 1934 (34 of 1934)], 5\*[the Air Force Act or 6\*[the Air Force Act, 1950 (45 of 1950)]]], is subject to punishment under this Code for any of the offences defined in this Chapter.

140.

Wearing garb or carrying token used by soldier, sailor or airman.

140. Wearing garb or carrying token used by soldier, sailor or airman.--Whoever, not being a soldier, 7\*[sailor or airman] in the Military, 8\*[Naval or Air] service of the 9\*[Government of India], wears any garb or carries any token resembling any garb or token used by such a soldier, 7\*[sailor or airman] with the intention that it may be believed that he is such a soldier, 7\*[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

#### CHAPTER VIII

#### OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

#### CHAPTER VIII

#### OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

141.

Unlawful assembly.

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

First.-To overawe by criminal force, or show of criminal force, 10\*[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

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

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

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

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

do, or to omit to do what he is legally entitled to do.

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

142.

Being member of unlawful assembly.

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

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1. Subs. by Act 10 of 1927, s. 2 and Sch. I, for "any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy".
  2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the Indian Army Act, 1911".
  3. Ins. by Act 35 of 1934, s. 2 and Sch.
  4. The words "or that Act as modified by" rep. by the A.O. 1950.
  5. Subs. by Act 14 of 1932, s. 130 and Sch., for "or the Air Force Act".
  6. Subs. by Act 3 of 1951, s. 3 and Sch., for "the Indian Air Force Act, 1932".
  7. Ins. by Act 10 of 1927, s. 2 and Sch. I.
  8. Subs. by s. 2 and Sch. I, *ibid.*, for "or Naval".
  9. Subs. by the A.O. 1950, for "Queen".
  10. Subs., *ibid.*, for "the Central or any Provincial Government or Legislature".
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143.

Punishment.

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

144.

Joining unlawful assembly armed with deadly weapon.

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

145.

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

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

146.

Rioting.

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

147.

Punishment for rioting.

147. Punishment for rioting.--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.

148.

Rioting, armed with deadly weapon.

148. Rioting, armed with deadly weapon.--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.

149.

Every member of unlawful assembly guilty of offence committed in prosecution of common object.

149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.--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.

150.

Hiring, or conniving at hiring, of persons to join unlawful assembly.

150. Hiring, or conniving at hiring, of persons to join unlawful assembly.--Whoever hires or engages, or employes, 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.

151.

Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.

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

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

152.

Assaulting or obstructing public servant when suppressing riot, etc.

152. Assaulting or obstructing public servant when suppressing riot, etc.--Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, 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 servant, 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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153.

Want only giving provocation with intent to cause riot-if rioting be committed:if not committed.

153. Want only giving provocation with intent to cause riot--if rioting be committed: if not committed.-Whoever malignantly, 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.

153A.

Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

1\*[153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.--(1) Whoever-

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence,

language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, 2\*[or]

2\*[(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,]

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Offence committed in place of worship, etc.--Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

153B.

Imputations, assertions prejudicial to national integration.

2\*[153B. Imputations, assertions prejudicial to national integration.--(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,-

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons by reason of their being members of any religious, racial, language or regional group or caste or community be denied, or deprived of their rights as citizens of India, or

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1. Subs. by Act 35 of 1969, s. 2, for s. 153A.

2. Ins. by Act 31 of 1972, s. 2.  
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(c) makes or publishes and assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine].

154.

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

154. Owner or occupier of land on which an unlawful assembly is held.--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 or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

155.

Liability of person for whose benefit riot is committed.

155. Liability of person for whose benefit riot is committed.--Whenever a riot is committed for the benefit or on behalf of any

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

156.

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

156. Liability of agent of owner or occupier for whose benefit riot is committed.--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 lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

157.

Harbouring persons hired for an unlawful assembly.

157. Harbouring persons hired for an unlawful assembly.--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.

158.

Being hired to take part in an unlawful assembly or riot;

158. Being hired to take part in an unlawful assembly or riot;--

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

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or to go armed.

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

159.

Affray.

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

160.

Punishment for committing affray.

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

CHAPTER IX

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

CHAPTER IX

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

161 to 165A.

161 to 165A.Rep. by the Prevention of Corruption Act, 1988 (49 of 1988), s. 31.

166.

Public servant disobeying law, with intent to cause injury to any person.

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

#### IIIustration

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

167.

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

167. Public servant framing an incorrect document with intent to cause injury.--Whoever, being a public servant, and being, as such public servant, 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.

168.

Public servant unlawfully engaging in trade.

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

169.

Public servant unlawfully buying or bidding for property.

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

170.

Personating a public servant.

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

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171.

Wearing garb or carrying token used by public servant with fraudulent intent.

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

CHAPTER IXA

OF OFFENCES RELATING TO ELECTIONS

1\*[CHAPTER IXA

OF OFFENCES RELATING TO ELECTIONS

171A.

"Candidate", "Electoral right" defined.

171A. "Candidate", "Electoral right" defined.--For the purposes of this Chapter-

2\*[(a) "candidate" means a person who has been nominated as a candidate at any election;]

(b) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171B.

Bribery.

171B. Bribery.--(1) Whoever-

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

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

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

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

171C.

Undue influence at elections.

171C. Undue influence at elections.--(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 sub-section (1), whoever-

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

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1. Chapter IXA was ins. by Act 39 of 1920, s. 2.
  2. Subs. by Act 40 of 1975, s. 9. for cl. (a), (w.e.f. 6-8-1975).
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(3) A declaration of public policy or a promise of public action, or the mere exercise or a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

171D.

Personation at elections.

171D. Personation at elections.--Whoever at an election applies for a voting paper on 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 election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

171E.

Punishment for bribery.

171E. Punishment for bribery.--Whoever commits the offence of

bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

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

171F.

Punishment for undue influence or personation at an election.

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

171G.

False statement in connection with an election.

171G. False statement in connection with an election.--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 punished with fine.

171H.

Illegal payments in connection with an election.

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

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

171-I.

Failure to keep election accounts.

171-I. Failure to keep election accounts.--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 be punished with fine which may extend to five hundred rupees.]

CHAPTER X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

CHAPTER X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172.

Absconding to avoid service of summons or other proceeding.

172. Absconding to avoid service of summons or other proceeding.-Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, 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 five hundred rupees, or with both;

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

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173.

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

173. Preventing service of summons or other proceeding, or preventing publication thereof.--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 servant legally competent, such public servant, 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 servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

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

174.

Non-attendance in obedience to an order from public servant.

174. Non-attendance in obedience to an order from public servant.--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 servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

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

#### Illustrations

(a) A, being legally bound to appear before the 1\*[High Court] at Calcutta, in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(b) A, being legally bound to appear before a 2\*[District

Judge], as a witness, in obedience to a summons issued by that 2\*[District Judge] intentionally omits to appear. A has committed the offence defined in this section.

175.

Omission to produce document to public servant by person legally bound to produce it.

175. Omission to produce document to public servant by person legally bound to produce it.--Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

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1. Subs. by the A.O. 1950, for "Supreme Court".
  2. Subs. ibid., for "Zila Judge".

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

#### Illustration

A, being legally bound to produce a document before a 1\*[District court], intentionally omits to produce the same. A has committed the offence defined in this section.

176.

Omission to give notice or information to public servant by person legally bound to give it.

176. Omission to give notice or information to public servant by person legally bound to give it.--Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the

apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

2\*[or, if the notice or information required to be given is required by an order passed under sub-section (1) of section 565 of the Code of Criminal Procedure, 1898 (5 of 1898), 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.]

177.

Furnishing false information.

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

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

#### Illustrations

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

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound under clause 5, section VII, 3\*Regulation III, 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police station, wilfully misinforms the police officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section.

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1. Subs. by the A.O. 1950, for "Zila Court".
  2. Ins. by Act 22 of 1939, s. 2.
  3. Rep. by Act 17 of 1862.

1\*[Explanation.--In section 176 and in this section the word "offence" includes any act committed at any place out of 2\*[India], which, if committed in 2\*[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word "offender" includes any person who is alleged to have been guilty of any such act.]

178.

Refusing oath or affirmation when duly required by public servant to make it.

178. Refusing oath or affirmation when duly required by public servant to make it.--Whoever refuses to bind himself by an oath 3\*[or affirmation] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

179.

Refusing to answer public servant authorized to question.

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

180.

Refusing to sign statement.

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

181.

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

181. False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.--Whoever, being legally bound by an oath 3\*[or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath 3\*[or affirmation], makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

182.

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

4\*[182. False information, with intent to cause public servant to use his lawful power to the injury of another person.--Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant-

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

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

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

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1. Ins. by Act 3 of 1894, s. 5
  2. Subs. by Act 3 of 1951, s. 3 and sch. for "the States".
  3. Ins. by Act 10 of 1873, s. 15.
  4. Subs. by Act 3 of 1895, s. 1, for the original s. 182.

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#### Illustrations

(a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has

committed the offence defined in this section.

(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.]

183.

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

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

184.

Obstructing sale of property offered for sale by authority of public servant.

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

185.

Illegal purchase or bid for property offered for sale by authority of public servant.

185. Illegal purchase or bid for property offered for sale by authority of public servant.--Whoever, at any sale of property held by

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

186.

Obstructing public servant in discharge of public functions.

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

187.

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

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

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

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188.

Disobedience to order duly promulgated by public servant.

188. Disobedience to order duly promulgated by public servant.--Whoever, knowing that, by an order promulgated by a public servant

lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management. disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both:

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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

#### Illustration

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

189.

Threat of injury to public servant.

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

190.

Threat of injury to induce person to refrain from applying for protection to public servant.

190. Threat of injury to induce person to refrain from applying for protection to public servant.--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 servant 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

#### CHAPTER XI

#### OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

191.

Giving false evidence.

191. Giving false evidence.--Whoever, being legally bound by an oath or by an 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.

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

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

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#### 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.

(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.

192.

Fabricating false evidence.

192. Fabricating false evidence.--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 servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding is said "to fabricate 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 of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

193.

Punishment for false evidence.

193. Punishment for false evidence.--Whoever intentionally gives

false evidence in any 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.

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

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

#### Illustration

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

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

#### Illustration

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

194.

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

194. Giving or fabricating false evidence with intent to procure conviction of capital offence.--Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital 2\*[by the laws for the time being in force in 3\*[India]] shall be punished with 4\*[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

If innocent person be thereby convicted and executed.

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

195.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.

195. Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.--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 2\*[by the law for the time being in force in 3\*[India]] is not capital, but punishable with 4\*[imprisonment for life], or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

#### Illustration

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is 4\*[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to 5\*[imprisonment for life] or imprisonment, with or without fine.

196.

Using evidence known to be false.

196. Using evidence known to be false.--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.

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1. The words "or before a Military Court of Request" were omitted by the Cantonments Act, 1889 (13 of 1889).
  2. Subs. by the A.O. 1948, for "by the law of British India or England".
  3. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".

4. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".

5. Subs. by s. 117 and Sch., *ibid.*, for "such transportation".

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197.

Issuing or signing false certificate.

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

198.

Using as true a certificate known to be false.

198. Using as true a certificate known to be false.--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.

199.

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

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

200.

Using as true such declaration knowing it to be false.

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

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

201.

Causing disappearance of evidence of offence, or giving false  
information to screen offender.

201. Causing disappearance of evidence of offence, or giving  
false information to screen offender.--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;

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 imprisonment for life;

if punishable with imprisonment for life.--and if the offence is  
punishable with 1\*[imprisonment for life], or with imprisonment  
which may extend to ten years, shall be punished with imprisonment of  
either description for a term which may extend to three years, and  
shall also be liable to fine;

if punishable with less than ten years' imprisonment.

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.

202.

Intentional omission to give information of offence by person bound to inform.

202. Intentional omission to give information of offence by person bound to inform.--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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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".

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203.

Giving false information respecting an offence committed.

203. Giving false information respecting an offence committed.--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.

1\*[Explanation.-In sections 201 and 202 and in this section the word "offence" includes any act committed at any place out of 2\*[India], which, if committed in 2\*[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.]

204.

Destruction of document to prevent its production as evidence.

204. Destruction of document to prevent its production as evidence.--Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in

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

205.

False personation for purpose of act or proceeding in suit or prosecution.

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

206.

Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.

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

207.

Fraudulent claim to property to prevent its seizure as forfeited or in execution.

207. Fraudulent claim to property to prevent its seizure as forfeited or in execution.--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 of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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1. Ins. by Act 3 of 1894, s. 7.

2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".

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208.

Fraudulently suffering decree for sum not due.

208. Fraudulently suffering decree for sum not due.--Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a 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.

#### Illustration

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for 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.

209.

Dishonestly making false claim in Court.

209. Dishonesty making false claim in Court.--Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a

term which may extend to two years, and shall also be liable to fine.

210.

Fraudulently obtaining decree for sum not due.

210. Fraudulently obtaining decree for sum not due.--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.

211.

False charge of offence made with intent to injure.

211. False charge of offence made with intent to injure.--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;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death 1\*[imprisonment for life], or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

212.

Harbouring offender-if a capital offence, if punishable with imprisonment for life, or with imprisonment.

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

if a capital offence;

if a capital offence;--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;

if punishable with imprisonment for life, or with imprisonment.

if punishable with imprisonment for life, or with imprisonment.--and if the offence is punishable with 1\*[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment 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.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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1\*["Offence" in this section includes any act committed at any place out of 2\*[India], which, if committed in 2\*[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in 2\*[India].]

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

#### Illustration

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to 3\*[imprisonment for life], A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

213.

Taking gift, etc., to screen an offender from punishment--if a capital offence; if punishable with imprisonment for life, or with imprisonment.

213. Taking gift, etc., to screen an offender from punishment--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,

if a capital offence;

if a capital offence;-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 punishable with imprisonment for life, or with imprisonment.

if punishable with imprisonment for life, or with imprisonment.--and if the offence is punishable with 3\*[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

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

214.

Offering gift or restoration of property in consideration of screening offender-if a capital offence; if punishable with imprisonment for life, or with imprisonment.

214. Offering gift or restoration of property in consideration of screening offender.--Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or 4\*[restores or causes 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,

if a capital offence;

if a capital offence;-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 punishable with imprisonment for life, or with imprisonment.

if punishable with imprisonment for life, or with imprisonment.-  
and if the offence is punishable with 3\*[imprisonment for life] or  
with imprisonment which may extend to ten years, shall be punished  
with imprisonment of either description for a term which may extend to  
three years, and shall also be liable to fine;

- 
1. Ins. by Act 3 of 1894, s. 7.
  2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  3. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  4. Subs. by Act 42 of 1953, s. 4 and the Third Sch., for "to restore or cause the restoration of".
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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.

1\*[Exception.-The provisions of sections 213 and 214 do not  
extend to any case in which the offence may lawfully be compounded.]

2\*                    \*                    \*                    \*                    \*

215.

Taking gift to help to recover stolen property, etc.

215. Taking gift to help to recover stolen property, etc.--  
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.

216.

Harbouring offender who has escaped from custody or whose apprehension  
has been ordered-if a capital offence; if punishable with  
imprisonment for life, or with imprisonment.

216. Harboursing offender who has escaped from custody or whose apprehension has been ordered.--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 servant, in the exercise of the lawful powers of such public servant, orders a 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 a capital offence;

if a capital offence;--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 punishable with imprisonment for life, or with imprisonment.

if punishable with imprisonment for life, or with imprisonment.--if the offence is punishable with 3\*[imprisonment for life] or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

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

4\*["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of 5\*[India], which, if he had been guilty of it in 5\*[India], would have been punishable as an offence, and for which he is, under any law relating to extradition, 6\*or otherwise liable to be apprehended or detained in custody in 5\*[India], and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in 5\*[India].]

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

216A.

Penalty for harbouring robbers or dacoits.

7\*[216A. Penalty for harbouring robbers or dacoits.--Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity,

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1. Subs. by Act 8 of 1882, s. 6, for the original Exception.
  2. Illustration rep. by Act 10 of 1882, s. 2 and Sch. I.
  3. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  4. Ins. by Act 10 of 1886, s. 23.
  5. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  6. The words "or under the Fugitive Offenders Act, 1881" omitted by s. 3 and Sch., *ibid*.
  7. Ins. by Act 3 of 1894, s. 8.
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harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.--For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without 1\*[India].

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

216B.

[Repealed.]

2\*[216B. Definition of "harbour" in sections 212, 216 and 216A.] Rep. by the Indian Penal Code (Amendment) Act, 1942 (8 of 1942), s. 3.

217.

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

217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.--Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a

less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

218.

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

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

219.

Public servant in judicial proceeding corruptly making report, etc., contrary to law.

219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.--Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

220.

Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.

220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.--Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or

keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

221.

Intentional omission to apprehend on the part of public servant bound to apprehend.

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

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

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1. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".

2. Ins. by Act 3 of 1894, s. 8.  
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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 1\*[imprisonment for life] or imprisonment for a term which may extend to ten years; or

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

222.

Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.

222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully

committed.--Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence 2\*[or 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:-

with 1\*[imprisonment for life] or 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

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who, ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to 1\*[imprisonment for life] 3\*\*\* 4\*\*\* 5\*\*\* 6\*\*\* or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years 2\*[or if the person was lawfully committed to custody].

223.

Escape from confinement or custody negligently suffered by public servant.

223. Escape from confinement or custody negligently suffered by public servant.--Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence 2\*[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.

224.

Resistance or obstruction by a person to his lawful apprehension.

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

with both.

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

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. Ins. by Act 27 of 1870, s. 8.
  3. The words "or penal servitude for life" omitted by Act 17 of 1949, s. 2.
  4. The words "or to" omitted by Act 36 of 1957, s. 3 and Sch. II.
  5. The word "transportation" omitted by Act 26 of 1955, s. 117 and Sch.
  6. The words "or penal servitude" omitted by Act 17 of 1949, s. 2.
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225.

Resistance or obstruction to lawful apprehension of another person.

225. Resistance or obstruction to lawful apprehension of another person.--Whoever intentionally offers any resistance or illegal 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, 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 1\*[imprisonment for life] or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term 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 liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to 1\*[imprisonment for life], 2\*\*\* 3\*\*\* 4\*\*\* or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with 1[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

225A.

Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for.

5\*[225A. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for.--Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished-

(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine or with both; and

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

225B.

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

225B. Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.--Whoever, in any case not provided for in section 224 or section 225 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.]

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. The words "or to" omitted by Act 36 of 1957, s. 3 and Sch. II.
  3. The word "transportation" omitted by Act 26 of 1955, s. 117 and Sch.
  4. The words "penal servitude" rep. by Act 17 of 1949, s. 2.
  5. Ss. 225A and 225B were subs. by Act 10 of 1886, s. 24(1), for s. 225A, which had been ins. by Act 27 of 1870, s.9.
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226.

[Repealed.]

226. [Unlawful return from transportation.] Rep. by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), s. 117 and Sch.

227.

Violation of condition of remission of punishment.

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

228.

Intentional insult or interruption to public servant sitting in judicial proceeding.

228. Intentional insult or interruption to public servant sitting in judicial proceeding.--Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant 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.

228A.

Disclosure of identity of the victim of certain offences, etc.

1\*[228A. Disclosure of identity of the victim of certain offences, etc.--(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 376, section 376A, section 376B, section 376C or section 376D is alleged or found to have been committed (hereafter 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 and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any 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 in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or

(b) by, or with the authorisation in writing of, the victim; or

(c) where the victim is dead or minor or of unsound mind, by, or with the authorisation in writing of, the next-of-kin of the victim:

Provided that no such authorisation shall be given by the next-of-kin to anybody other than the chairman or the secretary, by whatever name called, of any recognised welfare institution or organisation.

Explanation.-For the purposes of this sub-section, "recognised welfare institution or organisation" means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

(3) Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-section (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 and shall also be liable to fine.

Explanation.-The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.]

229.

Personation of a juror or assessor.

229. Personation of a juror or assessor.--Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a jurymen 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.

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1. Ins. by Act 43 of 1983, s. 2 (w.e.f. 25-12-1983).

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CHAPTER XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

CHAPTER XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

230.

"Coin" defined.

230. "Coin" defined.--1\*[Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.]

Indian coin

Indian coin--2\*[Indian coin is metal stamped and issued by the authority of the Government of India in order to be used as money; and metal which has been so stamped and issued shall continue to be Indian coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]

Illustrations

- (a) Cowries are not coin.
- (b) Lumps of unstamped copper, though used as money, are not coin.
- (c) Medals are not coin, inasmuch as they are not intended to be used as money.
- (d) The coin denominated as the Company's rupee is 3[Indian coin].
- 4\*(e)The "Farukhabad rupee", which was formerly used as money under the authority of the Government of India, is 3[Indian coin] although it is no longer so used.]

231.

Counterfeiting coin.

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

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

232.

Counterfeiting Indian coin.

232. Counterfeiting Indian coin.--Whoever counterfeits, or knowingly performs any part of the process of counterfeiting 3\*[Indian coin], shall be punished with 5\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

233.

Making or selling instrument for counterfeiting coin.

233. Making or selling instrument for counterfeiting coin.--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 extended to three years, and shall also be liable to fine.

234.

Making or selling instrument for counterfeiting Indian coin.

234. Making or selling instrument for counterfeiting Indian coin.--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 3[Indian 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.

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1. Subs. by Act 19 of 1872, s. 1, for the original paragraph.
  2. Subs. by the A.O. 1950, for the former paragraph.
  3. Subs., *ibid.*, for "the Queen's coin".
  4. Ins. by Act 6 of 1896, s. 1(2).
  5. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
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235.

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

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

if Indian coin.

if Indian coin.--and if the coin to be counterfeited is 1\*[Indian 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.

236.

Abetting in India the counterfeiting out of India of coin.

236. Abetting in India the counterfeiting out of India of coin.--Whoever, being within 2\*[India] abets the counterfeiting of coin out of 2\*[India] shall be punished in the same manner as if he abetted the counterfeiting of such coin within 2\*[India].

237.

Import or export of counterfeit coin.

237. Import or export of counterfeit coin.--Whoever imports into

2\*[India], or exports therefrom, any counterfeit coin, knowingly or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

238.

Import or export of counterfeits of the Indian coin.

238. Import or export of counterfeits of the Indian coin.--Whoever imports into 2\*[India], or exports therefrom, any counterfeit coin, which he knows or has reason to believe to be a counterfeit of 1\*[Indian coin], shall be punished with 3\*[Imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

239.

Delivery of coin possessed with knowledge that it is counterfeit.

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

240.

Delivery of Indian coin, possessed with knowledge that it is counterfeit.

240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.--Whoever having any counterfeit coin, which is a counterfeit of 1\*[Indian coin], and which, at the time when he became possessed of it, he knew to be a counterfeit of 1\*[Indian coin], 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.

241.

Delivery of coin as genuine, which, when first possessed, the

deliverer did not know to be counterfeit.

241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.--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 years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

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1. Subs. by the A.O. 1950, for "the Queen's coin".
  2. Subs. by Act 3 of 1951 s. 3 and Sch., for "the States".
  3. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
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#### Illustration

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

242.

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

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

243.

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

243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.--Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of 1\*[Indian coin], having known at the time when he became possessed of it that it 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.

244.

Person employed in mint causing coin to be of different weight or composition from that fixed by law.

244. Person employed in mint causing coin to be of different weight or composition from that fixed by law.--Whoever, being employed in any mint lawfully established in 2\*[India], does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

245.

Unlawfully taking coining instrument from mint.

245. Unlawfully taking coining instrument from mint.--Whoever, without lawful authority, takes out of any mint, lawfully established in 2[India], any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

246.

Fraudulently or dishonestly diminishing weight or altering composition of coin.

246. Fraudulently or dishonestly diminishing weight or altering composition of coin.--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 the coin.

247.

Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.

247. Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.--Whoever fraudulently or dishonestly performs on 3\*[any Indian 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.

- 
1. Subs. by the A. O. 1950, for "the Queen's coin".
  2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  3. Subs. by the A. O. 1950, for "any of the Queen's coin".
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248.

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

248. Altering appearance of coin with intent that it shall pass as coin of different description.--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.

249.

Altering appearance of Indian coin with intent that it shall pass as coin of different description.

249. Altering appearance of Indian coin with intent that it shall pass as coin of different description.--Whoever performs on 1\*[any Indian 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.

250.

Delivery of coin possessed with knowledge that it is altered.

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

251.

Delivery of Indian coin, possessed with knowledge that it is altered.

251. Delivery of Indian coin, possessed with knowledge that it is altered.--Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

252.

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

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

253.

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

253. Possession of Indian coin by person who knew it to be altered when he became possessed thereof.--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 247 or 249 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 five years, and shall also be liable to fine.

254.

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

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

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1. Subs. by the A. O. 1950, for "any of the Queen's coin".  
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years or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

255.

Counterfeiting Government stamp.

255. Counterfeiting Government stamp.--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 1\*[imprisonment for life] or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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

256.

Having possession of instrument or material for counterfeiting Government stamp.

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

257.

Making or selling instrument for counterfeiting Government stamp.

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

258.

Sale of counterfeit Government stamp.

258. Sale of counterfeit Government stamp.--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.

259.

Having possession of counterfeit Government stamp.

259. Having possession of counterfeit Government stamp.--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.

260.

Using as genuine a Government stamp known to be counterfeit.

260. Using as genuine a Government stamp known to be counterfeit.--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.

261.

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

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

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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262.

Using Government stamp known to have been before used.

262. Using Government stamp known to have been before used.--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 fine, or with both.

263.

Erasure of mark denoting that stamp has been used.

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

263A.

Prohibition of fictitious stamps.

1\*[263A. Prohibition of fictitious stamps.--(1) Whoever-

(a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(b) has in his possession, without lawful excuse, any fictitious stamp, or

(c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp 2\*[may be seized and, if seized] shall be forfeited.

(3) In this section "fictitious stamp" means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word "Government", when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer

executive Government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.]

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

264.

Fraudulent use of false instrument for weighing.

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

265.

Fraudulent use of false weight or measure.

265. Fraudulent use of false weight or measure.--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.

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1. S. 263A ins. by Act 3 of 1895, s. 2.

2. Subs. by Act 42 of 1953, s. 4 and the Third Sch., for "may be seized and".  
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266.

Being in possession of false weight or measure.

266. Being in possession of false weight or measure.--Whoever is in possession of any instrument for weighing, or of any weight, or of

any measure of length or capacity, which he knows to be false, 1\*\*\*\* intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

267.

Making or selling false weight or measure.

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

#### CHAPTER XIV

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

#### CHAPTER XIV

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

268.

Public nuisance.

268. Public nuisance.--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 common nuisance is not excused on the ground that it causes some convenience or advantage.

269.

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

269. Negligent act likely to spread infection of disease dangerous to life.--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.

270.

Malignant act likely to spread infection of disease dangerous to life.

270. Malignant act likely to spread infection of disease dangerous to life.--Whoever maliciously 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 two years, or with fine, or with both.

271.

Disobedience to quarantine rule.

271. Disobedience to quarantine rule.--Whoever knowingly disobeys any rule made and promulgated <sup>2\*</sup>[by the <sup>3\*</sup> Government <sup>4\*</sup>] 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, for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

272.

Adulteration of food or drink intended for sale.

272. Adulteration of food or drink intended for sale.--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 thousand rupees, or with both.

273.

Sale of noxious food or drink.

273. Sale of noxious food or drink.--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

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1. The word "and" omitted by Act 42 of 1953, s. 4 and the third Sch.
  2. Subs. by the A. O. 1937, for "by the G. of I., or by any Govt."
  3. The words "Central or any Provincial" rep. by the A. O. 1950.
  4. The words "or the Crown Representative" were rep. by the A. O. 1948.
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or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

274.

Adulteration of drugs.

274. Adulteration of drugs.--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 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 thousand rupees, or with both.

275.

Sale of adulterated drugs.

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

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

276.

Sale of drug as a different drug or preparation.

276. Sale of drug as a different drug or preparation.--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 thousand rupees, or with both.

277.

Fouling water of public spring or reservoir.

277. Fouling water of public spring or reservoir.--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 five hundred rupees, or with both.

278.

Making atmosphere noxious to health.

278. Making atmosphere noxious to health.--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 five hundred rupees.

279.

Rash driving or riding on a public way.

279. Rash driving or riding on a public way.--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 thousand rupees, or with both.

280.

Rash navigation of vessel.

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

281.

Exhibition of false light, mark or buoy.

281. Exhibition of false light, mark or buoy.--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.

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282.

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

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

283.

Danger or obstruction in public way or line of navigation.

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

hundred rupees.

284.

Negligent conduct with respect to poisonous substance.

284. Negligent conduct with respect to poisonous substance.--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 person,

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

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

285.

Negligent conduct with respect to fire or combustible matter.

285. Negligent conduct with respect to fire or combustible matter.--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 from such 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 thousand rupees, or with both.

286.

Negligent conduct with respect to explosive substance.

286. Negligent conduct with respect to explosive substance.--Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard

against any probable danger to human life from that substance,

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

287.

Negligent conduct with respect to machinery.--

287. Negligent conduct with respect to machinery.--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 thousand rupees, or with both.

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288.

Negligent conduct with respect to pulling down or repairing buildings.

288. Negligent conduct with respect to pulling down or repairing buildings.--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 thousand rupees, or with both.

289.

Negligent conduct with respect to animal.

289. Negligent conduct with respect to animal.--Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term

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

290.

Punishment for public nuisance in cases not otherwise provided for.

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

291.

Continuance of nuisance after injunction to discontinue.

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

292.

Sale, etc., of obscene books, etc.

1\*[292. Sale, etc., of obscene books, etc.--2\*[(1) For the purposes of sub-section (2), a book, pamphlet, paper, writing, drawing, painting representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.]

3\*[(2)] Whoever-

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, reduces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe

that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

(c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or

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1. Subs. by Act 8 of 1925, s. 2, for the original s. 292.
  2. Ins. by Act 36 of 1969, s. 2
  3. S. 292 renumbered as sub-section (2) thereof by s. 2, ibid.
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(e) offers or attempts to do any act which is an offence under this section,

shall be punished 1 [on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees].

2\*[Exception-This section does not extend to-

(a) any book, pamphlet, paper, writing, drawing, painting, representation or figure-

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern, or

(ii) which is kept or used bona fide for religious purposes;

(b) any representation sculptured, engraved, painted or otherwise represented on or in-

(i) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or

(ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.]]

293.

Sale, etc., of obscene objects to young person.

3\*[293. Sale, etc., of obscene objects to young person.--Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished 1[on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees].]

294.

Obscene acts and songs.

4\*[294. Obscene acts and songs.--Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

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

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1. Subs. by Act 36 of 1969, s. 2, for certain words.

2. Subs. by s. 2, ibid., for Exception.

3. Subs. by Act 8 of 1925, s. 2, for the original s. 293.

4. Subs. by Act 3 of 1895, s. 3, for the original s. 294.  
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294A.

Keeping lottery office.

1\*[294A. Keeping lottery office.--Whoever keeps any office or place for the purpose of drawing any lottery 2\*[not being 3\*[a

State lottery] or a lottery authorised by the 4\*[State] Government], shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

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

## CHAPTER XV

### OF OFFENCES RELATING TO RELIGION

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### OF OFFENCES RELATING TO RELIGION

295.

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

295. Injuring or defiling place of worship, with intent to insult the religion of any class.--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.

295A.

Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

5\*[295A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.--Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of 6\*[citizens of India], 7\*[by words, either spoken or written, or by signs or by visible representations or otherwise] 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 8\*[three years], or with fine, or with both.]

296.

Disturbing religious assembly.

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

297.

Trespassing on burial places, etc.

297. Trespassing on burial places, etc.--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,

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1. S. 294A ins. by Act 27 of 1870, s. 10.
  2. Subs. by the A. O. 1937, for "not authorised by Government".
  3. Subs. by Act 3 of 1951, s. 3 and Sch., for "a lottery organised by the Central Government or the Government of a Part A State or a Part B State" which had been subs. by the A.O. 1950, for "a State lottery".
  4. Subs. by the A.O. 1950, for "Provincial".
  5. Ins. by Act 25 of 1927, s. 2.
  6. Subs. by the A.O. 1950, for "His Majesty's subjects".
  7. Subs. by Act 41 of 1961, s.3, for certain words.
  8. Subs. by s.3, *ibid.*, for "two years".
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shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

298.

Uttering words, etc., with deliberate intent to wound religious feelings.

298. Uttering words, etc., with deliberate intent to wound religious feelings.--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.

#### CHAPTER XVI

#### OF OFFENCES AFFECTING THE HUMAN BODY

#### CHAPTER XVI

#### OF OFFENCES AFFECTING THE HUMAN BODY

#### Of offences affecting life

299.

Culpable homicide.

299. Culpable homicide.--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.

#### 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 was 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.

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 skilful 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.

300.

Murder.

300. Murder.--Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or-

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2ndly.-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-

3rdly.-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-

4thly.-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 a 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 cannon 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.

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

The above exception is subject to the following provisos:-

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

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

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.

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#### 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 bailiff. 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

servant 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 giving by a thing done in the exercise of the 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 only 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 or 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 horsewhip 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 horsewhipped, 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 servant or aiding a public servant 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 servant 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's 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.

Exception 5.-Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

#### Illustration

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

301.

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

301. Culpable homicide by causing death of person other than person whose death was intended.--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.

302.

Punishment for murder.

302. Punishment for murder.--Whoever commits murder shall be punished with death, or 1\*[imprisonment for life], and shall also be liable to fine.

303.

Punishment for murder by life-convict.

303. Punishment for murder by life-convict.--Whoever, being under sentence of 1\*[imprisonment for life], commits murder, shall be punished with death.

304.

Punishment for culpable homicide not amounting to murder.

304. Punishment for culpable homicide not amounting to murder.--Whoever commits culpable homicide not amounting to murder shall be punished with 1\*[imprisonment for life], or imprisonment of either description for a term which may extend to ten 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;

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.

304A.

Causing death by negligence.

2\*[304A. Causing death by negligence.--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 two years, or with fine, or with both.]

304B.

Dowry death.

3\*[304B. Dowry death.--(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.--For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. S. 304A was ins. by Act 27 of 1870, s. 12.
  3. Ins. by Act 43 of 1986, s. 10 (w.e.f. 19-11-1986).

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305.

Abetment of suicide of child or insane person.

305. Abetment of suicide of child or insane person.--If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide, shall be punished with death or 1\*[imprisonment for life], or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

306.

Abetment of suicide.

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

307.

Attempt to murder.

307. Attempt to murder.--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 either to 1\*[imprisonment for life], or to such punishment as is hereinbefore mentioned.

Attempts by life-convicts.

Attempts by life-convicts.-2\*[When any person offending under this section is under sentence of 1\*[imprisonment for life], he may, if hurt is caused, be punished with death.]

#### 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

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

(c) A, intending to murder Z, buys 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 3\*[the first paragraph of] this section.

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

308.

Attempt to commit culpable homicide.

308. Attempt to commit culpable homicide.--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 is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. Ins. by Act 27 of 1870, s.11.
  3. Ins. by Act 12 of 1891, s.2 and Sch. II.
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#### Illustration

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

309.

Attempt to commit suicide.

309. Attempt to commit suicide.--Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year 1\*[or with fine, or with both.]

310.

Thug.

310. Thug.--Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug.

311.

Punishment.

311. Punishment.--Whoever is a thug, shall be punished with 2[imprisonment for life], and shall also be liable to fine.

Of the causing of miscarriage, of injuries to unborn children, of the exposure of infants, and of the concealment of births.

312.

Causing miscarriage.

312. Causing miscarriage.--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 of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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

313.

Causing miscarriage without woman's consent.

313. Causing miscarriage without woman's consent.--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 2\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten

years, and shall also be liable to fine.

314.

Death caused by act done with intent to cause miscarriage.

314. Death caused by act done with intent to cause miscarriage.--Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

if act done without woman's consent.

if act done without woman's consent.--and if the act is done without the consent of the woman, shall be punished either with 2\*[imprisonment for life], or with the punishment above mentioned.

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

315.

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

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

- 
1. Subs. by Act 8 of 1882, s. 7, for "and shall also be liable to fine".
  2. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
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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.

316.

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

316. Causing death of quick unborn child by act amounting to culpable homicide.--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.

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.

317.

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

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

318.

Concealment of birth by secret disposal of dead body.

318. Concealment of birth by secret disposal of dead body.--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 endeavors to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of hurt

319.

Hurt.

319. Hurt.--Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

320.

Grievous hurt.

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

First.-Emasculation.

Secondly.-Permanent privation of the sight of either eye.

Thirdly.-Permanent privation of the hearing of either ear.

Fourthly.-Privation of any member or joint.

Fifthly.-Destruction or permanent impairing of the powers of any member or joint.

Sixthly.-Permanent disfiguration of the head or face.

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

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

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321.

Voluntarily causing hurt.

321. Voluntarily causing hurt.--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".

322.

Voluntarily causing grievous hurt.

322. Voluntarily causing grievous hurt.--Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt".

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

#### Illustration

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

323.

Punishment for voluntarily causing hurt.

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

324.

Voluntarily causing hurt by dangerous weapons or means.

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

325.

Punishment for voluntarily causing grievous hurt

325. Punishment for voluntarily causing grievous hurt.--Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

326.

Voluntarily causing grievous hurt by dangerous weapons or means.

326. Voluntarily causing grievous hurt by dangerous weapons or means.--Whoever, except in the case provided for by section 335, 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 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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1. Subs, by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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327.

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

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

328.

Causing hurt by means of poison, etc., with intent to commit and offence.

328. Causing hurt by means of poison, etc., with intent to commit and offence.--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.

329.

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

329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.--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 that is illegal or which may facilitate the commission of an offence, shall be punished with 1\*[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

330.

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

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

#### 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 zamindar, tortures a raiyat in order to compel him to pay his rent. A is guilty of an offence under this section.

331.

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

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

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand or to give information which may lead to the restoration of any property or valuable security shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

332.

Voluntarily causing hurt to deter public servant from his duty.

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

333.

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

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

334.

Voluntarily causing hurt on provocation.

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

335.

Voluntarily causing grievous hurt on provocation.

335. Voluntarily causing grievous hurt on provocation.--Whoever 1\*[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 description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

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

336.

Act endangering life or personal safety of others.

336. Act endangering life or personal safety of others.--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 two hundred and fifty rupees, or with both.

337.

Causing hurt by act endangering life or personal safety of others.

337. Causing hurt by act endangering life or personal safety of others.--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 five hundred rupees, or with both.

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1. Ins. by Act 8 of 1882, s. 8,  
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338.

Causing grievous hurt by act endangering life or personal safety of others.

338. Causing grievous hurt by act endangering life or personal safety of others.--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.

Of wrongful restraint and wrongful confinement

339.

Wrongful restraint.

339. Wrongful restraint.--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.

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

340.

Wrongful confinement.

340. Wrongful confinement.--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. 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 leave the building. A wrongfully confines Z.

341.

Punishment for wrongful restraint.

341. Punishment for wrongful restraint.--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 five hundred rupees, or with both.

342.

Punishment for wrongful confinement.

342. Punishment for wrongful confinement.--Whoever wrongfully confines any person shall be punished with simple 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.

343.

Wrongful confinement for three or more days.

343. Wrongful confinement for three or more days.--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.

344.

Wrongful confinement for ten or more days.

344. Wrongful confinement for ten or more days.--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.

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345.

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

345. Wrongful confinement of person for whose liberation writ has been issued.--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 Chapter.

346.

Wrongful confinement in secret.

346. Wrongful confinement in secret.--Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment 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.

347.

Wrongful confinement to extort property, or constrain to illegal act.

347. Wrongful confinement to extort property, or constrain to illegal act.--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.

348.

Wrongful confinement to extort confession, or compel restoration of property.

348. Wrongful confinement to extort confession, or compel restoration of property.--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.

Of criminal force and assault

349.

Force.

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

First.-By his own bodily power.

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

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

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350.

Criminal force.

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

#### Illustrations

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

(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 used 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.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore 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 be thus 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 injure, 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.

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(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.

351.

Assault.

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

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

#### Illustrations

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that

he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, 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 an assault.

352.

Punishment for assault or criminal force otherwise than on grave provocation.

352. Punishment for assault or criminal force otherwise than on grave provocation.--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 five hundred 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 servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

353.

Assault or criminal force to deter public servant from discharge of his duty.

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

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354.

Assault or criminal force to woman with intent to outrage her modesty.

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

355.

Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.

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

356.

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

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

357.

Assault or criminal force in attempt wrongfully to confine a person.

357. Assault or criminal force in attempt wrongfully to confine a person.--Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with

imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

358.

Assault or criminal force on grave provocation.

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

Explanation.--The last section is subject to the same explanation as section 352.

Of kidnapping, abduction, slavery and forced labour

359.

Kidnapping.

359. Kidnapping.--Kidnapping is of two kinds : kidnapping from 1\*[India], and kidnapping from lawful guardianship.

360.

Kidnapping from India.

360. Kidnapping from India.--Whoever conveys any person beyond the limits of 1\*[India] 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 1\*[India].

361.

Kidnapping from lawful guardianship.

361. Kidnapping from lawful guardianship.--Whoever takes or entices any minor under 2\*[sixteen] years of age if a male, or under 3\*[eighteen] years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of 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.

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1. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States."
  2. Subs. by Act 42 of 1949, s. 2, for "fourteen".
  3. Subs., by s. 2, ibid., for "sixteen".
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Exception.-This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362.

Abduction.

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

363.

Punishment for kidnapping.

363. Punishment for kidnapping.--Whoever kidnaps any person from 1\*[India] 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.

363A.

Kidnapping or maiming a minor for purposes of begging.

2\*[363A. Kidnapping or maiming a minor for purposes of begging.--(1) Whoever kidnaps any minor or, not being the lawful guardian of a minor, obtains the custody of the minor, in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever maims any minor in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment for life, and shall also be liable to fine.

(3) Where any person, not being the lawful guardian of a minor, employs or uses such minor for the purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purposes of begging.

(4) In this section,-

(a) "begging" means-

(i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, fortunetelling, performing tricks or selling articles or otherwise;

(ii) entering on any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(iv) using a minor as an exhibit for the purpose of soliciting or receiving alms;

(b) "minor" means-

(i) in the case of a male, a person under sixteen years of age; and

(ii) in the case of a female, a person under eighteen years of age.]

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1. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".

2. Ins. by Act 52 of 1959, s. 2 (w.e.f. 15-1-1960).

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364.

Kidnapping or abducting in order to murder.

364. Kidnapping or abducting in order to murder.--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 1\*[imprisonment for life] or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to

fine.

### IIIustrations

(a) A kidnaps Z from 2\*[India], 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.

364A.

Kidnapping for ransom, etc.

3\*364A. Kidnapping for ransom, etc.--Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or any foreign State or international inter-governmental organisation or any other person to do or abstain from doing any act or to pay a ransom, shall be punishable with death or imprisonment for life, and shall also be liable to fine.

365.

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

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

366.

Kidnapping, abducting or inducing woman to compel her marriage, etc.

366. Kidnapping, abducting or inducing woman to compel her marriage, etc.--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; 3\*[and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid].

4\*[366A.

Procuration of minor girl.

6\*[366A. Procuracy of minor girl.--Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

366B.

Importation of girl from foreign country.

366B. Importation of girl from foreign country.--Whoever imports into 2\*[India] from any country outside India 7\*[or from the State of Jammu and Kashmir] any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person,

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shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.]

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  3. Ins. by Act 42 of 1997 s. 2.
  4. Subs. by Act 24 of 1995, s. 2.
  5. Ins. by Act 20 of 1923, s. 2.
  6. Ins. by s.3, *ibid*.
  7. Ins. by Act 3 of 1951, s.3 and Sch.,
  8. Certain words omitted by s.3 and Sch., *ibid*.
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367.

Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.

367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.--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.

368.

Wrongfully concealing or keeping in confinement, kidnapped or abducted person.

368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.--Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had 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.

369.

Kidnapping or abducting child under ten years with intent to steal from its person.

369. Kidnapping or abducting child under ten years with intent to steal from its person.--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.

370.

Buying or disposing of any person as a slave.

370. Buying or disposing of any person as a slave.--Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to

fine.

371.

Habitual dealing in slaves.

371. Habitual dealing in slaves.--Whoever habitually imports, exports, removes, buys, sells traffics or deals in slaves, shall be punished with 1\*[imprisonment for life], or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

372.

Selling minor for purposes of prostitution, etc.

372. Selling minor for purposes of prostitution, etc.--Whoever sells, lets to hire, or otherwise disposes of any 2\*[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

3\*[Explanation I.-When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation II.-For the purposes of this section "illicit intercourse" means sexual intercourse between persons not united by marriage, or by any union or tie which though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.]

373.

Buying minor for purposes of prostitution, etc.

373. Buying minor for purposes of prostitution, etc.--Whoever buys, hires or otherwise obtains possession of any 2\*[person under the age of eighteen years with intent that such person shall at

- 
1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. Subs. by Act 18 of 1924, s. 2, for "minor under the age of eighteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be".
  3. Ins. by s.3, ibid,

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any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

1\*[Explanation I.-Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation II.-"Illicit intercourse" has the same meaning as in section 372.]

374.

Unlawful compulsory labour.

374. Unlawful compulsory labour.--Whoever unlawfully compels any person to labour against the will 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.

2\*[Sexual offences

375.

Rape.

375. Rape.--A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:-

First.-Against her will.

Secondly.-Without her consent.

Thirdly.-With her consent, when her consent has been

obtained by putting her or any person in whom she is interested in fear of death or of hurt.

Fourthly.-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 believes herself to be lawfully married.

Fifthly.-With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.-With or without her consent, when she is under sixteen years of age.

Explanation.-Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.-Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.

376.

Punishment for rape.

376. Punishment for rape.--(1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which case, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

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1. Ins. by Act 18 of 1924, s. 4.
  2. Subs. by Act 43 of 1983, s.3 for the heading "Of rape" and ss. 375 and 376.
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Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Whoever,-

(a) being a police officer commits rape-

(i) within the limits of the police station to which he is appointed; or

(ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or

(iii) on a woman in his custody or in the custody of a police officer subordinate to him; or

(b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or

(c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

(d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or

(e) commits rape on a woman knowing her to be pregnant; or

(f) commits rape on a woman when she is under twelve years of age; or

(g) commits gang rape,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1.-Where a women's is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

Explanation 2.-"women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widows' home or by any other name, which is established and maintained for the reception and care of women or children.

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.

Intercourse by a man with his wife during separation.

376A. Intercourse by a man with his wife during separation.--  
Whoever has sexual intercourse with his own wife, who is living separately from him under a decree of separation or under any custom or usage without her consent 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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376B.

Intercourse by public servant with woman in his custody.

376B. Intercourse by public servant with woman in his custody.--  
Whoever, being a public servant, takes advantage of his official position and induces or seduces, any woman, who is in his custody as such public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

376C.

Intercourse by superintendent of jail, remand home, etc.

376C. Intercourse by superintendent of jail, remand home, etc.--  
Whoever, being the superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and induces or seduces any female inmate of such jail, remand home, place or institution to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

Explanation 1.-"Superintendent" in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which he can exercise any authority or control over its inmates.

Explanation 2.-The expression "women's or children's institution" shall have the same meaning as in Explanation 2 to sub-section (2) of section 376.

376D.

Intercourse by any member of the management or staff of a hospital with any woman in that hospital.

376D. Intercourse by any member of the management or staff of a hospital with any woman in that hospital.--Whoever, being on the management of a hospital or being on the staff of a hospital takes advantage of his position and has sexual intercourse with any woman in that hospital, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

Explanation.-The expression "hospital" shall have the same meaning as in Explanation 3 to sub-section (2) of section 376.]

Of unnatural offences

377.

Unnatural offences.

377. Unnatural offences.--Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

Of theft

378.

Theft.

378. Theft.--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.

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1. Subs, by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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Explanation 2.-A moving effected by the same act which effects the severance may be a theft.

Explanation 3.-A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it.

Explanation 4.-A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.-The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

#### 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 a 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 therefor committed theft.

(m) 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 for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks 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.

379.

Punishment for theft.

379. Punishment for theft.--Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

380.

Theft in dwelling house, etc.

380. Theft in dwelling house, etc.--Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

381.

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

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

382.

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

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

#### Illustrations

(a) A commits theft on 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.

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(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

383.

Extortion.

383. Extortion.--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 monies to A to Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security A has committed extortion.

384.

Punishment for extortion.

384. Punishment for extortion.--Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

385.

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

385. Putting person in fear of injury in order to commit extortion.--Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

386.

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

386. Extortion by putting a person in fear of death or grievous hurt.--Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

387.

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

387. Putting person in fear of death or of grievous hurt, in order to commit extortion.--Whoever in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

388.

Extortion by threat of accusation of an offence punishable with death

or imprisonment for life, etc.

388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.--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 1\*[imprisonment for life], or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall

1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".

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shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with 1\*[imprisonment for life].

389.

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

389. Putting person in fear or accusation of offence, in order to commit extortion.--Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with 1\*[imprisonment for life], or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with 1\*[imprisonment for life].

Of robbery and dacoity

390.

Robbery.

390. Robbery.--In all robbery there is either theft or extortion.

When theft is robbery.

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.

When extortion is robbery.--Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person, so put in fear then and there to deliver up the thing extorted.

Explanation.--The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

#### 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 extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying-"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child.

391.

Dacoity.

391. Dacoity.--When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons

present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

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1. Subs, by Act 26 of 1955, s. 117 and Sch., for "transportation for life."  
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392.

Punishment for robbery.

392. Punishment for robbery.--Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

393.

Attempt to commit robbery.

393. Attempt to commit robbery.--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.

394.

Voluntarily causing hurt in committing robbery.

394. Voluntarily causing hurt in committing robbery.--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 1\*[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

395.

Punishment for dacoity.

395. Punishment for dacoity.--Whoever commits dacoity shall be punished with 1\*[imprisonment for life], or with rigorous

imprisonment for a term which may extend to ten years, and shall also be liable to fine.

396.

Dacoity with murder.

396. Dacoity with murder.--If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or 1\*[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

397.

Robbery or dacoity, with attempt to cause death or grievous hurt.

397. Robbery or dacoity, with attempt to cause death or grievous hurt.--If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, so attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

398.

Attempt to commit robbery or dacoity when armed with deadly weapon.

398. Attempt to commit robbery or dacoity when armed with deadly weapon.--If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

399.

Making preparation to commit dacoity.

399. Making preparation to commit dacoity.--Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

400.

Punishment for belonging to gang of dacoits.

400. Punishment for belonging to gang of dacoits.--Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with 1\*[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

401.

Punishment for belonging to gang of thieves.

401. Punishment for belonging to gang of thieves.--Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

402.

Assembling for purpose of committing dacoity.

402. Assembling for purpose of committing dacoity.--Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, 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

403.

Dishonest misappropriation of property.

403. Dishonest misappropriation of property.--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.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life."  
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## Illustrations

(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 a misappropriation with the meaning of this section.

## Illustration

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

Explanation 2.-A person who finds property not in the possession of any other person, and such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

## Illustrations

(a) A finds a rupee on the high-road, not knowing to whom the rupee belong, 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.

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(d) A sees Z drop his purse with money in it. A pick up the purse with the intention of restoring it to Z, bu 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 the owner. A is guilty of an offence under this section.

404.

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

404. Dishonest misappropriation of property possessed by deceased person at the time of his death.-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 decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offender at the time of such 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

405.

Criminal breach of trust.

405. Criminal breach of trust.--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".

1\*[2\*[Explanation 1].-A person, being an employer 3\*[of an establishment whether exempted under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) or not] who deducts the employees' contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said law shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

4\*[Explanation 2.-A person, being an employer, who deducts the employees contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948 (34 of 1948), shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the

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1. Ins. by Act 40 of 1973, s. 9 (w.e.f. 1-11-1973).
  2. Explanation renumbered as Explanation 1 by Act 38 of 1975, s. 9 (w.e.f. 1-9-1975).
  3. Ins. by Act 33 of 1988, s. 27 (w.e.f. 1-8-1988).
  4. Ins. by Act 38 of 1975, s. 9 (w.e.f. 1-9-1975).
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said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

#### 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 Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, thought Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly 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.

406.

Punishment for criminal breach of trust.

406. Punishment for criminal breach of trust.--Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

407.

Criminal breach of trust by carrier, etc.

407. Criminal breach of trust by carrier, etc.--Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust, in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

408.

Criminal breach of trust by clerk or servant.

408. Criminal breach of trust by clerk or servant.--Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

409.

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

409. Criminal breach of trust by public servant, or by banker, merchant or agent.--Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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OF THE RECEIVING OF STOLEN PROPERTY

410.

Stolen property.

410. Stolen property.--Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which 1\*\*\*criminal breach of trust has been committed, is designated as "stolen property", 2\*[whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without 3\*[India]]. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

411.

Dishonestly receiving stolen property.

411. Dishonestly receiving stolen property.--Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

412.

Dishonestly receiving property stolen in the commission of a dacoity.

412. Dishonestly receiving property stolen in the commission of a dacoity.--Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with 4\*[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

413.

Habitually dealing in stolen property.

413. Habitually dealing in stolen property.--Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with 4\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

414.

Assisting in concealment of stolen property.

414. Assisting in concealment of stolen property.--Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Of cheating

415.

Cheating.

415. Cheating.--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, is said to "cheat".

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 Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

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1. The words "the" and "offence of" rep. by Act 12 of 1891, s. 2 and Sch. I and Act 8 of 1882, s. 9, respectively.
  2. Ins. by Act 8 of 1882 s. 9.
  3. Subs. by Act 3 of 1951, s. 3 and Sch., for "the States".
  4. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
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(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats

(e) A, by pledging as diamond 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 indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(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.

416.

Cheating by personation.

416. Cheating by personation.--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 or 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 banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

417.

Punishment for cheating.

417. Punishment for cheating.--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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418.

Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.

418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.--Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound either by law, or by legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

419.

Punishment for cheating by personation.

419. Punishment for cheating by personation.--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.

420.

Cheating and dishonestly inducing delivery of property.

420. Cheating and dishonestly inducing delivery of property.--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.

Of fraudulent deeds and dispositions of property

421.

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

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

422.

Dishonestly or fraudulently preventing debt being available for creditors.

422. Dishonestly or fraudulently preventing debt being available for creditors.--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.

423.

Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.

423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.--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.

424.

Dishonest or fraudulent removal or concealment of property.

424. Dishonest or fraudulent removal or concealment of property.-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

425.

Mischief.

425. Mischief.--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".

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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 in to an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(c) A voluntarily throws into a river a ring belonging to Z, with the intention of there by 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.

426.

Punishment for mischief.

426. Punishment for mischief.--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.

427.

Mischief causing damage to the amount of fifty rupees.

427. Mischief causing damage to the amount of fifty rupees.--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.

428.

Mischief by killing or maiming animal of the value of ten rupees.

428. Mischief by killing or maiming animal of the value of ten rupees.--Whoever commits mischief by killing, poisoning, maiming or rendering useless any animals or animal of the value of the 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.

429.

Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.

429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.--Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, of any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment or either description for a term which may extend to five years, or with fine, or with both.

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430.

Mischief by injury to works of irrigation or by wrongfully diverting water.

430. Mischief by injury to works of irrigation or by wrongfully diverting water.--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.

431.

Mischief by injury to public road, bridge, river or channel.

431. Mischief by injury to public road, bridge, river or channel.--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.

432.

Mischief by causing inundation or obstruction to public drainage attended with damage.

432. Mischief by causing inundation or obstruction to public drainage attended with damage.--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.

433.

Mischief by destroying, moving or rendering less useful a light-house or sea-mark.

433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.--Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

434.

Mischief by destroying or moving, etc., a land-mark fixed by public authority.

434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.--Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

435.

Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.

435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.--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 1\*[or (where the property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

436.

Mischief by fire or explosive substance with intent to destroy house, etc.

436. Mischief by fire or explosive substance with intent to destroy house, etc.--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 2\*[imprisonment for

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

437.

Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.

437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.--Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or 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.

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1. Ins. by Act 8 of 1882, s. 10
  2. Subs, by Act 26 of 1955, s. 117 and Sch, for "transportation for life".
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438.

Punishment for the mischief described in section 437 committed by fire or explosive substance.

438. Punishment for the mischief described in section 437 committed by fire or explosive substance.--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 1\*[imprisonment for life]. or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

439.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.

439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.--Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall

also be liable to fine.

440.

Mischief committed after preparation made for causing death or hurt.

440. Mischief committed after preparation made for causing death or hurt.-- Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of criminal trespass

441.

Criminal trespass.

441. Criminal trespass.--Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

is said to commit "criminal trespass".

442.

House-trespass.

442. House-trespass.--Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Explanation.--The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443.

Lurking house-trespass.

443. Lurking house-trespass.--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".

444.

Lurking house-trespass by night.

444. Lurking house-trespass by night.--Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night".

445.

House-breaking.

445. House-breaking.--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 it in such six ways, that is to say :-

First.-If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

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1. Subs. by act. 26 of 1955, s. 117 and Sch., for "transportation for life".  
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Secondly.-If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.-If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.-If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.-If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person

with assault.

Sixthly.-If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.-Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

#### Illustrations

(a) A commits house-trespass by making a hole through the wall of Z's 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.

446.

House-breaking by night.

446. House-breaking by night.--Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night".

447.

Punishment for criminal trespass.

447. Punishment for criminal trespass.--Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

448.

Punishment for house-trespass.

448. Punishment for house-trespass.--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.

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449.

House-trespass in order to commit offence punishable with death.

449. House-trespass in order to commit offence punishable with death.--Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with 1\*[imprisonment for life], or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

450.

House-trespass in order to commit offence punishable with imprisonment for life.

450. House-trespass in order to commit offence punishable with imprisonment for life.--Whoever commits house-trespass in order to the committing of any offence punishable with 1\*[imprisonment for life], shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

451.

House-trespass in order to commit offence punishable with imprisonment.

451. House-trespass in order to commit offence punishable with imprisonment.--Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

452.

House-trespass alter preparation for hurt, assault or wrongful restraint.

452. House-trespass alter preparation for hurt, assault or wrongful restraint.--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 and person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

453.

Punishment for lurking house-trespass or house-breaking.

453. Punishment for lurking house-trespass or house-breaking.--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.

454.

Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.

454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.--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.

455.

Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.

455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.--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 or a term which may extend to ten years, and shall also be liable to fine.

456.

Punishment for lurking house-trespass or house-breaking by night.

456. Punishment for lurking house-trespass or house-breaking by night.--Whoever commits 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 three years, and shall also be liable to fine.

457.

Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.

457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.--Whoever commits lurking house-trespass by night, or house-breaking by night in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

458.

Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.

458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.--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.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".  
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459.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.--Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with 1\*[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

460.

All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.--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 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

461.

Dishonestly breaking open receptacle containing property.

461. Dishonestly breaking open receptacle containing property.--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.

462.

Punishment for same offence when committed by person entrusted with custody.

462. Punishment for same offence when committed by person entrusted with custody.--Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### CHAPTER XVIII

#### OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

#### CHAPTER XVIII

#### OF OFFENCES RELATING TO DOCUMENTS AND TO 2\*\*\*\*PROPERTY MARKS

463.

Forgery.

463. Forgery.--Whoever makes any false document or part of a document with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

464.

Making a false document.

464. Making a false document.--A person is said to make a false document-

First.-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.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. The words "Trade or" omitted by Act 43 of 1958, s. 135 and Sch. (w.e.f. 25-11-1959).
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#### Illustrations

(a) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds cipher to the 10,000, and makes the sum 1,00,000 intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase-money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words-"I direct that all my remaining property be equally divided between A, B and C." A dishonestly

scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government promissory note and makes it payable to Z for his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee 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 express or implied contract for service.

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Explanation I.-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 bills 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 antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.-The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

#### Illustration

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

465.

Punishment for forgery.

465. Punishment for forgery.--Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

466.

Forgery of record of Court or of public register, etc.

466. Forgery of record of Court or of public register, etc.--Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

467.

Forgery of valuable security, will, etc.

467. Forgery of valuable security, will, etc.--Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to 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 1 \* [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

468.

Forgery for purpose of cheating.

468. Forgery for purpose of cheating.--Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

469.

Forgery for purpose of harming reputation.

469. Forgery for purpose of harming reputation.--Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

470.

Forged document.

470. Forged document.--A false document made wholly or in part by forgery is designated "a forged document".

471.

Using as genuine a forged document.

471. Using as genuine a forged document.--Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

472.

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.

472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.--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 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punishable with 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

473.

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.

473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.--Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

474.

Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it genuine.

474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it genuine.--Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 466 of this Code, 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 467, shall be punished with 1\*[imprisonment for life], or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

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1. Subs. by Act 26 of 1955. s. 117 and Sch., for "transportation for life".

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475.

Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.

475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.--Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, 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 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

476.

Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.

476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.--Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any

document then forged or thereafter to be forged on such material, or who with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

477.

Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.

477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.--Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect of such document, shall be punished with 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

477A.

Falsification of accounts.

2\*[477A. Falsification of accounts.--Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, willfully, 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 willfully, 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.]

3\*[Of 4\*\*\*\*property and other marks

478.

[Repealed.]

478. [Trade Mark.] Rep. by the Trade and Merchandise Marks Act, 1958 (43 of 1958), s. 135 and Sch. (w. e. f. 25-11-1959).

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  2. Added by Act 3 of 1895, s. 4.
  3. Subs. by Act. 4 of 1889, s. 3, for the original heading and ss. 478 to 489.
  4. The word "trade," omitted by Act 43 of 1958, s. 135 and Sch. (w.e.f. 25-11-1959).
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479.

Property mark.

1\*479. Property mark.--A mark used for denoting that movable property belongs to a particular person is called a property mark.

480.

[Repealed.]

480. [Using a false trade mark.] Rep. by the Trade and Merchandise Marks Act, 1958 (43 of 1958), s. 135 and Sch. (w.e.f. 25-11-1959).

481.

Using a false property mark.

481. Using a false property mark.--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, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

482.

Punishment for using a false property mark.

482. Punishment for using a false property mark.--Whoever uses 1\*\*\*any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

483.

Counterfeiting a property mark used by another.

483. Counterfeiting a property mark used by another.--Whoever counterfeits any 3\*\*\*\*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.

484.

Counterfeiting a mark used by a public servant.

484. Counterfeiting a mark used by a public servant.--Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

485.

Making or possession of any instrument for counterfeiting a property mark.

4\*[485. Making or possession of any instrument for counterfeiting a property mark.--Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a proper mark, or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

486.

Selling goods marked with a counterfeit property mark.

486. Selling goods marked with a counterfeit property mark.--  
5\*[Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark] affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves-

1. Ss. 147 to 489 were subs. by Act 4 of 1889, for the original sections.
2. The words "any false trade mark or" omitted by Act 43 of 1958, s. 135 and Sch. (w.e.f. 25-11-1959).
3. The words "trade mark or" omitted by s. 135 and Sch., ibid. (w.e.f. 25-11-1959).
4. Subs. by s. 135 and Sch., ibid., for the former section (w.e.f. 25-11-1959).
5. Subs. by s. 135 and Sch., ibid., for certain words (w.e.f. 25-11-1959).

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(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

487.

Making a false mark upon any receptacle containing goods.

487. Making a false mark upon any receptacle containing goods.--  
Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine,

or with both.

488.

Punishment for making use of any such false mark.

488. Punishment for making use of any such false mark.--Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

489.

Tampering with property mark with intent to cause injury.

489. Tampering with property mark with intent to cause injury.--Whoever removes, destroys, defaces or adds to 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 which may extend to one year, or with fine, or with both.]

1\*[Of currency-notes and bank-notes

489A.

Counterfeiting currency-notes or bank-notes.

489A. Counterfeiting currency-notes or bank-notes.--Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with 2\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.--For the purposes of this section and of sections 489B, 3\*[489C, 489D and 489E], the expression "bank-note" means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for money.

489B.

Using as genuine, forged or counterfeit currency-notes or bank-notes.

489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.--Whoever sells to, or buys or receives from, any other person, 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 2 \* [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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1. Ss. 489A to 489D were ins. by Act 12 of 1899, s. 2
  2. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".
  3. Subs. by Act 35 of 1950, s. 3 and Sch., II, for "489C and 489D".

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489C.

Possession of forged or counterfeit currency-notes or bank-note.

489C. Possession of forged or counterfeit currency-notes or bank-notes.--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 seven years, or with fine, or with both.

489D.

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

489D. Making or possessing instruments or materials for forging or counterfeiting currency notes or bank-notes.--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 1 \* [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

489E.

Making or using documents resembling currency-notes or bank-notes.

2\*[489E. Making or using documents resembling currency-notes or bank-notes.--(1) Whoever makes, or causes to be made, or uses for any purpose whatsoever, or delivers to any person, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency-note or bank-note shall be punished with fine which may extend to one hundred rupees.

(2) If any person, whose name appears on a document the making of which is an offence under sub-section (1), refuses, without lawful excuse, to disclose to a police-officer on being so required the name and address of the person by whom it was printed or otherwise made, he shall be punished with fine which may extend to two hundred rupees.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it may, until the contrary is proved, be presumed that that person caused the document to be made.]

#### CHAPTER XIX

#### OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

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#### OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490.

490. [Breach of contract of service during voyage or journey.]  
Rep. by the Workmen's Breach of Contract (Repealing) Act, 1925 (3 of 1925), s. 2 and Sch.

491.

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

491. Breach of contract to attend on and supply wants of helpless person.--Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or

with fine which may extend to two hundred rupees, or with both.

492.

492. [Breach of contract to serve at distant place to which servant is conveyed at master's expense.] Rep. by the Workmen's Breach of Contract (Repealing) Act, 1925 (3 of 1925), s. 2 and Sch.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".

2. S. 489E was ins. by Act 6 of 1943, s. 2.

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## CHAPTER XX

### OF OFFENCES RELATING TO MARRIAGE

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### OF OFFENCES RELATING TO MARRIAGE

493.

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

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

494.

Marrying again during lifetime of husband or wife.

494. Marrying again during lifetime of husband or wife.--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 of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.--This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of 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 so far as the same are within his or her knowledge.

495.

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

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

496.

Marriage ceremony fraudulently gone through without lawful marriage.

496. Marriage ceremony fraudulently gone through without lawful marriage.--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.

497.

Adultery.

497. Adultery.--Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with

fine, or with both. In such case the wife shall not be punishable as an abettor.

498.

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

498. Enticing or taking away or detaining with criminal intent a married woman.--Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXA

OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

1\*[CHAPTER XXA

OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

498A.

Husband or relative of husband of a woman subjecting her to cruelty.

498A. Husband or relative of husband of a woman subjecting her to cruelty.--Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

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1. Chapter XXA inserted by Act 46 of 1983, s. 2.

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Explanation.--For the purposes of this section, "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any

unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

CHAPTER XXI

OF DEFAMATION

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OF DEFAMATION

499.

Defamation.

499. Defamation.--Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.-It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.-It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.-An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.-No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations

(a) A says-"Z is an honest man; he never stole B's watch", intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation,

unless it fall within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

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

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Second Exception.-Public conduct of public servants.-It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception.-Conduct of any person touching any public question. -It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

#### Illustration

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.-Publication of reports of proceedings of courts- It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.-A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception.-Merits of case decided in Court or conduct of witnesses and others concerned. It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as 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 farther.

(b) But if A says-"I do not believe what Z asserted at that trial because I know him to be a man without veracity"; A is not within this exception, inasmuch as the opinion which expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception.-Merits of public performance.-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 farther.

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.

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

#### Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in

the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier-are within this exception.

Eighth Exception.-Accusation preferred in good faith to authorised person.-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.

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

(b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

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

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500.

Punishment for defamation.

500. Punishment for defamation.--Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

501.

Printing or engraving matter known to be defamatory.

501. Printing or engraving matter known to be defamatory.--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.

502.

Sale of printed or engraved substance containing defamatory matter.

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

#### CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

#### CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

503.

Criminal intimidation.

503. Criminal intimidation.--Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.-A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

504.

Intentional insult with intent to provoke breach of the peace.

504. Intentional insult with intent to provoke breach of the peace.--Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

505.

Statements conducing public mischief.

1\*[505. Statements conducing public mischief.--2\*[(1)]  
Whoever makes, publishes or circulates any statement, rumour or report,-

(a) with intent to cause, or which is likely to cause, any officer, soldier, 3\*[sailor or airman] in the Army, 4\*[Navy or Air Force] 5\*[of India] to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

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1. Subs. by Act 4 of 1898, s. 6, for the original section.
  2. Renumbered by Act 35 of 1969, s. 3.
  3. Subs. by Act 10 of 1927, s. 2 and Such. I, for "or sailor".
  4. Subs. by s. 2 and Sch. i. *ibid.*, for "or navy".
  5. Subs. by the A.O. 1950, for "of Her Majesty or in the Imperial Service Troops". The words "or in the Royal Indian Marine" occurring after the word "Majesty" were rep. by Act 35 of 1934.

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(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to 1\*[three years], or with fine, or with both.

2\*[(2) Statements creating or promoting enmity, hatred or ill-will between classes.--Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) Offence under sub-section (2) committed in place of worship, etc.--Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

Exception.--It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it 2[in good faith and] without any such intent as aforesaid.]

506.

Punishment for criminal intimidation.

506. Punishment for criminal intimidation.--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;

If threat be to cause death or grievous hurt, etc.

If threat be to cause death or grievous hurt, etc.--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 3\*[imprisonment for life], 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.

507.

Criminal intimidation by an anonymous communication.

507. Criminal intimidation by an anonymous communication.--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.

508.

Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.

508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.--Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

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1. Subs. by Act 41 of 1961, s. 4, for "two years".
  2. Ins. by Act 35 of 1969, s. 3.
  3. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation".

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#### Illustrations

(a) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

509.

Word, gesture or act intended to insult the modesty of a woman.

509. Word, gesture or act intended to insult the modesty of a woman.--Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

510.

Misconduct in public by a drunken person.

510. Misconduct in public by a drunken person.--Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

#### CHAPTER XXIII

#### OF ATTEMPTS TO COMMIT OFFENCES

#### CHAPTER XXIII

#### OF ATTEMPTS TO COMMIT OFFENCES

511.

Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.

511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.--Whoever attempts to commit an offence punishable by this Code with 1\*[imprisonment for life] or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with 2\*[imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence], or with such fine as is provided for the offence, or with both.

#### 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's having nothing in his pocket. A is guilty under this section.

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1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation".
  2. Subs. by s. 117 and Sch., *ibid.*, for certain words.