

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.]

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).

102.

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

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.

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.
103.

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).

104.

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. 105.

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.

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.

106.

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 persons wife, clerk or servant, on account of that person, it is in that persons 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.

1. Subs. by Act 1 of 1889, s. 9, for the original Explanation.

107.

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 Zs 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.

1. Subs. by Act 27 of 1870, s. 1, for the original section.

108.

(c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Zs 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 Zs 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 Zs 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".

109.

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

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).

110.

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.

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. -----

111.

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.
112.

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.

1. Ins by Act 8 of 1882, s, 4. -----

113.

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

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.

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).

114.

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 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 As act, A is not guilty of the offence.

115.

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 persons benefit.

88. Act not intended to cause death, done by consent in good faith for persons 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-

116.

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 independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92.

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.

117.

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 Zs death, but in good faith, for Zs 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 Zs benefit. As 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 childs guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the childs 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 childs 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.

118.

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.

119.

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.

120.

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 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.

Illustration

A, being an officer directed by law to take property in execution, in ORDER to satisfy a decree pronounced in Zs 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 engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

169.

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.

136.

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).

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).

137.

(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 V

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.

121.

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.

122.

Explanation 5.-It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the

offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A conspires with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, 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 Bs 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 As absence and thereby causes Zs 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.

124.

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 Bs 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.

1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".

125.

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 of 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 Bs 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,

1. Subs. by Act 26 of 1955, s. 117 and Sch., for "transportation for life".

126.

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-eight, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

CHAPTER VA

CRIMINAL CONSPIRACY

1*[CHAPTER VA

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 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 Zs pocket. A fails in the attempt in consequence of Zs 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.