
CHAPTER 84**PENAL CODE**

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CHAPTER 84**PENAL CODE****An Act to establish a Code of crimes punishable on indictment, and of certain similar and other offences punishable on summary conviction.***[Assent 15th May, 1924]**[Commencement 1st January, 1927]*

1. This Act may be cited as the Penal Code and is hereinafter referred to as “this Code”.

2. This Code is divided into Books and Titles as follows —

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| Title | ii. – General and special rules of criminal law. | |
| Title | iii. – Special explanations relating to certain offences. | |
| Title | iv. – Attempts to commit offences. | |
| Title | v. – Abetment and conspiracy. | |
| Title | vi. – Criminal responsibility and general exemptions. | |
| Title | vii. – Justifiable force and harm. | |
| Title | viii. – Law as to punishments. | |

BOOK II. – SUMMARY OFFENCES.

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| Title | ix. – Introductory provisions. | |
| Title | x. – Common assaults and harm to the person. | |
| Title | xi. – Brothels and immoral traffic. | |
| Title | xii. – Petty thefts and frauds. | |
| Title | xiii. – Common offences against rights to property. | |
| Title | xiv. – Petty frauds by forgery and false coin. | |

Title xv. – Common offences against public order, health and morality.

Title xvi. – Common offences relating to the public service.

BOOK III. – INDICTABLE OFFENCES.

Title xvii. – Introductory provisions.

Offences against the Person and Reputation

29 of 1927. Title xviii. – Assault and similar offences.

Title xix. – Crimes against females and of kidnapping and abduction.

Title xx. – Homicide and similar crimes.

Title xxi. – Libel.

Offences against Rights of Property

Title xxii. – Arson and mischief to property.

Title xxiii. – Robbery, fraud and extortion.

Title xxiv. – Burglary and housebreaking.

Title xxv. – Forgery and false coin.

Offences against Public Order, Health and Morality

Title xxvi. – Treason and crimes against the safety of the state.

Title xxvii. – Crimes against the public peace.

29 of 1927. Title xxviii. – Perjury and perversion of justice.

Title xxix. – Crimes relating to public offices and to public elections.

Title xxx. – Bigamy and similar crimes.

Title xxxi. – Criminal public nuisances.

Title xxxii. – Concluding provisions, repeals, etc.

General rules of construction.

3. The following general rules shall be observed in the construction of this Code, namely —

(1) all the provisions of Book I. shall be applied to and be deemed to form part of every provision of Books II. and III., in so far as they are applicable to the matter of that provision, and are not expressly or by necessary implication excluded, limited or modified with respect to that matter;

(2) this Code shall not be construed strictly, either as against Her Majesty or as against a person accused of any offence, but shall be construed amply and beneficially for giving effect to the purposes thereof;

(3) in the interpretation of this Code, a court shall not be bound by any judicial decision or opinion on the construction of any other statute, or of the common law, as to the definition of any offence or of any element of any offence;

(4) the illustrations annexed to this Code do not form part thereof, and they shall not extend or limit the meaning of any provision thereof.

Illustration

Para. (i) — *A.* is charged with the murder of *B.* In order to discover what is the punishment to which *A.* will be liable if he is found guilty of murder, reference must be made to Title xx., section 291. In order to discover whether *A.*'s act as proved amounts to murder, reference must be made to the definitions and special provisions in the same Title xx., sections 289, 290 and 299 to 314; and these sections again must be understood according to any Rules or explanations contained in Book I. of the Code which are applicable to the case.

BOOK I GENERAL PROVISIONS

TITLE i PRELIMINARY MATTERS

4. In this Code —

Interpretation.

“abetment” has the meaning assigned thereto in Title v. of this Code (sections 86 to 90);

“act” includes any act by word or deed, and any omission, and includes any series of acts or omissions, and any combination of acts and omissions;

“administer,” when used with reference to administering any substance to a person, means the causing the substance to be taken or introduced into any part of a person’s body, whether with or without his knowledge or consent;

“adult” means a person who, in the opinion of the court before whom he is brought, is eighteen years of age or upwards;

1 of 1957, s. 6.

“arson” means any offence punishable under any of the first five sections of Title xxii. of this Code (sections 323 to 327);

“article of agricultural produce” includes sisal, or any other plant used exclusively in the production of fibre, and the leaf and fibre obtained from the sisal or any other fibrous plant, and bananas, coconuts, corn, oranges, plantains, pineapples, potatoes, sugar cane and other fruit and vegetables of every description, whether the same be cultivated or uncultivated, and whether the same shall be actually attached to the soil or shall have fallen or been plucked or uprooted and whether the land on which the same is at the time growing or in course of cultivation be open or enclosed and whatever the value may be;

“assault” has the several meanings defined in Title iii. of this Code (sections 19 to 22);

“attempt”, in relation to the commission of an offence, includes such acts as are so defined in Title iv. of this Code (section 83);

“bigamy” has the meaning defined in Title xxx. of this Code (section 480);

“book” includes every volume, part or division of a volume, pamphlet and leaflet in any language, and every sheet of music, map, chart or plan separately printed or lithographed;

“building” means any structure, booth, tent, excavation, cave or covered place, whether fixed or movable, which is constructed, used or adapted for the habitation or meeting, or shelter of human beings, or for the keeping or shelter of cattle or goods, or for the manufacture, keeping or sale of goods; and any fixture in or attached to a building is a part thereof;

15 of 2014, s.2

“bullet proof vest” means a vest that is capable of providing protection from the penetration of bullets;

“burglary” means the offence of housebreaking, in the case of a dwelling-house, committed at night;

“cattle” means the male, female or young of any animal of any of the following kinds, namely: any horse, ass, mule, kine, sheep, goat, swine, or deer or other meat cattle, and includes any animal (other than a dog) which is ordinarily kept or used as a beast of burden, or for draught, or for riding, or for the production of wool or hair;

“child” means a person who, in the opinion of the court before whom he is brought, is under the age of fourteen years and of sufficient age and capacity to commit crime;

“coin” means any metal used for the time being as money, either in The Bahamas or in any other place or country, and issued by authority of any Government in order to be so used; *16 of 1936, s. 2.*

“company” and the terms “officer” and “account” when used in relation to a company or corporation, bear the meanings defined and respectively assigned thereto in section 5 of this Code;

“complaint” includes any information or charge;

“consent” has the meanings defined in Title ii. of this Code (section 15);

“conspiracy” has the meanings defined in Title v. of this Code (sections 89 and 90);

“corporation” is included in the term “company” but does not include a corporation sole;

“counterfeit”, in relation to coin, has the meaning defined in Title iii. of this Code (section 71);

“court”, when used —

(1) in Book I. of this Code, means either a magistrate’s court in the exercise of its jurisdiction in respect of summary offences or the Supreme Court in the exercise of its criminal jurisdiction, according to the circumstances of the particular case;

(2) in Book II. of this Code, means a magistrate’s court in the exercise of its jurisdiction in respect of summary offences;

(3) in Book III. of this Code, means the Supreme Court in the exercise of its criminal jurisdiction;

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- “crime” means any offence punishable on indictment, whether under this Code or any other law, and whether the offence be actually prosecuted summarily or on indictment;
- 16 of 1936, s. 2.* “currency note” means a note issued by or on behalf of the Government of The Bahamas under and by virtue of the Central Bank of The Bahamas Act or any Act amending or repealing that Act or a note issued by or on behalf of the Government of any country outside The Bahamas;
- Ch. 351. “damage”, in relation to property, has the meanings assigned thereto in Title iii. of this Code (sections 67 to 69);
- “defendant” means the person against whom a complaint has been made;
- “deliver” includes the causing a person to receive a thing and the permitting a person to take a thing, whether directly or by any other person;
- “disaffection” includes disloyalty and all feelings of enmity;
- 16 of 1936, s. 2.* “document” includes part of a document, a bank note, telegram, telegraphic code or cypher, and any painting, drawing or photograph or other visible representation;
- “duress” means any force, harm, constraint or threat, used with intent to cause a person against his will to do or to abstain from doing any act;
- “dwelling-house” means any building or vessel which, or any part of which, is ordinarily or at the time of the alleged offence occupied by any person, whether as an owner or as a tenant, servant, trespasser or otherwise, as a sleeping-place during the night or any part of the night and, for the purposes of this definition, every outhouse or covered place which communicates, by any interior or covered doorway, window, passage, or other opening, with a building shall be deemed to be a part of that building, whether the doorway, window, passage or opening be

used or disused or fastened or unfastened on either or both sides, and whether the outhouse or covered place be occupied by the same person as the building or by a different person, or be not occupied by any person;

“escape” includes the departure by a prisoner on parole beyond the limits within which he is allowed to be at large;

“false pretence” has the meanings defined in Title iii. of this Code (sections 53, 58 and 59);

“felony” means and includes any indictable offence on conviction for which a person can, without proof of his having been previously convicted of crime, be sentenced to death or to imprisonment with hard labour for three years or more, whether such offence be actually prosecuted summarily or on indictment;

“financial or other material benefit” means any type of financial or non-financial inducement, payment, bribe, reward, advantage, privilege, or service including sexual or other services;

15 of 2014, s.2

“fish” includes turtle;

“forgery” has the meaning defined in Title iii, of this Code (section 70);

“fraud” has the meaning defined in Title ii. of this Code (section 17);

“gaoler” means the keeper or other officer having the charge of any prison;

“harm” and each varying degree of “harm”, in relation to the person, has the several meanings defined in Title iii. and Title vii. of this Code (sections 23 to 32 and 97 to 114);

“health officer” includes every Government medical officer, and any person appointed as health officer or sanitary authority in virtue of the provisions of any Act;

“highway” includes any street, road, way, alley, footpath, sidewalk, square, open space, wharf, bridge, pier, jetty, building or any other place lawfully used by the public;

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- “housebreaking” has the meaning defined in Title xxiv. of this Code (section 361);
- “imprisonment” means imprisonment within any lawful prison within The Bahamas, and in the case of imprisonment for three years or more, imprisonment with hard labour, and, in the case of imprisonment for less than three years, imprisonment with or without hard labour, as the court in its discretion thinks fit to direct;
- “indictable offence” means any offence punishable under Book III. of this Code, or punishable on indictment under any other law;
- “indictment” includes a criminal information triable before a jury;
- “infamous offence” means any felony punishable by imprisonment for seven years or more, or any indecent assault or unnatural connection with a person or animal, or an attempt to commit, or an abetment of or conspiracy for, any such offence as aforesaid;
- “insane person” has the meaning defined in Title vi. of this Code (section 92);
- “instrument of obeah” means any philtre, vial, blood, bone, image, or other article or thing, which, according to the testimony of two or more credible witnesses, is used or intended to be used for the practice of obeah;
- “intent” has the several meanings assigned to that term in Title ii. of this Code (section 12);
- “intoxication” means and includes the state of a person being under the influence of intoxicating liquor or stupefying drug or other matter;
- “judicial proceeding” includes any civil or criminal trial, and any inquiry or investigation held by a judicial officer in pursuance of any duty or authority;
- “juvenile offender” includes any offender who is proved to be, or in the absence of legal proof to the contrary appears to the court to be, of or above ten years of age and under eighteen years of age;

*3 of 1945, s. 4.
1 of 2007, Sixth
Sch.*

“mail bag” includes a bag, box, parcel or any other envelope or covering in which postal packets in course of transmission by post are conveyed, whether it does or does not contain any such packets;

“maim” means the destruction or permanent disabling of any external or internal organ, member, or sense;

“misdemeanour” means any crime which is not a felony;

“negligence” has the meaning defined in Title ii. of this Code (section 13);

“newspaper” means any periodical work containing public news or comments on public news;

“night” means the time between the hours of seven o’clock in the evening of any day and the hour of five o’clock in the following morning;

“oath” includes any form of declaration or affirmation permitted or prescribed by law to be taken as or in lieu of an oath;

“obeah” means any pretended assumption of supernatural power or knowledge, whatever, for fraudulent or illicit purposes, or for gain, or for the injury of any person;

“offence” means either a summary offence or an indictable offence;

“officer of the revenue” means any of the officers of the revenue department of the Government of The Bahamas or any person especially employed on any duty or service relating to the revenue by the orders or with the concurrence of the Governor-General;

“official document” means any document purporting to be made, used or issued by any public officer for any purpose relating to his office;

“order” includes any conviction;

“organized criminal group” means a structured group of three or more persons or legal entity, existing for a period of time and acting in concert, with the intention of committing a serious offence, in

15 of 2014, s.2

order to obtain, directly or indirectly a financial benefit;

“partnership” is included in the term “company”;

“peace officer” means any person being or acting as a constable or special constable, or lawfully acting in aid of any such person, and includes any gaoler and male prison officer acting in discharge of the duties of the office;

“perjury” has the meaning defined in Title xxviii. of this Code (section 423);

“person” includes any body of persons, corporate or unincorporate; and, for the purpose of any provision of this Code relating to defrauding a person or to committing any offence against the property of any person, the Government of The Bahamas, or of any other place or State, shall be deemed to be a person;

“personation” has the meaning defined in Title iii. of this Code (section 60);

“possession” (where the custody by any person of any matter or thing is in question) includes not only the having of the matter or thing in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other party, and also the knowingly and wilfully having it in any premises open or enclosed, whether belonging to or occupied by himself or not and whether such matter or thing shall be for his own benefit or for that of another;

“postal packet” means a letter, post card, reply post card, newspaper, book, packet, pattern or sample packet, or parcel, and every packet or article transmissible by post; and for the purposes of this Code —

- (i) a postal packet shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the person to whom it is addressed;

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- (ii) the delivery of a postal packet of any description to a letter carrier or other person authorised to receive postal packets of that description for the post shall be a delivery to a post office;
 - (iii) the delivery of a postal packet at the house or office of the person to whom the packet is addressed, or to him or to his servant or agent or other person considered to be authorised to receive the packet, according to the usual manner of delivering the person's postal packets, shall be a delivery to the person addressed;

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“premises” includes lands, houses and other corporeal hereditaments;

“prison” means the prison in New Providence or any cell at a police station or other duly authorised place of detention;

“public” and expressions referring to “the public” include, and refer to, not only the whole of Her Majesty’s subjects within the jurisdiction of the courts, but also the persons inhabiting or using any particular place or any number of such persons, and also such indeterminate persons as may happen to be affected by the conduct with reference to which such expressions are used;

“public election” means any election the qualification for voting at which, or the mode of voting at which, is determined or regulated by law or custom;

“public office” and “public officer” have the meanings respectively assigned to these terms in section 6 of this Code;

“public place” includes any public way and any building, place or conveyance to which for the time being the public are entitled or permitted to have access, either without any condition, or upon condition of making payment, and any building or place which is for the time being used for any public or religious meeting or assembly, or as an open court, and also barges, lighters or vessels used for the purpose of bringing cargoes from ships to the shore or

29 of 1927.

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from the shore to ships, and also the ships from or to which such cargoes are being transferred, and also all ships being in any harbour within sight or hearing of any other public place;

“public way” includes any highway, or other way which is lawfully used by the public;

“publicly”, used in connection with acts done in public, means and includes any act which is so done —

(1) in any public place, as to be likely to be seen by any person, whether such person be or be not in a public place; or

(2) in any place, not being a public place, as to be likely to be seen by any person in any public place;

“receiving” (in relation to stolen property) has the meaning defined in Title iii. of this Code (section 62);

“riot” has the meaning defined in Title iii. of this Code (section 78);

“robbery” is stealing accompanied with actual violence, or threats of violence to any person or property, used with intent to extort the property stolen, or to prevent or overcome resistance to its being stolen;

“section” means section of this Code;

“send” includes the causing, or attempting in any manner to cause, a thing to be received by a person;

“stamp duty” includes any poundage or commission chargeable by the Government;

“statute” includes any Act of the Parliament of the United Kingdom which applies to The Bahamas;

5 of 1987. Sch.

“stealing,” in the various significations of that term, has the meanings defined in Title iii. of this Code (sections 46 to 57);

“summary offence” means any offence punishable under Book II. of this Code, or punishable on summary conviction under any other law;

“telegraph” and “telegram” include radio-telegraph and radio-telegram;

“threat” has the meaning defined in Title ii. of this Code (section 18);

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“United Nations Convention Against Transnational Crime” means the United Nations Convention Against Transnational Organized Crime adopted by the United Nations General Assembly on the 15th November, 2000; signed in December, 2000 at Palermo, Italy; entered into force on the 29th September, 2003; deposited with the Secretary General of the United Nations; and signed by The Bahamas on the 9th April, 2001.”.

“unlawful assembly” has the meaning defined in Title iii. of this Code (section 79);

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“unlawful gang” means a formal or informal organized criminal group or other body that—

- (a) consists of three or more persons; and
- (b) has as one of its purposes or activities the facilitation or commission of an indictable offence under this Code, or an offence under the Firearms Act or the Dangerous Drugs Act;

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“valuable consideration” means any money or money’s worth or valuable thing; and, when used in connection with offences of bribery or corruption, includes any office, or dignity and any forbearance to demand money or money’s worth, or any valuable thing, and any private advantage of whatsoever kind;

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“vehicle” includes carriage, cart, dray, wagon, bicycle, tricycle and velocipede;

“vessel” means any kind of ship, boat or raft;

“violence” means any criminal force or harm to any person or any criminal mischief to any property, or any threat or offer of such force, harm or mischief, or the carrying or use of deadly, dangerous or offensive instruments in such a manner as that terror is likely to be caused to any person, or such conduct as is likely to cause in any person a reasonable apprehension of criminal force, harm or mischief to them or their property;

“will,” when used with respect to a document, means any testamentary document, whether the same be formal or informal, complete or incomplete;

“wound” means any incision or puncture which divides or pierces any exterior membrane of the body; and any membrane is exterior, for the purpose of this definition, which can be touched without dividing or piercing any other membrane;

“young person” means a person who, in the opinion of the court before whom he is brought, is fourteen years of age and under eighteen years of age. *3 of 1945, s. 4.*

5. (1) In this Code “company” includes any partnership or association whether corporate or unincorporate, and whether the purposes thereof be or be not the carrying on of any trade or business, and whether it be in course of formation or be actually formed, or be in course of dissolution, winding-up or liquidation.

Provisions relating to a company and its officers.

(2) A company is in course of formation so soon as any act is done for the purpose of forming it; and it is immaterial whether or not it be at any time actually formed.

(3) “Officer” of a company or corporation includes any officer, chairman, director, trustee, manager, secretary, treasurer, cashier, clerk, auditor, accountant or other person provisionally, permanently or temporarily charged

with or performing any duty or function in respect of the affairs of the company or corporation, whether for or without any remuneration.

(4) “Account”, when used with reference to a company or corporation, includes any book, register, balance-sheet or document in writing relating to the affairs of a company or corporation, whether such affairs be or be not the ordinary business or object of the company or corporation.

Definition of public officers, etc.

6. In this Code “public officer” means any person holding any of the following offices, or performing the duties thereof, whether as a deputy or otherwise, namely —

(1) any civil office, including the office of Governor-General, the power of appointing a person to which or of removing a person from which is vested in Her Majesty, or in the Governor-General, or in any public commission or board or committee;

(2) any office to which a person is nominated or appointed by statute or by public election;

(3) any civil office, the power of appointing to which or of removing from which is vested in any person or persons holding public office of any kind included in either of subsections (1) or (2) of this section;

(4) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any court;

(5) any justice of the peace.

A person acting as a minister of religion or ecclesiastical officer, of whatsoever denomination, is a public officer in so far as he performs functions in respect of the notification of intended marriage, or in respect of the solemnisation of marriage, or in respect of the making or keeping of any register or certificate of marriage, birth, baptism, death or burial, but not in any other respect.

“Civil office” means any public office other than an office in the naval, military or air service of Her Majesty;

“public office” means the office of any public officer;

“judicial officer” means any person executing judicial functions as a public officer.

It is immaterial, for the purposes of this section, whether a person be or be not entitled to any salary or other remuneration in respect of the duties of his office.

7. (1) An expression to which in this Title a meaning is assigned, either explicitly or by a reference to any other part of this Code, has that meaning throughout this Code, unless in any case the context in which, or the matter with respect to which, the expression is used requires that a different meaning should be assigned to it.

General explanations with respect to the interpretation of expressions.

(2) Any definition or explanation of a word shall be applied to the derivatives or different grammatical forms of that word so far as it is applicable thereto, and shall also be applied in construing any provision of this Code to the matter of which that definition or explanation is relevant, although neither that word nor any of its derivatives or different grammatical forms occurs or occur in such provision.

8. This Code applies to every person who is in The Bahamas at the time of his doing any act or making any omission which constitutes an offence.

Application of Code to offences committed in The Bahamas.

9. When an act, which, if wholly done within the jurisdiction of the court, would be an offence against this Code, is done partly within and partly beyond the jurisdiction, every person who within the jurisdiction does or abets any part of such act may be tried and punished under this Code in the same manner as if such act had been done wholly within the jurisdiction.

Acts done partly beyond the jurisdiction.

10. (1) Notwithstanding anything contained in any other written law, where any person on board a Bahamian vessel does any act or makes any omission which would be an offence if done or made in The Bahamas, that person shall, regardless of the position of the Bahamian vessel at the time of the act or omission, be guilty of that offence and may be tried by any court which would have had cognisance of the offence had that offence been committed in The Bahamas.

Jurisdiction in case of offence on board Bahamian vessel.
6 of 1988, s. 2.

(2) A law enforcement officer may, in the course of his duty, board and search any Bahamian vessel to which the jurisdiction of the courts has been extended under subsection (1) and, if he has reasonable grounds to believe

that any person on board that vessel is guilty of an offence referred to in subsection (1), the law enforcement officer may arrest that person and may for that purpose use all reasonable force.

(3) A person arrested in accordance with this section shall forthwith be taken before a magistrate or to a police station, to be dealt with according to law.

(4) In this section —

“Bahamian vessel” includes any ship or boat, or any other description of vessel used in navigation, however propelled, and which —

- (a) is registered under the Boat Registration Act, the Water Skiing and Motor Boat Control Act, or the Merchant Shipping Act, or
- (b) is wholly owned by persons (whether singly or in association) who are —
 - (i) citizens of The Bahamas;
 - (ii) permanent residents of The Bahamas within the meaning ascribed by the Immigration Act, or
 - (iii) bodies corporate established under the laws of The Bahamas, and having their principal place of business in The Bahamas, of which the beneficial ownership belongs wholly to any persons mentioned in subparagraph (i) or (ii); or
- (c) is registered in a country or territory the Government of which has with the Government of The Bahamas a bilateral arrangement permitting the boarding and search of any such vessel by law enforcement officers and the arrest by such officers of persons on board any such vessel;

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Ch. 268.

Ch. 191.

5 of 1988, s. 6.

“law enforcement officer” means a member of the Royal Bahamas Defence Force, a member of the Royal Bahamas Police Force, an Immigration officer or an officer of Customs.

(5) For the purposes of subsection (4) any certificate under the hand of the Minister responsible for Foreign Affairs that a bilateral arrangement exists between a particular government and that of The Bahamas shall be conclusive evidence as to that fact.

- 11.** Nothing in this Code shall affect —
- (1) the liability, trial or punishment of a person for an offence against any statute other than this Code;
 - (2) the power of any court to punish a person for contempt of such court;
 - (3) the liability or trial of a person, or the punishment of a person under any sentence passed or to be passed, in respect of any act done or commenced before the commencement of this Code;
 - (4) any power of Her Majesty, or of the Governor-General as the representative of Her Majesty, to grant a pardon, or to remit or commute in whole or in part, or to respite the execution of any sentence passed or to be passed;
 - (5) any of the laws, regulations or articles for the time being in force for the government of Her Majesty's naval, military or air forces;
 - (6) the liability of a person under the common law:

Saving of certain laws.

Provided that if a person does an act which is punishable under this Code, and is also punishable under another law of any of the kinds mentioned in this section, he shall not be punished for that act both under that law and also under this Code.

13 of 1929, s. 2.

TITLE ii GENERAL AND SPECIAL RULES OF CRIMINAL LAW

12. (1) If a person does an act for the purpose of thereby causing or contributing to cause an event, he intends to cause that event, within the meaning of this Code, although either in fact or in his belief, or both in fact and also in his belief, the act is unlikely to cause or to contribute to cause the event.

Provisions relating to intent and as to what constitutes an overt act.

See ss. 29 and 83(6).

(2) If a person does an act voluntarily, believing that it will probably cause or contribute to cause an event, he intends to cause that event, within the meaning of this Code, although he does not do the act for the purpose of causing or of contributing to cause the event.

(3) If a person does an act of such a kind or in such a manner as that, if he used reasonable caution and observation, it would appear to him that the act would probably cause or contribute to cause an event, or that there would be great risk of the act causing or contributing to cause an event, he shall be presumed to have intended to cause that event, until it is shown that he believed that the act would probably not cause or contribute to cause the event.

(4) If a person, intending to cause an event with respect to one or some of several persons or things, or to such indeterminate person or thing as may happen to be affected by his act, causes such event with respect to any such person or thing, he shall be liable in the same manner as if he had intended to cause the event with respect to that person or thing.

(5) If a person does an act with intent to assault, harm, kill or cause any other event to a particular person, and his act happens to take effect, whether completely or incompletely, against a different person, he shall be liable to be tried and punished as if his intent had been directed against that different person; but any ground of defence or extenuation shall be admissible on behalf of the accused person, which would have been admissible if his act had taken effect against the person or in respect of which he intended it to take effect.

Illustrations

Subs.(1)— *A.* discharges a gun for the purpose of shooting *B.*, and actually hits him. It is immaterial that *B.* was at such a distance, or in such a situation, that the shot would most probably miss *B.*

Subs. (2) — *A.*, for the purpose of causing the miscarriage of *B.*, administers to her a medicine which he knows to be dangerous to life. It is immaterial that he earnestly desires to avoid causing *B.*'s death, and uses every precaution to avoid causing it.

Subs. (3) — *A.* discharges a gun among a crowd of persons, and one of them is shot. *A.* must be presumed to have intended to cause harm, unless he can show that he had such ground for believing that harm would not be caused, that his act was merely negligent.

Subs. (4) — *A.*, in the last illustration, is punishable as if he had purposed to cause the harm to the person to whom it was in fact caused.

Subs. (5) — *A.* unlawfully strikes at *B.*, but the blow happens to miss *B.*, and to hit a peace officer. *A.* is punishable as if he had purposed to hit the peace officer, but he is not liable to the increased punishment provided by section 265 for an intentional assault on a peace officer.

13. (1) A person causes an event negligently if, without intending to cause the event, he causes it by voluntary act, done without such skill and precaution as are reasonably necessary under the circumstances, or as he is in the particular case bound by law to have and use, for preventing the event from being caused.

Provisions
relating to
negligence.

(2) Moreover, if an act is such that, notwithstanding the use of skill and precaution, it is likely to cause an event which there is no justification for causing, the act (if not done with intent to cause that event) is negligently done with reference to causing that event, even though it be done with skill and precaution.

Illustrations

Subs.(1)—(a) *A.*, a woman having no knowledge of midwifery, acts as a midwife, and through her want of skill she causes death. Here, if *A.* knew that a properly qualified midwife or surgeon could be procured, the fact of *A.* so acting, without possessing proper skill and without any necessity for so acting, is evidence of negligence, although it appears that she did her best. But if the emergency was sudden, and no properly qualified midwife or surgeon could be procured, *A.* is not guilty of negligence, provided she did the best she could under the circumstances.

(b) A chemist sells poison so made up as to be liable to be mistaken for a harmless medicine. This is evidence of negligence.

(c) If the law directs poison to be sold in bottles of a particular kind, and the chemist sells poison in a common bottle, this is evidence of negligence, even though the common bottle be labelled “Poison.”

Subs. (2) —(a) *A.*, knowing a horse to be dangerously vicious, rides it through a crowd, and it becomes excited by the noise and throng, and kicks *B.* *A.* is guilty within this subsection, notwithstanding that he had and used all possible skill in riding.

(b) An acrobat carries a child on a tight-rope at a great height. He happens to miss his footing, and the child is killed. He is guilty of manslaughter, notwithstanding that he had and used all possible skill in rope-walking.

Provisions
relating to
causing an event.
*See ss. 29 and
306.*

14. (1) If a person intentionally or negligently causes an involuntary agent to cause an event, that person shall be deemed to have caused the event. “Involuntary agent” means any animal or other thing, and also any person who is exempted from liability to punishment for causing the event, by reason of infancy, or insanity, or otherwise, under the provisions of Title vi. of this Code.

(2) If an event is caused by the acts of several persons acting either jointly or independently, each of those persons who has intentionally or negligently contributed to cause the event shall, subject to the provisions of subsection (3) of this section, and to the provisions of Title v. of this Code with respect to abetment, be deemed to have caused the event; but any matter of exemption, justification, extenuation or aggravation which exists in the case of any one of those persons shall have effect in his case, whether it exists or not in the case of any of the other persons.

(3) A person shall not be convicted of having intentionally or negligently caused an event if, notwithstanding his act and the acts of any person acting jointly with him, the event would not have happened but for the existence of some state of facts or the intervention of some other event or of some other person, the probability of the existence or intervention of which other event or person the accused person did not take into consideration, and had no reason to take into consideration. This provision shall not apply where a person is charged with having caused an event by an omission to perform a duty for averting the event.

(4) If a person beyond the jurisdiction of the courts causes an involuntary agent to cause an event within the jurisdiction, he shall be deemed to have caused the event within the jurisdiction.

(5) Subject to the provisions of this section and to the special provisions of any particular Title of this Code, it is a question of fact whether an event is fairly and reasonably to be ascribed to a person’s act as having been caused thereby.

(6) A person shall not, by reason of anything in this section, be relieved from any liability in respect of an attempt to cause an event; and a person shall not, by reason of anything in this section, be relieved from any

liability in respect of negligent conduct, if such negligent conduct is punishable under this Code irrespectively of whether it actually causes any event.

Illustrations

Subs.(1) —(a) *A.* gives poisoned sweetmeats to a child, who eats some and gives the rest to other children. *A.* has poisoned the first child and also the other children.

(b) *A.* induces a child under seven years of age to steal a thing for him. *A.* has stolen the thing.

(c) *A.* induces a madman to kill himself. *A.* has killed the madman.

(d) *A.* causes a dog to harm *B.* *A.* has caused the harm to *B.*

Subs. (2) —A railway collision is caused partly by the neglect of *A.*, a stationmaster, to signal a train; partly by the neglect of *B.*, a pointsman, to arrange the points; partly by the carelessness of *C.*, *D.*, *E.*, and *F.*, the drivers and guards of the trains. *A.*, *B.*, *C.*, *D.*, *E.*, and *F.*, have each caused the collision, although it would not have happened if any one of them had used proper skill and precaution.

Subs. (3) —(a) *A.* rides a vicious horse in a crowd. *B.* wantonly strikes the horse, and it kicks *C.* In this case *B.*, and not *A.*, has caused the harm to *C.*

(b) *A.*, who is a signalman, improperly leaves his post. *B.*, who is a trespasser, in *A.*'s absence unlawfully alters the signals, and a collision ensues. *A.* is punishable as for having negligently caused the collision by omission to attend to his duty. *B.* is also punishable for having intentionally or negligently caused the collision.

Subs. (4) —*A.*, in Jamaica, posts a letter to *B.* in The Bahamas borrowing money from *B.* on the credit of a cargo which *A.* by the letter falsely represents that he has shipped for *B.* *B.* sends the money on the faith of the representation. *A.* has defrauded *B.* in The Bahamas.

Subs. (6) —*A.* shoots from a distance at *B.*, who is on horseback, with intent to maim him. *B.*'s horse is startled by the shot and throws *B.*, who is killed by the fall. Here, by reason of the rule in Subs. (3), *A.* cannot be convicted of having intentionally or negligently killed *B.* (unless he expected, or had reason to expect, that *B.*'s horse would be startled). But *A.* is punishable for his attempt to kill *B.*

Provisions
relating to
consent.
*1 of 2007, Sixth
Sch.*

15. In construing any provision of this Code by which it is required for a criminal act or criminal intent that an act should be done or intended to be done without a person's consent, or by which it is required for a matter of justification or exemption that an act should be done with a person's consent, the following rules shall be observed, namely —

- (1) a consent shall be void if the person giving it is under ten years of age, or is, by reason of insanity, or of immaturity, or of any other permanent or temporary incapacity, whether from intoxication or any other cause, unable to understand the nature or consequences of the act to which he consents;
- (2) a consent shall be void if it is obtained by means of deceit or of duress;
- (3) a consent shall be void if it is obtained by the undue exercise of any official, parental, or other authority; and any such authority which is exercised otherwise than in good faith for the purposes for which it is allowed by law, shall be deemed to be unduly exercised;
- (4) a consent given on behalf of a person by his parent, guardian or any other person authorised by law to give or refuse consent on his behalf, shall be void if it is given otherwise than in good faith for the benefit of the person on whose behalf it is given;
- (5) a consent shall be of no effect if it is given by reason of a mistake of fact;
- (6) a consent shall be deemed to have been obtained by means of deceit or of duress, or of the undue exercise of authority, or to have been given by reason of a mistake of fact, if it would have been refused but for such deceit, duress, exercise of authority or mistake, as the case may be; and
- (7) for the purposes of this section, exercise of authority is not limited to exercise of authority by way of command, but includes influence or advice purporting to be used or given by virtue of an authority:

Provided that no person shall be prejudiced by the invalidity of any consent if he did not know, and could not by the exercise of reasonable diligence have known, of such invalidity.

Illustrations

Para. (i) —*A.* induces a person in a state of incapacity from idiocy or intoxication, or a child under seven years of age, to consent to his hair being cut off by *A.* Such consent is void.

Para. (ii) —*A.*, by pretending to have the consent of a girl's father, or under pretence of medical treatment, or by threats of imprisonment, induces a girl to consent to sexual intercourse. Such consent is void.

Para. (iii) —*A.* cruelly beats a child. It is no defence for *A.* that the child's father authorised the beating, or that the child's father, by the exercise of his parental authority, induced the child to consent.

Para. (v) —*A.* induces a woman to consent to his having carnal knowledge of her by personating her husband. Her consent is void.

16. A claim of right means a claim of right in good faith.

Provisions relating to claim of right.

Illustration

A. is charged with unlawfully wounding *B.* He sets up the defence that he found *B.* in his house at night and mistook him for a burglar. Here, if the court or jury believe *A.*'s defence, and think that *A.* acted with reasonable caution under the circumstances, and that if *A.*'s belief had been correct, he would have been justified in acting as he did. *A.* ought to be acquitted (section 96).

17. For the purpose of any provision of this Code by which any forgery, falsification or other unlawful act is punishable if used or done with intent to defraud, an intent to defraud means an intent to cause, by means of such forgery, falsification or other unlawful act, any gain capable of being measured in money, or the possibility of any such gain, to any person at the expense or to the loss of any other person.

Provisions relating to fraud.
See s. 366.

Illustrations

(1) —*A.* unlawfully alters *B.*'s will so as to increase or reduce the amount of a legacy left by *B.* to *C.* Here *A.* is guilty of forgery with intent to defraud (section 366), although *A.* may have no interest in the matter.

(2) —*A.* unlawfully alters the date on a bill of exchange, for the purpose of postponing the time at which he or any other person may be called upon to pay it. Since such postponement may be a gain to *A.* or to such other person, *A.* is guilty of forgery with intent to defraud.

(3) —*A.* forges *B.*'s signature to a deed, not for the purpose of gain to himself or to any other person, but for the purpose of falsely charging *C.* with the forgery. Here *A.* is not guilty of forgery with intent to defraud, but he is liable to be punished under section 426.

Provisions relating to the meaning and use of threats.

18. (1) In this Code —

“threat” means —

- (a) any threat of criminal force or harm;
- (b) any threat of criminal mischief to property;
- (c) any threat of libel or of slander;
- (d) any threat that a person shall be prosecuted on a charge of having committed any offence whether the alleged offence is punishable under this Code or under any other law, and whether it has or has not been committed.

(2) Any expression in this Code referring to a threat shall also be deemed to include any offer to abstain from doing, or to procure any other person to abstain from doing, anything the threat of which is a threat of any of the kinds in this section before mentioned.

(3) It is immaterial whether a threat be that the matter thereof shall be executed by the person using the threat, or against or in relation to the person to whom the threat is used, or by, or against, or in relation to any other person.

(4) It is immaterial whether a threat or offer be conveyed to any person by words, or by writing, or in any other manner, and whether it be conveyed directly, or through any other person, or in any other manner.

TITLE iii
SPECIAL EXPLANATIONS AND
PROVISIONS RELATING TO CERTAIN
OFFENCES

Assault

- 19.** (1) “Assault” includes —
- (a) assault and battery;
 - (b) assault without actual battery;
 - (c) imprisonment, or detention and compulsion.
- (2) Every assault is unlawful unless it is justified on one of the grounds mentioned in Title vii. of this Code.
- 20.** (1) A person makes an assault and battery upon another person if, without the other person’s consent, and with the intention of causing harm, pain, fear or annoyance to the other person, or of exciting him to anger, he forcibly touches the other person, or causes any person, animal or matter to touch him forcibly.
- (2) This definition is subject to the following provisions —
- (a) where the consent of the other person to be forcibly touched has been obtained by deceit, it suffices with respect to intention that the touch is intended to be such as to cause harm or pain, or is intended to be such as, but for the consent obtained by the deceit, would have been likely to cause fear or annoyance or to excite to anger;
 - (b) where the other person is insensible, unconscious or insane, or is, by reason of infancy or any other circumstance, unable to give or refuse consent, it suffices, with respect to intention, either that the touch is intended to cause harm, pain, fear, or annoyance to him, or that the touch is intended to be such as would be likely to cause harm, pain, fear or annoyance to him, or to excite his anger, if he were able to give or refuse consent, and were not consenting;
 - (c) any the slightest actual touch suffices for an assault and battery, if the intention is such as is required by this section;

Different kinds of assault.

Definition of and provisions relating to assault and battery.

- (d) a person is touched, within the meaning of this section, if his body is touched, or if any clothes or other thing in contact with his body or with the clothes upon his body are or is touched, although his body is not actually touched; and
- (e) for the purpose of this section, with respect to intention to cause harm, pain, fear or annoyance, it is immaterial whether the intention be to cause the harm, pain, fear or annoyance by the force or manner of the touch itself, or to forcibly expose the person, or cause him to be exposed, to harm, pain, fear or annoyance from any other cause.

Illustrations

Subs. (1) —(a) *A.* strikes *B.* or spits upon him, or causes a dog to bite him, or in any manner causes him to fall or be thrown upon the ground. Here, if *A.*'s intention was to cause harm, pain, fear or annoyance to *B.*, or to excite *B.*'s anger, *A.* is guilty of an assault and battery.

(b) *A.* puts his hands on *B.*'s shoulders in order to attract the attention of *B.*, using no unnecessary force. *A.* is not guilty of an assault and battery.

Subs. (2) —(a) *A.*, under a false pretence of surgical treatment, induces *B.* to consent to harm or pain. *A.* is guilty of an assault and battery.

(b) *A.* kicks *B.*, who is insensible. *A.* is guilty of an assault and battery, even though the kick be merely such that no pain will be felt by *B.* upon his recovering sensibility.

(c) *A.* pushes *B.* so as to cause him to fall into water. *A.* is guilty of an assault and battery, although the push is so slight as not of itself to be material.

Definitions of and provisions relating to assault without actual battery.

21. (1) A person makes an assault without actual battery on another person, if, by any act apparently done in commencement of an assault and battery, he intentionally puts the other person in fear of an instant assault and battery.

(2) This definition is subject to the following provisions —

- (a) it is not necessary that an actual assault and battery should be intended, or that the instrument or means by which the assault and battery is apparently intended to be made should be, or should by the person using them be believed to be, of such a kind or in such a condition as that an assault and battery could be made by means of them;
- (b) a person can make an assault, within the meaning of this section by moving, or causing any person, animal or matter to move, towards another person, although he, or the person, animal or matter is not yet within such a distance from the other person as that an assault and battery can be made; and
- (c) an assault can be made on a person, within the meaning of this section, although he can avoid actual assault and battery by retreating, or by consenting to do, or to abstain from doing, any act.

Illustrations

Subs. (2) —(a) *A.* presents a pistol at *B.* in such manner as to give *B.* reasonable ground for apprehending that he will be immediately shot. Here *A.* is guilty of assault, although *A.* does not intend to fire, and although the pistol is not loaded, and although *A.* knows that it is not loaded.

(b) *A.*, at a distance of 10 yards from *B.*, runs at *B.* with apparent intention of striking him, and intending to put *B.* in fear of an immediate beating. Here *A.* is guilty of an assault, although he never comes within actual reach of *B.*

(c) *A.*, being near *B.*, lifts a stick and threatens that he will at once strike *B.*, unless *B.* will immediately apologise. Here *A.* has committed an assault.

22. (1) A person imprisons another person if, intentionally and without the other person's consent, he detains the other person in a particular place, of whatever extent or character and whether enclosed or not, or compels him to move or be carried in any particular direction.

Definition of and provisions relating to imprisonment, detention and compulsion.

(2) This definition is subject to the following provisions, namely, that detention or compulsion may be constituted, within the meaning of this section, either by force or by any physical obstruction to a person's escape or by causing him to believe that he cannot depart from a place, or refuse to move or be carried in a particular direction, without overcoming force or incurring danger of harm, pain, and annoyance, or by causing him to believe that he is under legal arrest or by causing him to believe that he will immediately be imprisoned if he does not consent to do, or to abstain from doing, any act.

Illustrations

(1) *A.* detains *B.* on board a ship. Here *A.* imprisons *B.* although *B.* is left free within the ship; and, if *B.* was prevented from leaving the ship until she sailed, *B.* is imprisoned so long as he necessarily or reasonably continues on board the ship, even though during part of the time he would have been free to leave if there had been any means of leaving.

(2) *A.*, by falsely pretending that *B.* is under arrest, prevents *B.* from leaving *B.*'s own house. Here *A.* imprisons *B.*

Unlawful Harm to the Person

Definition of
different kinds of
harm.

23. (1) In this Code —

“harm” means any bodily hurt, disease or disorder, whether permanent or temporary;

“grievous harm” means any harm which amounts to a maim or dangerous harm as hereinafter defined, or which seriously or permanently injures health, or which is likely so to injure health, or which extends to permanent disfigurement or to any external or internal organ, member or sense;

“dangerous harm” means harm endangering life.

(2) Where death, caused by harm, takes place within a year and a day of the harm being caused, the special provisions, relating to homicide, under Title xx. of this Code may become applicable.

Definition of
unlawful harm.

24. Harm is unlawful which is intentionally or negligently caused without any of the justifications mentioned in Title vii. of this Code.

25. A person causes harm by an omission, within the meaning of this Code, if harm is caused by his omission to perform any such duty for preventing harm as in section 26 of this Code is mentioned, and in no other case.

Explanation as to causing harm by omission.

26. A person is under a duty for preventing harm to another person —

Cases in which a person is under duty to prevent harm to another person.

(1) if he is under a duty, as mentioned in section 27 of this Code, to supply a person with the necessaries of health and life; or

(2) if he is otherwise under a duty, by virtue of the provisions of any statute, or by virtue of any office or employment, or by virtue of a lawful order of any court or person, or by virtue of any agreement or undertaking, to do any act for the purpose of thereby averting harm from any person, whether ascertained or unascertained.

27. (1) A man is under a duty to supply the necessaries of health and life to his wife, being actually under his control, and to his legitimate or illegitimate child, being actually under his control and not being of such age and capacity as to be able to obtain such necessaries. A guardian is under the like duty with respect of his ward, being actually under his control.

Cases in which a person is under duty to supply another person with necessaries of health and life.

(2) A woman, upon being delivered of a child, whether legitimate or illegitimate, is under a duty, so far as she is able, to summon assistance and to do all such other acts as are necessary and reasonable for preserving the child from harm by exposure, exhaustion or otherwise by reason of its condition as a newly-born child. She is also under a duty, so far as she is able, to support and take reasonable care of the child, being under her control or in her care or charge, until it can safely be weaned.

(3) A person who, by virtue of office as a gaoler, relieving officer or otherwise, or by reason of the provisions of any statute, is bound to supply any of the necessaries of health and life to a person, is under a duty to supply them accordingly.

(4) A person who wrongfully imprisons another person is under a duty to supply him with the necessaries of health and life.

(5) A person who has agreed or undertaken to supply any of the necessities of health and life to another person, whether as his servant, apprentice or otherwise, is under a duty to supply them accordingly.

(6) If a person is under a duty as hereinbefore in this section mentioned and he has not the means for performing the duty, and there is any person or public authority bound to furnish him with the means, he is under a duty to take all reasonable steps for obtaining the means from that person or authority.

(7) If a person, being under a duty to supply any of the necessities of health and life to another person, lawfully charges his wife, servant or any other person with the supply of such necessities and furnishes the means for that purpose, the wife, servant or other person so charged is under a duty to supply such necessities accordingly.

(8) “Necessaries of health and life” includes proper food, clothing, shelter, warmth, medical or surgical treatment, and any other matters, which are reasonably necessary for the preservation of the health and life of a person.

Illustration

Subs. (6) —The father or mother of a child, having no means of providing the child with food or medical attendance, is bound to seek assistance from any officer (if any) appointed to relieve the poor, but is not bound to beg for private charity.

Explanations as to office, etc.

28. (1) Where, under the provisions of either of sections 26 and 27 of this Code, a duty is constituted by an office, employment, agreement, or undertaking, the duty is sufficiently constituted in the case of a person who is actually performing the functions belonging to the office or employment, or who is acting as if he were under such an agreement or undertaking with respect to another person.

(2) No person is excused from liability for failure to perform a duty, within the meaning of either of sections 26 and 27 of this Code, on the ground that another person is also under the same duty, whether jointly with him or independently of him, and whether on the same or on different ground.

Illustrations

Subs.(1) —(a) A deputy gaoler, even though unlawfully appointed, is under all the duties of a gaoler in relation to his prisoners.

(b) A master is under all the duties of a master in relation to his apprentice, even though the articles of apprenticeship are void.

29. The general provisions of Title ii. of this Code with respect to causing an event are, in their application to the matters of Titles x. and xv. and xviii. of this Code, subject to the following explanations and modifications, namely —

Exceptions from general provisions as to causing an event.

- (1) a person shall not be deemed to have caused harm to another person by omitting to supply him with the necessaries of health and life, unless it is proved against him that the other person, by reason of his age or physical or mental state, or by reason of control by the accused person, could not by reasonable exertion have avoided the harm;
- (2) disease or disorder which a person suffers as the inward effect of his grief, terror or other emotion shall not be deemed to be harm caused by another person, although the grief, terror or emotion has been caused by him, whether with intent to cause harm or otherwise;
- (3) harm which a person suffers by execution of a sentence of a court in consequence of a prosecution instituted, or procured, or of evidence given or procured to be given, by another person, whether in good faith or not, shall not be deemed to have been caused by that other person; and

See ss. 12, 14 and 204.

(4) except as in this section expressly provided, a person shall not be excused from liability to punishment for causing harm to another person or be acquitted of having caused harm to another person, on the ground that the other person, by his own trespass, negligence, act or omission, contributed to causing the harm.

Illustrations

Subs. (1) —*A* master commits no punishable breach of duty by not supplying food to his servant according to the contract of service, if the servant could have left his house or obtained food; subsection (5) of section 27, being qualified by subsection (1) of this section.

Subs. (2) —*A.*, knowing that by reason of *B.*'s state of health, bad news suddenly communicated will be likely to kill *B.*, suddenly communicates bad news to *B.*, and *B.* dies. Here *A.* cannot be convicted of murder, even though his intention was to cause *B.*'s death.

Subs. (3) —*A.*, by false evidence, procures *B.* to be convicted of crime and sentenced to flogging. Here *A.* is not liable to be convicted of having caused *B.* to be flogged. But he is liable to be punished under section 424.

Subs. (4) —*A.*, by reckless driving, causes harm to *B.*, who is sleeping in his cart in the road. Here *A.* is not excused by reason of the fact that *B.* could have got out of the way if he had not been sleeping.

Special provision
as to medical or
surgical
treatment.
See s. 111(5).

30. Where any person in good faith, for the purposes of medical or surgical treatment, intentionally causes harm to another person, which in the exercise of reasonable skill and precaution according to the circumstances of the case, he ought to have known to be plainly improper, he shall be liable to punishment as if he had caused the harm negligently within the meaning of this Code, and not otherwise.

Illustration

A surgeon, through gross negligence, amputates a limb which there is no necessity to amputate. The surgeon is not liable to be convicted of having intentionally and unlawfully caused a maim, but he is liable to be convicted of having negligently and unlawfully caused grievous harm.

Causing harm by
hindering escape
from wreck, etc.

31. If a person intentionally hinders any other person from escaping from a wrecked vessel, or from lawfully protecting himself or any other person against harm in any case, he shall be deemed to have intentionally caused any harm which happens to such other person by reason of his being so hindered.

32. For the purposes of this Code, expressions referring to poison or to noxious matter include matter which is poisonous or noxious only by reason of the quantity taken or administered, or of the circumstances under which it is taken or administered, or of the state of health or the peculiar bodily character of the person by whom it is taken or to whom it is administered.

Explanations of provisions referring to poison or to noxious matter.

Immoral Traffic and Offences against Females and Children

33. The following provisions apply to every offence punishable under Title xi. or Title xix. of this Code and any offence, committed against a child under sixteen years of age, comprised in Title x. or Title xviii. or Title xx. of this Code including the offences mentioned in section 110 (5) of the Child Protection Act; and all such offences are in sections 34 to 41 of this Code referred to as “any of the said offences against females or children”.

Definition of “offences against females or children”.
1 of 2007, Sixth Sch.

Ch. 132.

34. Any peace officer may take into custody without warrant any person —

Power to take offenders into custody.

(1) who within view of such peace officer commits any of the said offences against females or children where the name and address of such person are unknown to such peace officer and cannot be ascertained by such peace officer;

(2) who has committed or who he has reason to believe has committed any of the said offences against females or children, if he has reasonable ground for believing that such person will abscond, or if the name and address of such person are unknown to and cannot be ascertained by the peace officer.

See s. 104.

35. (1) Where a magistrate is satisfied by the evidence of a registered medical practitioner that the attendance of any child in respect of whom any of the said offences against females or children is alleged to have been committed, on the preliminary hearing or investigation of any complaint for any of such offences, would involve serious danger to the life or health of such child, the magistrate may take in writing the deposition of such child on oath and shall thereupon subscribe the same and add

Extension of power to take deposition of a child.

thereto a statement of his reason for taking the same, and of the day when and place where the same was taken, and of the names of the persons (if any) present at the taking thereof.

(2) The magistrate taking any such deposition shall transmit the same with his statement to the Attorney-General.

Admission of deposition of child in evidence.

36. Where on the trial of any person on information in the Supreme Court for any of the said offences against females or children the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed, would involve serious danger to its life or health, any deposition of the child taken under any Act regulating the taking of depositions on preliminary hearing of charges shall be admissible in evidence either for or against the accused without further proof thereof, if —

(1) it purports to be signed by the magistrate by or before whom it purports to be taken;

(2) it is proved that reasonable notice of the intention to take the deposition has been served upon the person against whom it is proposed to use the same as evidence, and that that person or his counsel or attorney-at-law had or might have had, if he had chosen to be present, an opportunity of cross-examining the child making the deposition.

Evidence of child of tender years.

37. Where on the hearing or trial of any charge for any of the said offences against females or children the child in respect of whom the offence is charged to have been committed or any other child of tender years who is tendered as a witness does not, in the opinion of the magistrate or of the court, understand the nature of an oath, the evidence of such child may be received, though not given upon oath if, in the opinion of the magistrate or the court, as the case may be, such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth; and the evidence of such child though not given on oath but otherwise taken and reduced into writing in accordance with the provisions of the Magistrates Act or any Act passed in amendment thereof or substitution therefor shall be deemed to be a deposition:

Ch. 54.

Provided that a person shall not be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution is corroborated by some other material evidence in support thereof implicating the accused:

Provided also that any child whose evidence is received as aforesaid and who shall wilfully give false evidence shall be liable to be prosecuted and punished for perjury in all respects as if he or she had been sworn.

38. Where in any proceedings with relation to any of the said offences against females or children the magistrate or the court is satisfied that the attendance at the preliminary hearing or investigation or trial of any child in respect of whom the offence is alleged to have been committed, is not essential to the just hearing or trial of the case, the case may be proceeded with and determined in the absence of the child.

Power to proceed with case in absence of child.

39. Where a person is charged with any of the said offences against females or children in respect of a child who is alleged in the complaint to be under any specified age and the child appears to the magistrate or the court to be under that age, such child shall for the purposes of this Code be deemed to be under that age, unless the contrary is proved.

Presumption of age of child.

40. (1) Where a person is charged with committing any of the said offences against females or children in respect of two or more children, the same complaint may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty or punishment for each child unless upon separate complaints.

Mode of charging offences, and limitation of time.

(2) The same complaint may also charge any person as having the custody, charge or care, alternatively or together, and may charge him with the offence of assault, ill-treatment, neglect, abandonment or exposure, together or separately, and may charge him with committing all or any of these offences in a manner likely to cause unnecessary suffering or injury to health, alternatively or together; but when those offences are charged together the person charged shall not be liable to a separate penalty or punishment for each.

(3) A person shall not be summarily convicted of any of the said offences against females or children unless the offence was wholly or partly committed within six months before the charge or information was laid, but, subject as aforesaid, evidence may be taken of acts constituting, or contributing to constitute, the offence and committed at any previous time.

(4) When any of the said offences against females or children charged against any person is a continuous offence, it shall not be necessary to specify in the complaint the date of the acts constituting the offence.

Power of search
for female
detained for
immoral
purposes.

41. (1) If it appears to any magistrate, on complaint laid before him upon oath by any parent, guardian, or relative of any female or by any other person who, in the opinion of the magistrate, is *bona fide* acting in her interests, that there is reasonable cause to suspect that she is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such magistrate, he may issue a warrant authorising any person named therein to search for her, and when found, to take her to and detain her in a place of safety until she can be brought before him or some other magistrate; and the magistrate before whom she is brought may cause her to be delivered up to her parents or guardian or to be otherwise dealt with as circumstances may permit and require.

(2) The magistrate issuing the warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining the female to be arrested and brought before him or some other magistrate, and proceedings to be taken for punishing the person according to law.

(3) A female shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any person, whether any particular person or generally, and either —

- (a) is under sixteen years of age;
- (b) if of or above sixteen years of age and under eighteen years of age, is so detained against her will or against the will of her father or mother, or of any other person having the lawful care or charge of her;

(c) if of or above eighteen years of age, is so detained against her will.

(4) Any person who is authorised by warrant under this section to search for any female so detained may enter (if need be by force) any house, building or other place mentioned in the warrant and may remove her therefrom.

(5) Every warrant issued under this section shall be addressed to and executed by the Commissioner of Police or some non-commissioned officer of police, who shall be accompanied by the parent, relative or guardian or other person laying the complaint, if that person so desires, unless the magistrate otherwise directs.

42. If it is made to appear to a magistrate by information on oath that there is reason to suspect that any house or part of a house is used for the purposes of prostitution, and that any person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, the magistrate may issue a warrant authorising any peace officer to enter and search the house and to arrest that person.

Power of search in a house used for immoral traffic.

43. Where a person is proved to live with or to be habitually in the company of a prostitute, or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding, abetting or compelling her prostitution with any other person or generally, such person shall, unless such person can satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

Presumption as to person living with a prostitute.

See s. 138.

44. When any person is charged under this Code with trading in prostitution or with publicly soliciting or importuning for immoral purposes, the wife or husband of a person so charged may be called as a witness either for the prosecution or defence and without the consent of the person so charged.

Special provision as to evidence of husband or wife in prostitution cases.

See s. 138.

45. (1) Upon the conviction of the tenant, lessee or occupier of any premises of knowingly permitting the premises, or any part thereof, to be used as a brothel, the landlord or lessor shall be entitled to require the person so convicted to assign the lease or other contract under which the said premises are held by him to some person approved

Determination of tenancy of premises on conviction for permitting use as brothel, etc.

by the landlord or lessor, which approval shall not be unreasonably withheld, and, in the event of the person so convicted failing within three months to assign the lease or contract as aforesaid, the landlord or lessor shall be entitled to determine the lease or other contract but without prejudice to the rights or remedies of any party to such lease or contract accrued before the date of such determination. If the landlord or lessor should so determine the lease or other contract of tenancy, the court or magistrate which or who has convicted the tenant, lessee or occupier shall have power to make a summary order for delivery of possession to the landlord or lessor.

(2) If the landlord or lessor after such conviction has been brought to his notice fails to exercise his rights under the foregoing provisions of this section and subsequently during the subsistence of the lease or contract any such offence is again committed in respect of the premises, the landlord or lessor shall be deemed to have knowingly aided or abetted the commission of that offence, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

(3) Where a landlord or lessor determines a lease or other contract under the powers conferred by this section and subsequently grants another lease or enters into another contract of tenancy to, with, or for the benefit of the same person without causing to be inserted in such lease or contract all reasonable provisions for the prevention of a recurrence of any such offence as aforesaid, he shall be deemed to have failed to exercise his rights under the foregoing provisions of this section, and any such offence as aforesaid committed during the subsistence of the subsequent lease or contract shall be deemed, for the purposes of this section, to have been committed during the subsistence of the previous lease or contract.

Stealing, etc.

Definition of stealing.

46. A person is guilty of stealing if he dishonestly appropriates a thing of which he is not the owner.

Stealing from the person.

47. A thing is stolen from the person if it be stolen from the body, clothes or immediate presence of a person.

48. A person is guilty of fraudulent breach of trust if he dishonestly appropriates a thing the ownership of which is vested in him as a trustee for any other person.

Definition of fraudulent breach of trust.

49. (1) An appropriation of a thing is dishonest if it is made by a person without claim of right, and with a knowledge or belief that the appropriation is without the consent of some person for whom he is trustee or who is owner of the thing, as the case may be, or that the appropriation would, if known to any such person, be without his consent.

Explanation as to dishonest appropriation.

(2) It is not necessary, in order to constitute a dishonest appropriation of a thing, that the accused person should know who is the owner of the thing, but it suffices if he has reason to know or believe that some other person, whether certain or uncertain, is interested therein or entitled thereto, whether as owner in his own right, or by operation of law, or in any other manner; and any person so interested in or entitled to a thing is an owner thereof for all the purposes of the provisions of this Code relating to criminal misappropriations and frauds.

(3) The general provisions of this Title to this Code with respect to consent, and with respect to the avoidance thereof by force, duress, incapacity and otherwise, apply for the purposes of this section, except as is hereafter in this Title expressly mentioned with respect to deceit.

Illustrations

Subs. (1) —(a) *A.*, being the guest of *B.*, writes a letter on *B.*'s paper. Here *A.* is not guilty of stealing, because, although he does not use the paper under any claim of right, yet he believes that *B.*, as a reasonable person, would not object to his so doing.

(b) *A.*, during a lawsuit with *B.* as to the right to certain goods, uses or sells some of the goods. Here *A.* is not guilty of stealing, because although *A.* believes that *B.* would object, yet *A.* acts under a claim of right.

Subs. (2) —A person can be guilty of stealing by appropriating things the ownership of which is in dispute or unknown, or which have been found by another person.

Provisions
relating to part
owners.

50. A person who is an owner of or interested in a thing, or in the amount, value or proceeds thereof, jointly or in common with another person or as a member of a company, or who is owner of a thing as a trustee for himself jointly or in common with another person or for a company of which he is a member, can be guilty of stealing or of fraudulent breach of trust in respect of the thing; and a person can be a clerk, servant or officer of a company of which he is a member.

Illustrations

(1) A member of a partnership, or of any association or corporation, can be guilty of stealing a thing belonging to himself and the other members of the partnership, association or corporation.

(2) A servant or officer of a partnership, association or corporation can be guilty of stealing its property, although he is a member of it.

Explanation as to
a gratuitous
trustee.

51. Where a person, being the owner of a thing in his own right and for his own benefit, undertakes to hold or apply the thing as a trustee for another person, he shall not be deemed thereby to become a trustee, within the meaning of the provisions of this Code relating to fraudulent breaches of trust, unless he has constituted himself such trustee by an instrument in writing executed by him and specifying the nature of the trust and the persons to be benefited thereby.

Illustration

A., on the marriage of his daughter, verbally promises thenceforth to hold certain moneys of his own in trust for her and her children. *A.* is not a trustee within the meaning of the aforesaid provisions. But if the moneys were entrusted to him by the husband for the wife. *A.* would be a trustee within the meaning of the aforesaid provisions.

Acts which
amount to an
appropriation.

52. (1) An appropriation of a thing by a trustee means any dealing with the thing by the trustee, with a purpose of depriving any person for whom he is trustee of the benefit of his right or interest in the thing, or in its value or proceeds, or any part thereof.

(2) An appropriation of a thing in any other case means any moving, taking, obtaining, carrying away or dealing with a thing, with a purpose that some person may be deprived of the benefit of his ownership, or of the benefit of his right or interest in the thing or in its value or proceeds, or any part thereof.

(3) A purpose of deprivation can be constituted by a purpose of appropriating the thing temporarily or for a particular use, if the purpose is so to use or deal with the thing that it probably will be destroyed, or become useless or greatly injured or depreciated, or to restore it to the owner only by way of sale or exchange, or for reward, or in substitution for some other thing to which he is otherwise entitled, or if it is pledged or pawned.

(4) It is immaterial whether the act by which a thing is taken, obtained or dealt with be or be not a trespass or a conversion, or be or be not in any manner unlawful otherwise than by reason of its being done with a purpose of dishonest appropriation; and it is immaterial whether, before or at the time of doing such act, the accused person had or had not any possession, custody or control of the thing.

Illustrations

Subs. (1) —*A.* is a trustee of stock for *B.* If *A.* orders the stock to be sold with a purpose of appropriating part of the proceeds, *A.* has appropriated the stock.

Subs. (2) —*A.*, intending to steal a horse, disguises it by cutting its mane and tail. This is a sufficient appropriation.

Subs. (3) —(a) *A.* is a workman paid according to the quantity of metal which he obtains from ore. If *A.* fraudulently puts into the furnace some metal belonging to his employer instead of ore, with the purpose of increasing *A.*'s wages, *A.* may be guilty of stealing the metal, although he does not mean to deprive his employer of it permanently.

(b) *A.* borrows a horse without the consent of its owner, intending to keep it until it is worn out and then to return it. Here *A.* is guilty of stealing the horse.

Subs. (4) A person can be guilty of stealing a thing entrusted to him to carry or keep, and it is not necessary in order to constitute a stealing by such a person that any package in which the thing is contained shall be broken open by him.

Distinction
between stealing
and false
pretences.

53. (1) If it is proved, on behalf of a person accused of having stolen a thing, that the owner thereof, or any person having authority to part with the ownership thereof, gave consent to the appropriation of it by the accused person, then, although such consent has been obtained by deceit, the accused person shall not be deemed guilty of having stolen the thing, but he may be convicted of the offence of having defrauded by false pretences, if his acts amounted to such offence.

(2) The consent to be proved by the accused person, for the purposes of this section, is an unconditional consent to the immediate and final appropriation of the thing by the accused person, by way of gift or barter, or of sale on credit, to the accused person.

Illustrations

Subs. (1) —(a) *A.*, intending fraudulently to appropriate a horse belonging to *B.*, obtains it from *B.* under the pretence that he wants it for a day. Here *A.* is guilty of stealing.

(b) *A.*, intending to defraud *B.* of a horse without paying for it induces *B.* to sell and deliver it to him without present payment, by a false pretence that he has \$4,000 at his bank. Here *A.* is guilty of obtaining by false pretences, but is not guilty of stealing.

Special provision
as to money, etc.,
in cases of
embezzlement.

54. If it is proved, on behalf of a person accused of having stolen or committed a fraudulent breach of trust in respect of moneys or other things, that it was lawful for him to appropriate the particular moneys or other things, or any of them, and that he was only bound to account for the amount or value thereof, he shall not be deemed guilty in respect of the moneys or things which he has appropriated, unless proof is given against him that he has admitted that the appropriation of them was dishonest, or proof is given that he has concealed or absconded with them or with the proceeds of them, or that he has concealed or denied, or attempted to conceal, or refused or omitted to disclose according to his duty, the fact of the receipt or disposal of them, or it is made to appear that he knew that the effect of the disposal of them would be to disable him from accounting for the amount, value or proceeds of them according to his duty.

Illustration

A., a commercial traveller, is directed to collect moneys for his employer. If he is at liberty to spend or dispose of the particular moneys which he collects, and is only bound to account for the balance in his hands at particular times or when called upon, he does not commit stealing or fraudulent breach of trust merely by spending any or all of the moneys collected by him, unless under the circumstances mentioned in this section.

55. (1) If it is proved, on behalf of a person accused of having stolen a thing, that the wife of the owner of the thing consented to its appropriation by the accused person, the accused person shall not be convicted unless it is proved against him that he had notice that the wife had no authority to consent to the appropriation.

Consent by a wife in case of stealing.

(2) If it appears that he had committed, or designed to commit, adultery with the wife, he shall be deemed to have had such notice, but he shall not in such case be deemed guilty of stealing by reason only of his appropriating, with the consent of the wife, or of his assisting the wife to appropriate, any wearing apparel of the wife, or any money or other thing of which the wife is apparently permitted to have the disposal for her own use.

56. A person who appropriates a thing which appears to have been lost by another person is not guilty of stealing it, unless —

Explanation as to stealing of thing found.

- (1) at the time of appropriating it, he knows who is the owner of the thing or by whom it has been lost;
- (2) the character or situation of the thing, or the marks upon it, or any other circumstances is or are such as to indicate the owner of the thing or the person by whom it has been lost;
- (3) the character or situation of the thing, or the marks upon it, or any other circumstances is or are such as that the person who has lost the thing appears likely to be able to recover it by reasonable search and inquiry, if it were not removed or concealed by any other person.

Illustrations

(1) —*A.* finds a ring in the high road. If the ring has an owner's or maker's name or motto engraved upon it, or if it is of great value, *A.* will be guilty of stealing it if he appropriates it without making reasonable inquiry.

(2) —*A.* buys an old chest at the sale of a deceased person's effects. He finds a banknote in a secret drawer of the chest. *A.* is guilty of stealing it if he appropriates the note, unless he either expressly bought the right to whatever he might find in the chest, or makes reasonable inquiry and fails to discover the owner.

Things in respect of which stealing, etc., can be committed.

57. Any of the crimes of stealing, fraudulent breach of trust, robbery, extortion or defrauding by false pretences can be committed in respect of anything, whether living or dead, and whether fixed to the soil or to any building or fixture, or not so fixed, and whether the thing be a mineral, or a fluid, or gas, or of any other nature, and whether the value thereof be intrinsic or for purposes of evidence, or be of value only for a particular purpose or to a particular person, and whether the value thereof does or does not amount to the value of the lowest denomination of coin; and any document shall be deemed to be of some value, whether it be complete or incomplete, and whether or not it be satisfied, exhausted or cancelled.

False Pretences and Other Frauds

Definition of defrauding by false pretences.

58. A person is guilty of defrauding by false pretences if, by means of any false pretence, he obtains the consent of another person to part with or transfer the ownership of anything of which the crime of stealing can be committed.

Definition of and provisions relating to a false pretence.

59. (1) A false pretence is a representation of the existence of a state of facts made by a person, either with the knowledge that such representation is false or without the belief that it is true, and made with a purpose to defraud.

- (2) For the purposes of this section —
- (a) a representation may be made either by written or spoken words, or by personation, or by any other conduct, sign or means, of whatsoever kind;
 - (b) the expression “a representation of the existence of a state of facts” includes a representation as to the non-existence of any thing or condition of

things, and a representation of any right, liability, authority, ability, dignity or ground or credit or confidence as resulting from any alleged past facts or state of facts, but does not include a mere representation of any intention or state of mind in the person making the representation, nor any mere representation or promise that anything will happen or be done, or is likely to happen or be done;

- (c) a consent shall not be deemed to have been obtained by a false representation as to the quality or value of a thing, unless, in the opinion of the court, the thing is proved to have been substantially worthless for the purpose for which it is represented to be fit, or to have been substantially a different thing from that which it is represented to be; and
- (d) subject to the foregoing rules, if the consent of a person is in fact obtained by a false pretence, it is immaterial that the pretence is such as would have had no effect on the mind of a person using ordinary care and judgment.

Illustrations

Subs. (2) —(a) *A.* goes into a shop dressed as an officer in the army (which he is not). If he does this in order to gain credit which he would not otherwise get, he is guilty of a false pretence, although he does not actually say that he is an officer.

(b) (I) The following pretences (being false) are sufficient “false pretences” by *A.* within the meaning of this Title —

- (i) That a picture which he is selling once belonged to a particular collector.
 - (ii) That a picture which he is selling was painted by a particular painter.
 - (iii) That a picture which he is selling belongs to him.
 - (iv) That he is entitled to a legacy under the will of a deceased relative.
 - (v) That he has an account at a particular bank.
- (II) The following are not sufficient although false —
- (i) That the picture is a valuable work of art.
 - (ii) That in five years the picture will have doubled in value.
 - (iii) That he expects to receive a legacy when a relative dies.

8 of 1969, s. 15.

(3) Every person who shall, by any fraud or unlawful device or ill practice in playing at or with cards, dice, tables, or other game, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, win from any other person to himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and, being convicted thereof, shall be punished accordingly.

Explanation as to personation.

60. Personation means a false pretence or representation by a person that he is a different person, whether that different person be living or dead or be a fictitious person, and a person may be guilty of personation although he gives or uses his own name, if he does so with intent that he may be believed to be a different person of the same or of a similar name.

Provisions relating to fictitious trading.

61. Where a person orders, or makes a bargain for the purchase of, any goods or things by way of sale or exchange, and after obtaining the same, he makes default in payment of the purchase money or in rendering the goods or things to be rendered by him by way of such exchange, he shall be deemed to be guilty of defrauding or attempting to defraud, as the case may be, by false pretences, if the jury are satisfied —

- (1) that at the time of giving the order or making the bargain, he purposed to make default as aforesaid;
- (2) that the order was given, or the bargain was made, for the purposes of fraud, and not in the course of any trade carried on in good faith:

Provided that no person shall be convicted under this section unless one or more of the following things is or are proved against him, namely —

- (a) that, in giving the order or making the bargain, he used a false name or address or a false reference, or gave as the address of his place of business an address at which he did not carry on business in good faith for the purposes of trade;

- (b) that he has sold, pledged or pawned the goods or things so obtained by him, or some of them, under such circumstances that it appears that he obtained the goods or things only for the purpose of so dealing with them.

Receiving and Unlawful Possession

62. (1) A person is guilty of dishonestly receiving any property which he knows to have been obtained or appropriated by any crime or offence, if he receives, buys, or in any manner assists in the disposal of the property otherwise than with a purpose to restore it to the owner.

Explanation as to dishonest receiving.
See ss. 358 and 359.

(2) It is immaterial whether the crime or offence by which the property was obtained or appropriated was or was not committed within the jurisdiction of the court; and if the property was obtained or appropriated beyond the jurisdiction of the court by an act the doing of which within the jurisdiction would be a crime or offence punishable under this Code, such act is for the purposes of this section, equivalent to an offence punishable under this Code.

(3) Any number of receivers at different times, of property stolen at one time may be tried together, notwithstanding that the principal offender shall not have been charged or shall not be in custody or not be amenable to justice; and if such receivers shall be charged with jointly receiving property, they shall not escape punishment if it is proved that they had received the same or part thereof separately.

Several receivers may be tried together.

63. (1) It shall be lawful for any peace officer to stop and detain without a warrant any person having in his possession or conveying in any manner anything which may be reasonably suspected of being stolen or unlawfully obtained, in order to ascertain who the person is and the nature of such thing in his or her possession; and in case such person shall not give a satisfactory account of himself or herself and of his or her possession of such thing it shall be the duty of the peace officer to take such person, and the thing and any cart, wagon or other vehicle (if any) laden with the same, to the nearest police station, where he or she and the thing shall be detained or released as in the

Peace officer to detain person conveying thing suspected of being stolen, etc.

See s. 104.

discretion of the officer in charge may appear proper, until the question of ownership of such thing shall be submitted to be decided by the magistrate; and it shall be lawful for the keeper of any prison to receive into his custody any person detained as aforesaid on Saturday night and him or her keep there until taken before the magistrate for examination.

General power to arrest without warrant.

(2) Any person to whom anything is offered to be sold, pawned or delivered, if he has reasonable cause to suspect that any offence has been committed against this Code with respect to such thing, shall, if in his power, apprehend and forthwith take before a magistrate the person offering the same, together with such thing, to be dealt with according to law.

(3) Any person found in the act of stealing, or found committing the offence of dishonestly receiving anything, may be immediately apprehended without a warrant by any person and forthwith taken, together with the stolen thing, if any, to a magistrate to be dealt with according to law.

Warrant of search.

(4) If any credible witness shall prove upon oath before a justice of the peace a reasonable cause to suspect that any person has in his possession or on his premises any stolen property whatsoever, the justice may grant a warrant of search for such property.

Inquiry by magistrate concerning things suspected of being stolen, or unlawfully obtained.

64. (1) Where any person is brought before a magistrate charged with having possession of or conveying in any manner anything which has been stolen or unlawfully obtained or which is reasonably suspected of having been stolen or unlawfully obtained, and declares that he received the same from some other person, or that he was employed as a carrier, agent, or servant, or to convey the same to some other person, the magistrate shall, if practicable, cause every such other person, and also, if necessary, every former or pretended purchaser, or other person through whose possession such thing as aforesaid has passed, to be brought before the court to be examined upon oath touching the same and if it appears to the court before which the matter is tried that any person or persons so brought before it had possession of such thing, every such person may be deemed to have had possession of such thing at the time and place when and where the same was found or seized, and the *onus probandi*

Onus probandi.

shall be on him or them to show that such possession was honestly come by. Upon the refusal or inability of any such person or persons to satisfy the court that such possession is or was lawful, it shall be deemed *prima facie* evidence of his or their guilt of the offence charged in relation to such possession.

See s. 148.

(2) The possession of a carrier, agent or servant shall be deemed to be the possession of the person who employed such carrier, agent or servant to convey such thing.

65. (1) Where any person is acquitted or convicted (hereinafter in this section referred to as the accused person) of any offence of stealing, taking, obtaining, extorting, embezzling, converting or disposing of, or of knowingly receiving any property the court before which the accused person is may exercise any of the following powers —

Restitution of stolen property in case of conviction.
5 of 1987, Sch.

- (a) the court may order anyone having possession or control of the property to restore them to any person entitled to recover them from him; or
- (b) on the application of a person entitled to recover from the accused person any other property directly or indirectly representing the first-mentioned property (as being the proceeds of any disposal or realisation of the whole or part of them or of property so representing them) the court may order the other property to be delivered or transferred to the applicant; or
- (c) on the application of a person who, if the first mentioned property were in the possession of the accused person would be entitled to recover them from him, the court may order that a sum not exceeding the value of the property shall be paid to the applicant.

(2) Where under subsection (1) the court has power to make an order against the accused person both under paragraph (b) and under paragraph (c) with reference to the same property, the court may make orders under both paragraphs provided that the applicant for the orders does not thereby recover more than the value of the property.

(3) Where under subsection (1) the court makes an order under paragraph (a) for the restoration of any property and it appears to the court that the accused person has sold the property to a person acting in good faith, or has borrowed money on the security of them from a person so acting, then, on the application of the purchaser or lender, the court may order that there shall be paid to the applicant, out of any money of the accused person which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the applicant or, as the case may be, the money owed to the applicant in respect of the loan.

(4) Any order under this section shall be treated as an order for the restitution of property within the meaning of section 25 of the Court of Appeal Act (which relates to the effect of such orders on appeal).

Salvaged goods. (5) Where any property belonging to any ship or vessel in distress or wrecked, stranded or cast on shore, is found in the unlawful possession of any person or on the premises of any person with his knowledge, any such person if instrumental by himself or his servants in saving any part of the cargo from the ship or vessel shall forfeit all right to any salvage or remuneration he might otherwise have been entitled to for services rendered or for property or money saved.

Advertising a reward for the return of stolen property, etc.

66. Whosoever shall publicly advertise a reward for the return of any property whatsoever which shall have been stolen or lost, and shall in such advertisement use any words purporting that no question will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer, in any such public advertisement, to return to any pawnbroker or other person, who may have bought or advanced money by way of loan upon any property stolen or lost, the money so paid or advanced or any other sum of money or reward for the return of such property, or shall print or publish any such advertisement, shall forfeit the sum of five hundred dollars for every such offence, to any person who will sue for the same by action of debt, to be recovered with full costs of suit.

See s. 261.

5 of 1987, Sch.

Unlawful Damage to Property

67. “Damage” includes not only damage to the matter of a thing, but also any interruption of the use thereof, or any interference therewith, by which the thing becomes permanently or temporarily useless, or by which expense is rendered necessary in order to render the thing fit for the purposes for which it was used or maintained.

Definition of damage.

68. (1) A person does an act or causes an event unlawfully, within the meaning of the provisions of this Code relating to unlawful damage, in any case in which he is liable to any civil action or proceeding, or to fine or other punishment under any law, in respect of his doing the act or causing the event or in respect of the consequences of the act or event, or in which he would be so liable if he caused the event directly by his own act, or in which he is liable to be restrained by injunction or any other proceeding from doing the act or causing the event.

Explanation of unlawful damage.

(2) It is immaterial whether a person accused of an offence in respect of any premises or thing be or be not in possession or occupation thereof.

(3) A person who is interested jointly or in common with other persons in any premises or thing as an owner or otherwise, or who is owner thereof in trust for any other person, can be guilty of any offence punishable under the aforesaid provisions by an act which is unlawful as hereinbefore mentioned.

(4) A person who is sole owner for his own benefit of any premises or thing can be guilty of any offence punishable under the aforesaid provisions by an act done with intent to injure or defraud any person or to cause harm to any person, although the act be not otherwise unlawful:

Provided that notwithstanding anything contained in Title vi. of this Code as to mistake of law, a person shall not be liable to punishment under the aforesaid provisions in respect of his doing anything which, in good faith, he believes that he is entitled to do.

Illustrations

Subs. (2) —A tenant of a house can be guilty of an offence against the aforesaid provisions by setting fire to the house.

Subs. (3) —A person who is joint owner or owner in common with other persons of a house or other property can be guilty of an offence against the aforesaid provisions in respect of the injury caused by his offence to the other joint owners or co-owners.

Subs. (4) —A person who intentionally sets fire to his own dwelling-house or ship may be guilty of arson, as, for instance, if the fire is likely to spread to other houses, or if the lives or property of any other persons are or is likely to be destroyed.

Explanation as to amount of damage.

69. (1) Where an intention to cause damage to a certain amount, or a causing of damage to a certain amount, is required by an enactment of this Code relating to unlawful damage, it is not necessary that damage to that amount should be intended or done to any individual thing of a kind mentioned in such section, but it suffices if damage to that amount in the aggregate is intended or done, as the case may be, to any number or collection of such things.

(2) Where different punishments are provided by any enactments of this Code relating to unlawful damage, according to differences in the amount of damage caused, a person who is accused of having attempted to cause damage to a greater amount shall not be acquitted or relieved from liability to the greater punishment on the ground that he actually caused damage to a lesser amount.

Forgery and False Coin

Explanations and special provision as to forgery.

70. The following provisions apply with respect to forgery, namely —

- (1) a person forges a document if he makes or alters the document, or any material part thereof, with intent to cause it to be believed either —
 - (a) that the document or part has been so made or altered by any person who did not in fact so make or alter it; or
 - (b) that the document or part has been so made or altered with the authority or consent of any person who did not in fact give such authority or consent; or
 - (c) that the document or part has been so made or altered at a time different from that at which it was in fact so made or altered;

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- (2) a person who issues or uses any document which is exhausted or cancelled, with intent that it may pass or have effect as if it were not exhausted or cancelled, shall be deemed guilty of forging the same;
 - (3) the making or alteration of a document or part thereof by a person in his own name may be forgery if the making or alteration is with either of the intents mentioned in this section;
 - (4) the making or alteration of a document or part thereof by a person in the name which is not his real or ordinary name is not forgery unless the making or alteration is with one or other of the intents mentioned in this section;
 - (5) it is immaterial whether the person by whom, or with whose authority or consent, a document or part thereof purports to have been made, or is intended to be believed to have been made, be living or dead, or be a fictitious person;
 - (6) every word, letter, figure, mark, seal, or thing expressed on or in a document, or forming part thereof or attached thereto, and any colouring, shape or device used therein, which purports to indicate the person by whom, or with whose authority, or consent, a document or part thereof has been made, altered, executed, delivered, attested, verified, certified or issued, or which may affect the purport, operation or the validity of the document in any material particular, is a material part of the document;
 - (7) “alteration” includes any cancelling, erasure, severance, interlineation or transposition of or in a document or of or in any material part thereof, and the addition of any material part thereto, and any other act or device whereby the purport, operation or validity of the document may be affected; and
 - (8) all the provisions of this section apply with respect to the forgery of a stamp in the same manner as with respect to the forgery of a document.

Illustrations

Subs. (3) —*A.* endorses his own name on a cheque, meaning it to pass as an endorsement by another person of the same name. Here *A.* is guilty of forgery.

Subs. (4) —*A.* is living under an assumed name. It is not forgery for him to execute a document in that name, unless he does so with intent to defraud, etc.

Subs. (5) —*A.*, with intent to defraud, makes a promissory note in the name of an imaginary person. Here *A.* is guilty of forgery.

Definition of counterfeiting.

71. A person “counterfeits” a stamp, coin or mark if he makes any imitation thereof, or anything which is intended to pass or which may pass as such stamp, coin or mark; and if a person makes anything which is intended to serve as a specimen, or pattern, or trial of any process for counterfeiting a stamp, coin or mark, he shall be deemed to be guilty of counterfeiting, within the meaning of this Code, although he does not purpose that any person should be defrauded or injured by, or that any further use should be made of, such specimen or pattern.

Definition of falsification.

72. A person “falsifies” a coin of any metal, coinage, denomination, date or country, if he removes any such part thereof, or if by any means he so alters it, whether permanently or temporarily, and whether in substance or appearance, as that it may pass for a coin of a different metal, coinage, denomination, date or country.

Explanation as to possessing, or doing any act with respect to document, stamp or coin.

73. (1) A person possesses or does any act with respect to a document knowing it not to be genuine, if he possesses it, or does the act with respect to it, knowing that it was not in fact made or altered at the time, or by the person, or with the authority or consent of the person, at which or by whom, or with whose authority or consent, it purports or is pretended by him to have been made or altered; and it is immaterial whether the act of the person who made or altered it was or was not a crime.

(2) In like manner, a person possesses or does any act with respect to a stamp or coin knowing it not to be genuine, if he possesses it, or does the act with respect to it, knowing it is in fact counterfeit or falsified; and it is immaterial whether the act of the person who counterfeited or falsified it was or was not a crime.

Imitation of forged document, etc., need not be perfect.

74. For the purposes of the provisions of this Code relating to the forgery, counterfeiting, falsifying, uttering, dealing with, using or possessing of any document, stamp or coin, it is not necessary that the document, stamp or coin should be so complete, or should be intended to be

made so complete, or should be capable of being made so complete, as to be valid or effectual for any of the purposes of a thing of the kind which it purports or is intended to be or to represent, or as to deceive a person of ordinary judgment and observation.

75. For the purpose of the provisions of this Code relating to the possessing or doing any act with respect to a document, currency note, stamp or coin which is forged, counterfeited or falsified, or which is not genuine, it is immaterial whether the document, currency note, stamp, or coin, has been forged, counterfeited, falsified, made or altered beyond or within the jurisdiction of the courts.

Special provision
as to jurisdiction.
16 of 1936, s. 3.

76. Whenever any document, stamp or coin which is forged, counterfeited or falsified has been tendered or admitted in evidence, the court or the person to whom the same has been tendered in evidence may direct that the same shall be impounded and be kept in the custody of some officer of the court or other proper person for such period and subject to such conditions as to the said court or person shall seem fit.

Impounding of
forged document,
etc.

77. Whoever prepares or supplies, or has in his possession, custody or control, or in the possession, custody or control of any other person on his behalf, any instruments, materials or means, with the purpose that such instruments, materials or means may be used by him or by any other person in committing any forgery or any offence relating to coin, shall be liable to punishment in like manner as if he had attempted to commit that offence; and any such instruments, materials or means shall be forfeited and applied as the court directs.

Preparation for
committing
offence.
*See ss. 83(2) and
374.*

Tumults and Riotous Assemblies

78. (1) If three or more persons together in any public or private place commence or attempt to do any of the following things, namely —

Riot.
See Title xxvii.

- (a) to execute any common purpose with violence and without lawful authority to use such violence for that purpose;
- (b) to execute a common purpose of obstructing or resisting the execution of any legal process or authority;

- (c) to facilitate, by force or by show of force or of numbers, the commission of any crime,

they are guilty of a riot.

(2) Persons are not guilty of a riot by reason only that they, to the number of three or more, suddenly engage in an unlawful fight unless three or more of them fight with a common purpose against some other person or persons.

Unlawful
assembly.

See s. 418.

79. (1) An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner, or so conduct themselves when assembled, as to cause persons in the neighbourhood of such assembly to fear, on reasonable grounds, that the persons so assembled will disturb the peace tumultuously, or will, by such assembly, needlessly and without any reasonable occasion provoke other persons to disturb the peace tumultuously.

(2) Persons lawfully assembled together may become an unlawful assembly if they conduct themselves, with a common purpose, in such a manner as would have made their assembling unlawful if they had assembled in that manner for that purpose.

(3) An assembly of three or more persons for the purpose of protecting the house of any one of their number against persons threatening to break and enter such house in order to commit any crime therein is not unlawful.

Making
proclamation for
rioters to
disperse.

See s. 414.

80. (1) Any magistrate or, in the absence of any magistrate, any justice of the peace or any commissioned officer in Her Majesty's military or naval service in whose view a riot is being committed, or who apprehends that a riot is about to be committed by persons assembled within his view, may make or cause to be made a proclamation in the Queen's name, commanding the rioters or persons so assembled to disperse peaceably.

Form of
proclamation.

(2) The order and form of such proclamation shall be as hereafter followeth, that is to say, the magistrate or other person authorised by this Act to make the said proclamation shall, among the rioters, or persons so assembled, or as near to them as he can safely come, with a loud voice command or cause to be commanded silence,

and after that shall openly and with a loud voice make or cause to be made, proclamation in these words or to a like effect:

“Our Sovereign Lady the Queen chargeth and commandeth all persons, being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the Penal Code for preventing tumults and riotous assemblies.

“GOD SAVE THE QUEEN”.

(3) Every such magistrate or other person authorised to make such proclamation is hereby authorised, empowered and required on notice or knowledge of a riot being committed or being about to be committed, to resort to the place where such riot is or is about to be committed and there to make or cause to be made proclamation in manner aforesaid.

Duty of magistrate to resort to place of riot.

81. (1) If upon the expiration of one hour after such proclamation made, or after the making of such proclamation has been prevented by force, twelve or more persons continue riotously assembled together, any person authorised to make proclamation, or any peace officer, or any other person acting in aid of such person or officer, may do all things necessary for dispersing the persons so continuing assembled or for apprehending them or any of them, and, if any person makes resistance, may use all such force as is reasonably necessary for overcoming such resistance, and shall not be liable in any criminal or civil proceeding for having by the use of such force caused harm or death to any person.

Dispersion of rioters after proclamation made.

See s. 414.

(2) It shall be lawful for any person authorised to make proclamation, or any peace officer to command all Her Majesty’s subjects of age and ability to assist them in dispersing or apprehending the persons so assembled and riotously and tumultuously continuing together after proclamation made as aforesaid, or after the making of such proclamation has been prevented, and it shall be the duty of all persons so commanded to assist when required.

Duty to assist in dispersion of rioters.

See s. 88.

Perjury

Power on reasonable cause to direct a prosecution for perjury.

Recognisance may be taken.

See s. 423.

82. It shall be lawful for any judicial officer and for any person presiding at a tribunal sitting for the hearing, trial and determination of any judicial proceeding, in case it shall appear that any witness has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer or other proceeding so made or taken, to direct such witness to be prosecuted for perjury, in case there shall appear reasonable cause for such prosecution, and to commit such witness until the next criminal sessions unless such witness shall enter into a recognisance with one or more sufficient surety or sureties conditioned for his appearance at such next sessions, and that he will then surrender and take his trial, and not depart the court without leave; and to require any party needed for such prosecution to enter into a recognisance conditioned to prosecute, or give evidence against such witness, and to give the party so bound a certificate of the prosecution having been directed, which certificate shall be given without any fee or charge, and shall be deemed sufficient proof of such prosecution having been directed as aforesaid:

Provided that no such direction or certificate shall be given in evidence upon any trial to be had against any witness upon a prosecution so directed as aforesaid.

TITLE iv**ATTEMPTS TO COMMIT OFFENCES**

Provisions relating to attempt to commit offences.

83. (1) A person who attempts to commit an offence by any means shall not be acquitted on the ground that, by reason of the imperfection or other condition of the means, or by reason of the circumstances under which they are used, or by reason of any circumstances affecting the person against whom, or the thing in respect of which, the offence is intended to be committed, or by reason of the absence of such person or thing, the offence could not be committed according to his intent.

See s. 77.

(2) Whoever attempts to commit an offence shall, if the attempt is frustrated by reason only of accident or of circumstances or events independent of his will, be deemed guilty of an attempt in the first degree, and shall, except as in this Code otherwise expressly provided, be punishable in the same manner as if the offence had been completed.

(3) Whoever is guilty of an attempt other than an attempt in the first degree, shall, except as in this Code otherwise expressly provided, be liable to any kind of punishment to which he would have been liable if the offence had been completed; but the court shall mitigate the punishment according to the circumstances of the case.

(4) Where any act amounts to a complete offence, as defined by any provisions of this Code, and is also an attempt to commit some other crime, a person who is guilty of it shall be liable to be convicted and punished either under such provision or under this section.

(5) Any provision of this Code with respect to intent, exemption, justification or extenuation, or any other matter in the case of any act, shall apply with the necessary modifications, to the case of an attempt to do that act.

(6) The question whether an act done or omitted with intent to commit an offence is or is not only preparation for the commission of that offence, and too remote to constitute an attempt to commit, is a question of law.

See s. 12.

Illustrations

Subs. (1) —(a) *A.* buys poison and brings it into *B.*'s room, intending there to mix it with *B.*'s drink. *A.* has not attempted to poison *B.* But if *A.* begins to mix it with *B.*'s drink, though *A.* afterwards alters his mind and throws away the mixture, he is guilty of an attempt in the second degree.

(b) *A.* points a gun, believing it to be loaded, and meaning immediately to discharge it at *B.* *A.* is guilty of an attempt, although the gun is not in fact loaded.

(c) *A.* puts his hand into *B.*'s pocket with the purpose of stealing. *A.* is guilty of an attempt, although there is nothing in the pocket.

(d) *A.* performs an operation on *B.* with a view to abortion. *A.* is guilty of an attempt, although *B.* is not in fact with child.

Subs. (2) — In the three last cases mentioned in the foregoing illustrations of Subs. (1), *A.* is guilty of an attempt in the first degree.

84. Where the complete commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the accused may be convicted of this attempt, and punished accordingly:

Case of full offence charged, attempt proved.
See s. 129(3).

Provided that after a conviction for the attempt, the person so convicted shall not be liable to be tried again for the offence which he was charged with committing.

Case of attempt charged, full offence proved.

See s. 129(3).

85. Where an attempt to commit an offence is charged but the evidence establishes the commission of the full offence, the accused shall not be entitled to be discharged, but he may be convicted of the attempt, and punished accordingly:

Provided that after a conviction for the attempt, the accused shall not be liable to be tried again for the offence which he was charged with attempting to commit.

TITLE v ABETMENT AND CONSPIRACY

Abetment of offence and trial, and punishment of abettor.

15 of 2014, s.3

See s. 307.

86. (1) Whoever directly or indirectly, instigates, commands, counsels, procures, organises, directs, solicits or in any manner purposely aids, facilitates, encourages or promotes, whether by his act or presence or otherwise, and every person who does any act for the purpose of aiding, facilitating, encouraging or promoting the commission of an offence by any other person, whether known or unknown, certain or uncertain, is guilty of abetting that offence, and of abetting the other person in respect of that offence.

(2) Whoever abets a crime or offence shall, if the same is actually committed in pursuance or during the continuance of the abetment, be deemed guilty of that crime or offence.

(3) Whoever abets a crime shall, if the crime is not actually committed, be punishable as follows, that is to say —

- (a) if the commission of the crime is prevented by reason only of accident, or of circumstances or events independent of the will of the abettor, the abettor shall, where the crime abetted was murder, be liable to imprisonment for life, or shall, where the crime abetted was any crime other than murder, be punishable in the same manner as if the crime had been actually committed in pursuance of the abetment;

(b) in any other case the abettor shall, if the crime which he abetted was a felony, be deemed guilty of felony, or shall, if such crime was a misdemeanour, be deemed guilty of a misdemeanour.

(4) Whoever abets a crime or an offence shall be punishable on indictment or on summary conviction, according as he would be punishable for committing that crime or offence.

(5) An abettor may be tried before, with, or after a person abetted, and although the person abetted is dead or is otherwise not amenable to justice; and any number of abettors at different times to an offence may likewise be tried together.

(6) An abettor may be tried, before, with, or after any other abettor, whether he and such other abettor abetted each other in respect of the offence or not, and whether they abetted the same or different parts of the offence.

(7) An abettor shall have the benefit of any matter of exemption, justification or extenuation to which he is entitled under this Code, notwithstanding that the person abetted or any other abettor is not entitled to the like benefit.

(8) Whoever within the jurisdiction of the courts, abets the doing beyond the jurisdiction of an act which, if done within the jurisdiction, would be an offence shall be punishable as if he had abetted that offence.

Illustrations

Subs. (1) —(a) *A.* encourages *B.* to commit murder. Here *A.* is guilty of abetting murder.

(b) *A.* offers *B.* five pounds to assault *C.* Here *A.* is guilty of abetting an assault on *C.*

(c) *A.* and *B.* are fighting unlawfully. *C.* and others hinder a peace officer from stopping the fight. Here *C.* and the others are guilty of abetting the fight.

Subs. (3) —(a) *A.* encourages *B.* to commit a burglary. *B.* attempts to commit the burglary, but is discovered and arrested. Here *A.* is punishable as if he had committed the burglary.

(b) *A.* employs *B.* to commit a burglary, but before any attempt has been made by *B.*, *A.* and *B.* agree to abandon the design. Here *A.* is punishable as for a simple felony, and not with the increased punishment provided for burglary.

Subs. (7) —(a) *A.* unlawfully strikes *B.*, and *B.* and others immediately set upon *A.* and beat him so that he dies. Here, if the blow struck by *A.* was such as to be a provocation to *B.* (section 300), *B.* may be guilty of manslaughter, although the others may be guilty of murder.

(b) *A.* unlawfully incites *B.* to assault a person. *B.* knows, but *A.* does not know, that the person assaulted is a peace officer acting in the execution of his duty. Here *B.* is, but *A.* is not, liable to the increased punishment provided by section 258 with respect to assault on peace officers.

Subs. (8) —*A.*, being in The Bahamas, incites *B.* to carry a ship to sea and scuttle her, with intent to defraud the underwriters. *A.* is liable under this provision.

Cases where one offence is abetted and a different offence is committed.

See s. 307.

87. (1) Where a person abets a particular offence, or abets an offence against or in respect of a particular person or thing, and the person abetted actually commits a different offence, or commits the offence against or in respect of a different person or thing, or in a manner different from that which was intended by the abettor, the following provisions shall have effect, that is to say —

- (a) if it appears that the offence actually committed was not a probable consequence of the endeavour to commit, nor was substantially the same as the offence which the abettor intended to abet, nor was within the scope of the abetment, the abettor shall be punishable for his abetment of the offence which he intended to abet in the manner provided by this Title with respect to the abetment of offences which are not actually committed;
- (b) in any other case, the abettor shall be deemed to have abetted the offence which was actually committed, and shall be liable to punishment accordingly.

(2) If a person abets a riot or unlawful assembly, with the knowledge that unlawful violence is intended or is likely to be used, he is guilty of abetting violence of any kind or degree which is committed by any other person in executing the purposes of the riot or assembly, although he did not expressly intend to abet violence of that kind or degree.

Illustrations

Subs. (1) —(a) *A.* incites *B.* to commit a robbery by threats, without violence, on *C. B.*, in attempting to commit the robbery, is resisted, and murders *C.* Here *A.* is guilty of abetting robbery and not of abetting murder.

(b) *A.* incites *B.* to steal a horse; *B.*, in pursuance of the incitement, gets the horse by false pretences. Here *A.* is guilty of abetting the crime which *B.* has committed.

Subs. (2) —Persons assemble together for the purpose of breaking open a prison and releasing a prisoner by force. Some of them are armed. If murder is committed by one of these in breaking open the prison, all persons, whether armed or not, who took part in or otherwise abetted the breaking open the prison, are guilty of abetting murder, if they knew that arms were carried and were intended or likely to be used.

88. Whoever, knowing that a person decides to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof is guilty of a misdemeanour.

Duty to prevent felony.
See ss. 81(2), 246 and 447.

88A. (1) An accessory after the fact to the commission of an offence is one who, knowing that a person has been a party to an offence, receives, comforts or assists that person for the purpose of enabling that person to avoid the due process of the law.

Accessory after the fact.
28 of 2008, s. 2

(2) Where a person is charged with being an accessory after the fact to the commission of an offence, evidence of the conviction of the other person of the offence is admissible against the accused and in the absence of evidence to the contrary, is proof that the offence was committed.

- (3) A person who is an accessory after the fact to —
- (a) the offence of murder or treason, is guilty of an offence and liable to imprisonment for life;
 - (b) any felony other than as mentioned in paragraph (a), is guilty of an offence and liable to imprisonment for a term of imprisonment not exceeding fifteen years,

and may also be tried together with the principal offender.

89. (1) If two or more persons agree or act together with a common purpose in committing or abetting an offence whether with or without any previous concert or

Conspiracy.

deliberation, each of them is guilty of conspiracy to commit or abet that offence as the case may be.

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

Illustrations

Subs. (1) —(a) If a lawful assembly is violently disturbed (section 421), any persons who take part in the disturbance are guilty of conspiracy to disturb it, although they may not have personally committed any violence, and although they do not act in pursuance of any previous concert or deliberation.

(b) *A.* and *B.* agree together to procure *C.* to commit a crime. Here *A.* and *B.* are both guilty of conspiracy to abet that crime.

Subs. (2) —*A.*, in The Bahamas, and *B.* in Jamaica, agree and arrange by letter for the scuttling of a ship on the high seas, with intent to defraud the underwriters. Here *A.* is guilty of a conspiracy punishable under this Code.

Punishment for
conspiracy.

90. (1) If two or more persons are guilty of conspiracy for the commission or abetment of any offence, each of them shall, in case the offence is committed, be punished as for that offence according to the provisions of this Code, or shall, in case the offence is not committed, be punished as if he had abetted the offence.

(2) Any court having jurisdiction to try a person for an offence shall have jurisdiction to try a person or persons charged with conspiracy to commit or abet that offence.

Gang
Membership.
15 of 2014, s.4

90A. (1) A person who —

- (a) is a member of an unlawful gang; or
- (b) participates in or contributes to the activities of an unlawful gang where any or all of the members of the unlawful gang engage in or have, within the preceding three years, engaged in the commission of indictable offences under this Code,

commits an offence and is liable on conviction to a fine of five hundred thousand dollars and to imprisonment for twenty years.

(2) For the purposes of this section, in determining whether persons participate in or actively contribute to unlawful gang activity, the court may consider whether the person —

- (a) uses a name, word, or other representation that identifies, or is associated with, an unlawful gang;
- (b) uses a similar symbol, tattoo or other body markings, clothing, signs and codes that identifies, or is associated with an unlawful gang;
- (c) frequently associates with any of the persons who constitute an unlawful gang;
- (d) receives any benefit from an unlawful gang; or
- (e) frequently engages in activities at the instruction of any of the persons who constitute an unlawful gang.

(3) A person who —

- (a) participates in or contributes to the activities of an unlawful gang where any or all of the members of the unlawful gang engage in the commission of indictable offences under this Code or offences under the Dangerous Drugs Act; and
- (b) is party to the commission of an indictable offence under this Code, for the benefit of, at the discretion of, in association with the unlawful gang,

Ch. 228.

commits an offence and is liable on conviction to a fine of five hundred thousand dollars and to imprisonment for twenty years.

(4) A person who, whether lawfully obtained or not, has in his possession or under his care or control a bullet-proof vest for the benefit of, at the direction of, or in association with, an unlawful gang, commits an offence and is liable on conviction to a fine of one hundred thousand dollars and to imprisonment for twenty years.

Participation in
an organised
criminal group.

15 of 2014, s.4

Ch.228.

- 90B.** (1) A person who —
- (a) is a member of an organised criminal group; or
 - (b) participates in or contributes to the activities of an organised criminal group of three or more persons, where any or all of the members of the group engage in or have engaged in the commission of an indictable offence under this Code or offences under the Dangerous Drugs Act,

commits an offence and is liable on conviction to a fine of five hundred thousand dollars and to imprisonment for twenty years.

(2) For the purposes of this section, in determining whether persons participate in or actively contribute to an organised criminal group, whether formally or informally organised, the court may consider whether they have as their objective —

- (a) obtaining material benefits from the commission of an indictable offence;
- (b) obtaining material benefits from conduct outside of The Bahamas that if it occurred in The Bahamas would constitute the commission of indictable offences;
- (c) participates or contributes to the commission of indictable offences under this Code or offences under the Dangerous Drugs Act;
- (d) conduct outside of The Bahamas that if it occurred in The Bahamas would constitute participation in or contributes to the commission of indictable offences under this Code.

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(3) For the purposes of this section in determining whether a group of persons are members of an organised criminal group the court may consider whether —

- (a) some of them are subordinates or employees of others;
- (b) only some of the persons involved in the planning, arrangement, or execution at that time of any particular action, activity or transaction; or
- (c) its membership changes from time to time.

TITLE vi
CRIMINAL RESPONSIBILITY AND
GENERAL EXEMPTIONS

91. (1) Nothing is an offence which is done by a person under ten years of age.

Responsibility of
infant.
1 of 2007, Sixth
Sch.

(2) Nothing is an offence which is done by a person of or above seven years and under twelve years of age, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct in the matter in respect of which he is accused.

Illustrations

Subs. (2) —(a) *A.*, aged eight years, steals a ring. Here *A.* ought to be convicted if the court thinks that *A.* was capable of understanding that he was committing an offence.

(b) *A.*, aged eight years, administers poison to *B.* Here the question whether *A.* is guilty of an attempt to murder or to cause dangerous harm, or is guilty of unlawfully and knowingly administering noxious matter, or is guilty of any offence, depends upon the extent to which he was capable of understanding the probable effect of his act.

(c) A child aged eight years ought not to be convicted of libel, unless he is shown to have been capable of understanding the probable effect of the libel.

92. A person accused of an offence shall be deemed to have been insane at the time he committed the act in respect of which he is accused —

Criminal status
of insane person.

- (1) if he was prevented, by reason of idiocy, imbecility or any mental derangement or disease affecting the mind, from knowing the nature or consequences of the act in respect of which he is accused;
- (2) if he did the act in respect of which he is accused under the influence of an insane delusion of such a nature as to render him, in the opinion of the jury or of the court, an unfit subject for punishment of any kind in respect of such act.

Illustrations

Para. (1) —(a) A person who, by reason of idiocy, is incapable of knowing that his act will cause death cannot be convicted of murder, but if he did the act in respect of which he is charged, a special verdict should be found in accordance with the provisions of any Act dealing

See s. 305.

with criminal procedure.

(b) A person who commits homicide by reason of such a paroxysm of madness as at the time makes him incapable of considering that murder is a crime, cannot be convicted of murder, but a special verdict should be found as in illustration (a).

(c) A person is not to be acquitted of murder under this section merely because it is proved that, by reason of mental derangement, he has a propensity to homicide.

Para. (2) —(a) *A.* kills *B.* by reason of an insane delusion that *B.* is attempting to kill *A.* Here the jury will be justified in finding a special verdict as in illustration (1) (a).

(b) *A.* is subject to insane delusions. In an interval of freedom from these delusions, *A.* kills *B.* Here the jury ought not to take into account the fact that at other times *A.* was subject to delusions.

Criminal liability
of intoxicated
persons.

15 of 1936, s. 2.

93. (1) Save as provided in this section, intoxication shall not constitute a defence to any criminal charge.

(2) Intoxication shall be a defence to any criminal charge if by reason thereof the person charged, at the time of the act or omission complained of, did not know that such an act or omission was wrong or did not know what he was doing; and —

- (a) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or
- (b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.

(3) Where the defence under the preceding subsection is established, then in a case falling under paragraph (a) thereof the accused person shall be discharged and in a case falling under paragraph (b) the ordinary criminal law relating to insanity shall apply.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention specific or otherwise, in the absence of which he would not be guilty of the offence.

(5) For the purposes of this section “intoxication” shall be deemed to include a state produced by narcotics or drugs.

Criminal liability
of married
woman.

94. A married woman committing an offence in the presence of her husband shall not be presumed to have committed it under his compulsion.

95. (1) A wife shall have the same remedies and redress under this Code for the protection and security of her own separate property as if such property belonged to her as a *femme sole*:

Liability of husband or wife to criminal proceedings.

Provided that no proceedings under this Code shall be taken by any wife against her husband while they are living together as to or concerning any property claimed by her, nor while they are living apart as to or concerning any act done by the husband while they are living together concerning property claimed by the wife, unless such property has been wrongfully taken by the husband when leaving or deserting or about to leave or desert his wife.

(2) In like manner, a wife doing an act with respect to any property of her husband, which if done by the husband in respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Code, shall be liable to criminal proceedings by her husband.

96. (1) A person shall not be punished for any act which, by reason of ignorance or mistake of fact in good faith, he believes to be lawful.

Ignorance or mistake of fact or of law.

(2) A person shall not, except as in this Code otherwise expressly provided, be exempt from liability to punishment for any act on the ground of ignorance that such act is prohibited by law.

Illustrations

Subs. (1) —See illustration to section 16.

Subs. (2) —*A.*, in defending himself against an assault, uses greater violence than is justifiable under the provisions of Title vii. Here *A.* cannot excuse himself on the ground that he did not know such violence to be unlawful.

TITLE vii JUSTIFIABLE FORCE AND HARM.

97. (1) For the purposes of this Code, force or harm is justifiable which is used or caused in pursuance of such matter of justification, and within such limits, as are hereinafter in this Title mentioned.

Justification for force or harm.

(2) Throughout the remainder of this Title, expressions applying to the use of force apply also to the

causing of harm, although force only may be expressly mentioned.

Illustrations

Sections 98 and 99 mentioned “force” only, but they must be understood as if they mentioned “harm” also.

Grounds on which force or harm may be justified, within prescribed limits.

98. Force may be justified in the cases and manner, and subject to the conditions, hereafter in this Title mentioned, on the ground of any of the following matters, namely —

- (1) express authority given by a statute;
- (2) authority to execute the lawful sentence or order of a court;
- (3) authority of an officer to keep the peace or of a court to preserve order;
- (4) authority to arrest and detain for felony;
- (5) authority to arrest, detain or search a person otherwise than for felony;
- (6) necessity for prevention of or defence against crime;
- (7) necessity for defence of property or possession or for overcoming obstruction to the exercise of lawful rights;
- (8) necessity for preserving order on board a vessel;
- (9) authority to correct a child, servant or other similar person, for misconduct;
- (10) the consent of the person against whom the force is used (save where otherwise expressly provided in this Code).

General limits of justifiable force or harm.

99. Notwithstanding the existence of any matter of justification for force, force cannot be justified as having been used in pursuance of that matter —

- (1) which is in excess of the limits hereinafter prescribed in the section of this Title relating to that matter;
- (2) which in any case extends beyond the amount and kind of force reasonably necessary for the purpose for which force is permitted to be used.

100. Whoever is authorised by the provisions of this Code or any other statute to use force may justify the use of necessary force according to the terms and conditions of his authority.

Use of force by authority of statute.

101. Whoever is authorised to execute any lawful sentence or order of a court may justify the use of the force mentioned in the sentence or order.

Use of force in execution of sentence or order of a court.

102. Whoever is authorised as a peace officer, or in any judicial or official capacity, to keep the peace or preserve order at any place, or to remove or exclude a person from any place, or to use force for any similar purpose, may justify the execution of his authority by any necessary force not extending to a blow, wound or grievous harm.

Use of force by peace officer, or by judicial officer or official authority, for preservation of order.

103. (1) Any person may, with or without warrant or other legal process, arrest and detain another person who has committed a felony, and may, if the other person, having notice or believing that he is accused of felony, avoids arrest by resistance or flight or escapes or endeavours to escape from custody, use any force which is necessary for his arrest, detention or recapture, and may kill him, if he cannot by any means otherwise be arrested, detained or re-taken.

Use of force in arrest, detention, or recapture of felon.

(2) Whoever is duly authorised by warrant or other legal process to arrest or detain a person for felony may, if that person has notice or believes that a warrant or other legal process is in force against him, justify any force which is necessary for his arrest, detention or recapture, and may kill him, if he cannot by any means otherwise be arrested, detained or re-taken, although in fact the felony has not been committed by the other person, or although in fact no felony has been committed.

104. (1) Any peace officer and all persons whom he shall call to his assistance may arrest and take persons into custody without a warrant in the following cases —

Arrest without warrant by peace officer.

(a) any person whom he finds committing an offence against the person or against property as to which it is provided under this Code that the offender may be punished by imprisonment;

Persons seen committing an offence.

See ss. 34 and 63.

(b) any intoxicated or idle or disorderly person whom he finds in any way disturbing the peace, whether in a public or private place, and causing public annoyance, or guilty of any other offence

Drunken or disorderly persons.

Persons loitering at night. (c) any person whom he finds during the night lying or loitering in any highway, yard or other place and whom he shall have good cause to suspect of having committed, or being about to commit, any offence against this Code;

Persons charged by others if charge appears well founded. (d) any person whom any other person positively charges or states that he suspects of having committed any crime or the offence of stealing or obtaining goods by false pretences, or receiving stolen goods, or the offence of cruelty to or causing injury to an animal, if the charge or suspicion appears to the peace officer to be well-founded and the informant is willing to accompany the peace officer and at the police station is willing to enter into recognisance conditioned to prosecute the charge;

Persons charged with assaults recently committed. (e) any person whom any other person charges with having committed an aggravated assault, if the peace officer has good reason to believe that such an assault has been committed, although not within his view, and that by reason of its recent commission a warrant could not have been obtained for the apprehension of the person charged.
See also ss. 34 and 63.

Offenders to be promptly taken to court, unless released on bail. (2) Any such person arrested as aforesaid shall be taken, as soon as reasonably may be, before a magistrate to be dealt with according to law; unless he be released on bail, approved by the Commissioner of Police or other authorised member of the police force, under the provisions of the Police Act*, or on bail otherwise lawfully authorised.

Ch. 205. Use of force to arrest, detain or search a person otherwise than for felony. **105.** Whoever has authority, by warrant or other legal process or under the provisions of any statute, to arrest, detain or search another person otherwise than for felony, may justify any necessary force not extending to a blow, wound or grievous harm, if the other person has notice or believes that the force is used by virtue of any such authority.

Right of person arrested, etc., to inspect warrant. **106.** Where the arrest, detention or search of a person is justifiable only on the authority of a warrant or other

* This Act (formerly Ch. 205) was repealed and replaced by the Police Force Act (No. 3 of 2009) – now Ch. 205.

written process, if the person demands a view of the warrant or process, the use of force against him cannot be justified unless he is permitted to inspect the warrant or process, and he refuses to submit to the authority thereof.

107.(1) For the prevention of, or for the defence of himself or any other person against, any crime, a person may justify the use of necessary force, not extending to a blow, wound or grievous harm.

Use of force for prevention of or defence against crime.

(2) For the prevention of, or for the defence of himself or any other person against, any criminal force or harm, a person may justify the use of necessary force, not extending to a wound or grievous harm.

(3) For the prevention of, or for the defence of himself or any other person against, any felony, a person may justify the use of necessary force not extending to dangerous harm.

(4) For the prevention of, or for the defence of himself or any other person against, any of the following crimes, a person may justify any necessary force or harm, extending, in the case of extreme necessity, even to killing, namely —

- (a) treason;
- (b) piracy;
- (c) murder;
- (d) manslaughter, except manslaughter by negligence;
- (e) robbery;
- (f) burglary;
- (g) house-breaking;
- (h) arson of a dwelling-house or vessel;
- (i) rape;
- (j) forcible unnatural crime;
- (k) dangerous or grievous harm.

(5) For the suppression or dispersion of a riotous or unlawful assembly, force may be justified in the cases and subject to the conditions specified in this Code with respect to such assemblies.

See s. 81.

(6) No force used in an unlawful fight can be justified under any provision of this Code; and every fight is an unlawful fight in which a person engages, or which he

maintains, otherwise than solely in pursuance of some of the matters of justification specified in this Title.

Use of force for defence of property or possession or overcoming obstruction of legal right.

108. A person may justify the use of force for the defence of property or possession, or for overcoming an obstruction to the exercise of any legal right, as follows —

- (1) a person in actual possession of a house, land, vessel or goods, or his servant or any other person authorised by him, may use such force, not extending to a wound or grievous harm, as is necessary for repelling a person who attempts forcibly and unlawfully to enter the house, land or vessel, or to take possession of the goods;
- (2) a person in actual possession of a house, land or vessel, or his servant or any other person authorised by him may use such force, not extending to a blow, wound or grievous harm, as is necessary for removing a person who, being in or on the house, land or vessel, and having been lawfully required to depart therefrom, refuses to depart;
- (3) if a person wrongfully takes possession of or detains goods, any other person who, as against him, has a present right to the possession of them, may, upon his refusal to deliver up the goods on demand, use such force, by himself or by any other person, not extending to a blow, wound or grievous harm, as is necessary for recovering possession of the goods;
- (4) a person may use such force, not extending to a blow, wound or grievous harm, as is necessary for overcoming any obstruction or resistance to the exercise by him of any legal right.

Use of force for preserving order on board a vessel.

109. The master of a vessel, or any person acting by his order, may justify the use of any such force against any person on board the vessel as is necessary for suppressing any mutiny or disorder on board the vessel, whether among officers, seamen or passengers, whereby the safety of the vessel, or of any person therein or about to enter or quitting the same, is likely to be endangered, or the master is threatened to be subject to the commands of any other person; and may kill any person who is guilty of or abets such mutiny or disorder, if the safety of the vessel, or the preservation of any person as aforesaid, cannot by any means be otherwise secured.

110. A blow or other force, not in any case extending to a wound or grievous harm, may be justified for the purpose of correction, as follows —

Use of force in correcting a child, servant or other similar person for misconduct.

- (1) a parent may correct his or her legitimate or illegitimate child, being under sixteen years of age, or any guardian or person acting as a guardian, his ward, being under sixteen years of age, for misconduct or disobedience to any lawful command;
- (2) a master may correct his servant or apprentice, being under sixteen years of age, for misconduct or default in his duty as such servant or apprentice;
- (3) the master of a ship may correct any person on board his ship who is bound to perform any manual labour, for misconduct or disobedience to any lawful command;
- (4) a parent or guardian, or a person acting as a guardian, may delegate to any person whom he or she entrusts permanently or temporarily with the governance or custody of his or her child or ward all his or her own authority for correction, including the power to determine in what cases correction ought to be inflicted; and such a delegation shall be presumed, except in so far as it may be expressly withheld, in the case of a schoolmaster or a person acting as a schoolmaster, in respect of a child or ward;
- (5) a person who is authorised to inflict correction as in this section mentioned may, in any particular case, delegate to any fit person the infliction of such correction; and
- (6) no correction can be justified which is unreasonable in kind or in degree, regard being had to the age and physical and mental condition of the person on whom it is inflicted; and no correction can be justified in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted.

111. The use of force against a person may be justified on the ground of his consent, subject as follows —

Use of force in case of consent of the person against whom it is used.

- (1) the killing of a person cannot be justified on the ground of consent;

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- (2) a wound or grievous harm cannot be justified on the ground of consent, unless the consent is given and the wound or harm is caused in good faith for the purposes or in the course of medical or surgical treatment;
 - (3) a party to a fight whether lawful or unlawful cannot justify on the ground of the consent of another party any force which he uses with intent to cause harm to the other party;
 - (4) a person may revoke any consent which he has given to the use of force against him and his consent when so revoked shall have no effect for justifying force:

Provided that the consent given by a husband or wife at marriage for the purposes of marriage cannot be revoked until the parties are divorced or separated by a judgment or decree of a competent court;

- (5) consent to the use of force for the purposes of medical or surgical treatment does not extend to any improper or negligent treatment;
- (6) consent to the use of force against a person for purposes of medical or surgical treatment or otherwise for his benefit may be given against his will by his parent or guardian or person acting as his guardian if he is under eighteen years of age or by any person lawfully having the custody of him if he is insane or is a prisoner in any prison or reformatory, and, when so given on his behalf, cannot be revoked by him; and
- (7) if a person is intoxicated or insensible, or is from any cause unable to give or withhold consent, any force is justifiable which is used, in good faith and without negligence, for the purposes of medical or surgical treatment, or otherwise for his benefit, unless some person authorised by him or by law to give or refuse consent on his behalf dissents from the use of such force.

Use of force
against third
person
interfering in
case of justifiable
use of force.

112. Whoever, in justifiably using force against another person, is obstructed or resisted by a third person, may in any case use such force against the third person, not extending to a blow, wound or grievous harm, as is necessary for overcoming the obstruction or resistance; and may, if the obstruction or resistance amounts to a crime or

to abetment of a crime, use force in accordance with the provisions of this Title, with respect to the use of force in case of necessity for preventing crime.

113. Whoever is authorised to use force of a particular kind against a person may further use such additional force, not extending to a blow, wound or grievous harm, as is necessary for the execution of his authority.

Use of additional force for exercise of justifiable force.

Illustration

A. is directed by the sentence of the court to flog *B.* *A.* may use any force, not extending to a blow, wound or grievous harm, which is necessary for compelling *B.* to submit.

114. Whoever aids another person in a justifiable use of force is justified to the same extent and under the same conditions as the other person.

Justification of person aiding another in use of justifiable force.

TITLE viii
LAW AS TO PUNISHMENTS

115. The following punishments may be inflicted under this Code —

Different kinds of punishment. *12 of 1984, s. 2 and Sch.*

- (1) death;
- (2) imprisonment;
- (3) fine;
- (4) payment of costs; and
- (5) payment of compensation.

116. (1) Where a crime is declared by this Code, or by any other statute, to be felony, and the punishment for it is not specified, a person convicted thereof shall be liable to imprisonment for seven years.

General rules relating to imprisonment.

(2) Where an offence is declared by this Code or by any other statute, to be a misdemeanour, and the punishment for it is not specified, a person convicted thereof shall be liable to imprisonment for two years.

(3) Subject to the provisions of this Code or of any other statute relating to the offence, the court before which any person is convicted of an offence punishable by imprisonment may, in its discretion, sentence him to any less term of imprisonment than the term prescribed by this Code, or such other statute for the offence.

(4) Whenever solitary confinement may be awarded for any offence under this Code or any other statute, the court may direct the offender to be kept in solitary confinement for any portion or portions of any term of imprisonment which the court may award, not exceeding one month at any one time, and not exceeding three months in any one year.

(5) Subject to the provisions of this Code or of any other Act, a magistrate shall not by any sentence of imprisonment or by cumulative sentences of imprisonment (other than for default of finding sureties) to take effect in succession in respect of several offences committed on the same occasion, inflict on any person imprisonment for the whole exceeding six months.

Penal servitude.

117. In the application to The Bahamas of any Act of the Parliament of the United Kingdom or in the construction of any unrepealed Act in which reference is made to penal servitude, a sentence of imprisonment with hard labour for three years or upwards shall be deemed to be equivalent to a sentence of penal servitude; and any sentence of imprisonment with hard labour for three years or more under this Code may be referred to as a sentence to penal servitude.

Abolition of corporal punishment.
12 of 1984, s. 2 and Sch.

118. Notwithstanding anything to the contrary in this, or any other law, no form of corporal punishment shall be imposed as a penalty under any law in respect to the commission of a criminal or disciplinary offence¹.

General rules as to fine and penalties.

119. (1) Subject to the provisions of this Code or of any other Act relating to the offence, the court may, in its discretion, sentence any person convicted before it of an offence punishable by penalty or fine, to any less penalty or fine than that prescribed by this Code, or such other statute, for the offence.

Indictable cases.

(2) Where a person is convicted of any indictable offence, the court may, in its discretion, sentence him to pay a fine in addition to any other punishment to which he is sentenced.

(3) Where the amount of the fine which a person may be sentenced to pay upon conviction on indictment is not expressly limited, the amount of fine to which he may be sentenced shall be in the discretion of the court, provided it shall not be excessive.

¹ Note: See s.3 of Ch. 101.

(4) Where a person is convicted of a summary offence, in respect of which imprisonment is prescribed as the punishment therefor, the court may in its discretion inflict a fine not exceeding five hundred dollars in addition to any other punishment to which he is sentenced:

Summary cases.
5 of 1987, Sch.

Provided that the amount of the fine so inflicted will not subject the offender, in default of payment, to any greater term of imprisonment for the offence than that to which he would have been otherwise liable.

(5) Every fine, inflicted under this Code or under any other Act, may be recovered by the seizure and sale of the goods and chattels of the offender under warrant of distress, to be issued by the court and to be executed according to the law and rules of procedure in that behalf prescribed by the Magistrates Act or any Act amending the provisions of that Act regulating such procedure; or the court inflicting the fine may, in its discretion, order that it be forthwith recovered by imprisonment:

All fines are recoverable by distress or by imprisonment.

Ch. 54.

Provided that —

(a) if such fine is inflicted by the Supreme Court, the term of such imprisonment to be imposed in case the fine is not paid, shall not, either alone or together with the term of any imprisonment imposed as a punishment, exceed the longest term of imprisonment which can be imposed as a punishment for the offence;

(b) if such fine is inflicted in respect of a conviction for a summary offence, the term of imprisonment imposed in respect of the non-payment of any such fine and any other sum of money adjudged to be paid under any order or conviction by a magistrate, shall not in any case exceed the maximum fixed by the following scale —

(a) if the amount of the sum or sums of money adjudged to be paid does not exceed twenty-five dollars, the term of imprisonment shall not exceed two months;

5 of 1987, Sch.

(b) if such amount does not exceed seventy-five dollars, such term shall not exceed four months;

(c) if such amount exceeds seventy-five dollars, such term shall not exceed six months.

(6) Subsection (1) shall not apply where the penalty by this Code for the offence is a minimum term of

12 of 1984, s. 2
and Sch.

imprisonment except in those cases where it is provided that the court may impose a lesser term other than the minimum and so does.

General rules as to costs in indictable cases.

120. (1) Where any person shall be convicted of any indictable offence under this Code or under any other statute, such person may, if the court thinks fit, in addition to any sentence which the court may deem proper for the offence, be adjudged to pay the actual and necessary costs and expenses of the prosecution, including the attendance and travelling expenses of the witnesses for the Crown; and, unless the sum so awarded shall be sooner paid, the offender shall be imprisoned for any term the court shall award, not exceeding three months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

Mode of recovery.

(2) The court may by warrant order such sum as shall be so awarded to be levied and recovered in the same manner as if such award were a fine inflicted under this Code; and in case such sum shall be so levied the imprisonment awarded, until payment of such sum, shall thereupon cease.

(3) Alternatively, the payment of any such costs and expenses may be enforced at the instance of any person liable to pay or who may have paid the same, in such and the same manner (subject to the provisions of any statute relating to the administration of convicts' estates) as the payment of any costs ordered to be paid by the judgment or order of the Supreme Court in any civil action or proceeding may for the time being be enforced.

Costs in summary cases. *6 of 1963, ss 2 and 3. 5 of 1987, Sch.*

121. (1) In cases of summary conviction the magistrate may, in his discretion, award and order that the defendant shall pay to the complainant such costs as to the magistrate shall seem reasonable, not exceeding fifty dollars for each day of attendance at court.

5 of 1987, Sch.

(2) In any case where the magistrate dismisses the complaint he may, in his discretion, award and order that the complainant shall pay to the defendant such costs as to the magistrate shall seem reasonable, not exceeding fifty dollars for each day of attendance at court.

5 of 1987, Sch.

(3) The sums so allowed for costs shall in all cases be specified in the conviction or order of dismissal, and the same shall be recoverable by distress in the same manner as any fine inflicted under this Code; and in default of

payment of such costs the defaulter shall be imprisoned for any term not exceeding one month which, in the case of a conviction, shall be in addition to the term of imprisonment to which the offender may be sentenced for the offence.

(4) Where a fine adjudged by a conviction to be paid does not exceed five dollars, then except so far as the magistrate may think fit to expressly order otherwise, an order shall not be made for payment by the defendant of any costs; and the magistrate, if he thinks fit, may direct all fees payable or paid by the complainant to be remitted or repaid to him, and he may also order the fine or any part thereof to be paid to him in or towards the payment of his costs.

No costs if fine does not exceed five dollars.
5 of 1987, Sch.

122. (1) Any person who is convicted of an indictable offence may on application of the person aggrieved be adjudged by the court to make reasonable compensation for the injury suffered through the crime.

General rules as to ordinary payment of compensation.
5 of 1987, Sch.; 39 of 1961, s. 2.

(2) Any person who is convicted of a summary offence punishable under this Code may be adjudged by the magistrate to make to any person injured by his offence compensation not exceeding five hundred dollars, or, if a higher limit is fixed by an enactment relating to the offence, not exceeding that higher limit.

5 of 1987, Sch.

(3) Any such compensation may be either in addition to or in substitution for any other punishment; and shall be specified in the order of conviction.

(4) Every sum of money so awarded as compensation shall be payable to the aggrieved party, to be named in the order; and if such party is unknown the money shall be deemed to be a fine and dealt with accordingly.

Disposal of sums awarded as compensation.

(5) When several persons join in the commission of the same offence, and upon conviction thereof each is adjudged to make compensation in the full sum equivalent to the value of the property or to the amount of the injury done, no further sum shall be paid to the party aggrieved than the sum paid by one of such offenders, and the corresponding sum paid by any of the other offenders shall be applied in the same manner as if the same were a fine imposed.

When more than one offender is ordered to pay full compensation to complainant.

(6) Every amount awarded as compensation under this Code shall be deemed a judgment debt due to the person entitled to receive the same from the person so convicted, and the order for payment of such amount may

Mode of recovery.

be enforced in such and the same manner as in the case of any costs awarded by the court or magistrate under this Code; and in default of payment of such compensation the offender shall be liable to imprisonment not exceeding the like term as the court or magistrate may inflict in relation to default in payment of costs awarded under this Code.

Effect of payment of compensation or imprisonment for non-payment.

(7) Where any person, injured by any assault punishable under this Code by a magistrate, receives compensation for the injury under order of the court, or where the offender, having been ordered to make the compensation or to pay a fine or penalty, suffers imprisonment for non-payment thereof, or where any person, charged with assault before a magistrate, receives a certificate of an order of dismissal, the receipt of the compensation or the undergoing of the penalty or the receipt of such certificate, as the case may be, shall be a bar to any action or proceeding for the same injury.

(8) In other cases in which compensation is awarded by order under this Code, to the extent of the amount duly paid under such order, any claim of the person injured or of his representatives for damages sustained by reason of the crime or offence shall be deemed to have been satisfied; but the order for payment of compensation shall not prejudice any right to a civil remedy for the recovery of any property or for the recovery of damages beyond the amount of compensation paid under the order.

Alternative Discretionary Powers as to Punishments

Imposition of alternative punishments.
12 of 1984, s. 2 and Sch.

123. The court before which a person is convicted of any offence, punishable otherwise than with death, or by a minimum term of imprisonment may, according to the circumstances of the case, substitute for a punishment assigned by this Code a different punishment, as follows —

5 of 1987, Sch.

- (1) the court may substitute a fine, which in the case of a summary offence shall not exceed five hundred dollars;
- (2) the court may order that, in lieu of or in addition to any other punishment, he enter into his own recognisance, with or without sureties, for keeping the peace and being of good behaviour;

and that, in default of such recognisance or sureties, he be imprisoned, in addition to the term, if any, of imprisonment to which he is sentenced, for any term not exceeding twelve months in the case of a conviction before the Supreme Court, or three months in the case of a conviction before a magistrate's court, not exceeding in either case the term for which he is liable to be imprisoned for the offence of which he is convicted.

124.(1) Where a person is convicted of any summary offence or any crime punishable with imprisonment, and the court is of opinion that, having regard to the youth, character or antecedents of the offender, or to the trivial nature of the offence, or to any extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment, or any other than a nominal punishment, or that it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct and order that he be released on his entering into a recognisance with or without surety or sureties, and during such period, not exceeding three years, as the court may direct, to appear for sentence when called upon, and in the meantime to keep the peace and be of good behaviour.

Power to release offender on probation.

(2) The court may also, subject to the provisions of this Code, order the offender to pay such damages for injury or compensation for loss and such costs of the proceedings as the court thinks reasonable. If the offender is under sixteen years of age, and it appears to the court that the parent or guardian of the offender has conduced to the commission of the offence, by wilful default or by habitually neglecting to exercise due care of him, the court may order payment of such damages and costs by such parent or guardian.

(3) Where an order is made under this section the order shall, for the purpose of re-vesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

(4) If the Supreme Court or any magistrate's court is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognisance,

it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at each time as may be specified in the summons.

(5) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognisance to appear for conviction or sentence, be brought before a court of summary jurisdiction.

(6) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognisance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(7) An offender so remanded to custody may be committed during remand to any prison to which the court having power to convict or sentence him has power to commit prisoners. In the case of a child or young person under sixteen years of age, he shall be committed into custody of any fit person named in the commitment who is willing to receive him (due regard being had, where practicable, to the religious persuasion of the child), to be detained in that custody for the period for which he has been remanded, or until he is thence delivered by due course of law, and the person so named shall detain the child or young person accordingly, and if the child or young person escapes he may be apprehended without warrant and brought back to the custody in which he was placed.

(8) A court before which a person is bound by his recognisance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognisance, may forthwith, without further proof of his guilt, convict and sentence him for the original offence.

(9) The court before which any person is bound as surety by a recognisance given under this Code may, upon the application of such person, and after notice to the offender, vary the conditions of the recognisance and may, on being satisfied that the conduct of the offender has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognisance.

Power to vary conditions of surety's recognisances.

The following provisions of this section shall apply to New Providence only:

Provided that the Governor-General may by Order extend such provisions, or any portion thereof; to any Out Island District —

(10) A recognisance order to be entered into under this section shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognisance shall be referred to as a probation order. Probation orders.

(11) A recognisance under this section may contain additional conditions as the court may, having regard to the particular circumstances of the case, order to be inserted therein with respect to all or any of the following matters —

- (a) for prohibiting the offender from associating with thieves and other undesirable persons, or from frequenting undesirable places;
- (b) as to abstention from intoxicating liquor where the offence was drunkenness or an offence committed under the influence of drink;
- (c) generally for securing that the offender should lead an honest and industrious life.

(12) The court by which a probation order is made shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe.

(13) A person named in a probation order may be paid such remuneration and out-of-pocket expenses as the court making the probation order may direct; and the court may at any time relieve him of his duties; in which case (as well as in case of the death of the person so named) another person may be substituted by the court. Remuneration of and relief to probation officer.

(14) It shall be the duty of the person named in a probation order, subject to the directions of the court — Duties of probation officer.

- (a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order, or, subject thereto, as the person named in the probation order may think fit;
- (b) to see that he observes the conditions of his recognisance;

- (c) to report to the court as to his behaviour;
- (d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

Increase of
punishment on
repetition of
offence.

125. (1) Where a person, having been convicted of an offence is again convicted, he shall be liable to increased punishment in the cases and manner provided in Part I. of the table annexed to this section and the notes thereto:

Provided that —

- (a) a previous conviction shall not be admitted in evidence against a person for the purpose of increasing his punishment, except within the period specified in Part II. of the said table after the expiration of execution of the sentence passed upon that previous conviction, or of any sentence into which that sentence has been commuted;
- (b) nothing in this section, or in the said table, shall exempt a person from any liability to which he may be subject under this Code to death or to any greater or other penalty than the punishment mentioned in the said table, and any other different penalty to which he is liable under this Code may be inflicted in addition to the punishments mentioned in the said table; and
- (c) nothing in this section or in the said table shall apply to libel, or to any act which is an offence on the ground of negligence.

*12 of 1984, s. 2
and Sch.*

(2) A certificate containing the substance and effect only (omitting the formal parts) of the complaint and conviction for the previous offence, purporting to be signed by the clerk of the court or other officer having the custody of the record of the court where the offender was previously convicted shall, upon proof of the identity of the person of the offender, be sufficient evidence of such previous conviction, without proof of the signature or official character of the person appearing to have signed the same.

(3) Any sentence of imprisonment imposed under this section may include a direction that the offender be kept in solitary confinement.

(4) A conviction of a person for an offence committed by him before attaining the age of eighteen years shall not be admitted in evidence against him for the purpose of increasing his punishment after he has attained the age of twenty years.

(5) For the avoidance of doubt nothing in paragraph (a) of the proviso to subsection (1) or in the table in this section shall prevent a court from imposing any minimum term of imprisonment prescribed by this Code for a second or subsequent conviction for an offence under Title xix and subject to the foregoing any increased punishment authorised to be imposed under this section shall for the purposes of Part I of the table be in addition to the maximum term of imprisonment liable to be imposed for such an offence.

*12 of 1984, s. 2
and Sch.*

TABLE

PART I SCALE OF INCREASED PUNISHMENTS FOR REPETITION OF OFFENCE

Nature of conviction	Nature of previous convictions.	Punishment to be substituted for the penalty mentioned in this Code.
Summary conviction.	Twice summarily convicted of a similar offence.	Double the amount of the fine attached to the offence; or imprisonment for twice the maximum of imprisonment which might otherwise be inflicted.
Do.	Conviction on indictment for a similar offence.	Double the amount of the fine attached to the offence; or imprisonment for six months in addition to the punishment mentioned in this Code.
Conviction on indictment for crime punishable by imprisonment for two years or less.	Do.	Imprisonment for one year in addition to the punishment mentioned in this Code.
Conviction on indictment for crime punishable by imprisonment for more than two years.	Do.	Imprisonment for four years in addition to the punishment mentioned in this Code.

Note to Part I of this Table

12 of 1984, s. 2
and Sch.

(1) In this Table, and in the notes thereto, expressions referring to any offence include attempts to commit and abetments of such offence.

43 of 1964, Third
Sch.

(2) Where a person has, in any part of the Commonwealth beyond the jurisdiction of the courts, been convicted of felony, or has, within the jurisdiction of the courts, been convicted of felony committed or commenced before the commencement of this Code, such conviction shall have the same effect as if it had taken place under this Code.

(3) Any offence which is punishable under a Title of this Code is similar to every other offence punishable under the same Title. And any offence punishable under any of the Titles x., xi., xv. and xviii. to xx. is similar to every other offence punishable under any of those Titles, and any offence punishable under any of the Titles xii. to xiv. and Titles xxii. to xxv. is similar to every other offence punishable under any of those Titles.

Illustration

For the purpose of this section and table, stealing, robbery, defrauding by false pretences, and falsifications of accounts are all “similar” offences.

PART II
PERIODS WITHIN WHICH A CONVICTION MAY BE GIVEN
IN EVIDENCE

Nature of conviction.	Within what period after the execution of the sentence the conviction may be given in evidence.
Any summary conviction.	Two years.
A conviction upon indictment for any crime for which a sentence of imprisonment for three years or more has not been passed.	Four years.
A conviction upon indictment for any crime for which any sentence of imprisonment for three years or more has been passed.	Ten years.

126. (1) When any person is convicted of any offence punishable with imprisonment for a period of three years or upwards, the court may if it thinks fit, at the time of passing sentence of imprisonment on such person, also order —

Police supervision and monitoring.

28 of 2008, s. 2

- (a) that the person shall in addition to imprisonment be subject to police supervision as provided in section 127 for a period not exceeding five years from the date of the expiration of such sentence;
- (b) on application by the person and with the consent of the Crown, that the person in lieu of any part of the term of imprisonment determined by the court be subject to electronic monitoring carried out in accordance with rules made under section 127(2).

(2) When any person is convicted of any offence punishable with imprisonment for a period of three years or less, the court may if it thinks fit, in lieu of imprisonment or any part thereof, order that the person be subject to electronic monitoring carried out in accordance with rules made under section 127(2).

(3) When any person is granted bail in respect of any offence punishable with imprisonment for a period of three years or upwards, the court if it thinks fit may at the request of the prosecutor, as a condition of the bail, order that the person while on bail be subject to electronic monitoring carried out in accordance with rules made under section 127(2).

127. (1) Every person subject to police supervision and who is at large in The Bahamas shall personally —

Requirements from persons subject to supervision.

28 of 2008, s. 2.

- (a) report himself once in each month on such day as may be directed by the court or as may be prescribed by rules under this section, to the officer in charge of the police station nearest to his place of residence;
- (b) notify the respective aforementioned officer of any change of residence; and
- (c) if having been convicted of a sexual offence under section 10 or 11 of the Sexual Offences Act, also notify such officer —
 - (i) of his current place of work; and
 - (ii) of any educational, sporting, civic or other activities in which he is involved.

Ch. 99.
24 of 2007.

(2) The Minister responsible for National Security may make rules carrying out the provisions of this section.

Failure to
comply with
requirements.

38 of 1968, s. 263
and Fourth Sch.

128. If any person subject to police supervision who is at large in The Bahamas refuses or neglects to comply with any requirement prescribed by the last preceding section or by any rule made thereunder, such person shall, unless he proves to the satisfaction of the court before which he is tried that he did his best to act in conformity with the law, be guilty of an offence and liable to imprisonment for six months.

Miscellaneous

Cases where one
act constitutes
several offences,
or where several
acts are done in
execution of one
criminal purpose.

129. With respect to cases where one act constitutes several offences or where several acts are done in execution of one criminal purpose, the following provisions shall have effect, that is to say —

- (1) where a person does several acts against or in respect of one person or thing, each of which acts is an offence, but the whole of which acts are done in execution of the same design, and, in the opinion of the court before which the person is tried, form one continuous transaction, the person may be punished for the whole of such acts as one offence or for any one or several of such acts as one offence, and all or any of the acts proved to have been committed may be taken into consideration in awarding punishment, but he shall not be liable to separate punishments as for several offences;
- (2) if a person by one act assaults, harms or kills several persons, or in any manner causes injury to several persons or things, he shall be punishable only in respect of one of the persons so assaulted, harmed or killed, or of the persons or things to which injury is so caused, but in awarding punishment the court may take into consideration all the intended or probable consequences of the crime; and
- (3) if, when a person is charged with an offence part only of such charge is proved, which part amounts to an offence other than that charged and being, in the opinion of the court, an offence committed in execution of the same design as is specified in the charge, he shall be punishable in respect of the offence which he is proved to

have committed, although he was not charged with it, or he may be punishable for an attempt to commit the offence charged, although not charged with the attempt:

Provided that on a count charging murder, if the evidence proves manslaughter, or any crime or offence other than murder, the accused shall (subject to the special provisions contained in Title xx, section 312) not be punishable for any offence other than manslaughter. *See ss. 84, 85.*

Illustrations

Subs. (1) —(a) *A.* steals his master's money, and, in order to escape detection, falsifies the accounts kept by him for his master. Here *A.* ought not to be punished both under section 340 and also under section 350; but the court may, in awarding punishment for the stealing, take into consideration the falsifications, or *vice versa*.

(b) *A.* assaults *B.* and strikes him ten blows in immediate succession. Here *A.* is not liable to be convicted of ten assaults, and sentenced to ten terms of imprisonment. But the court may properly pass a more severe sentence than it would have passed for a single blow.

Subs. (2) —(a) A signalman on a railway, by one act of negligence, causes the death of or injuries to several persons. He cannot be sentenced to several punishments in respect of the deaths of or injuries to each or several of such persons.

(b) *A.* person by one act wilfully poisons several cattle. He cannot be separately punished for each, but the court in considering the amount of the punishment to be awarded, may take into consideration the number of the cattle wilfully injured or destroyed.

Subs. (3) —(a) *A.* is charged with the crime of robbery upon *B.* but it is only proved in evidence that he assaulted or caused bodily harm to *B.* Here the jury may properly return a verdict convicting *A.* of committing the assault or of causing bodily harm, although he had not been charged with such offences, and he shall be liable to be punished accordingly.

(b) On the trial of *A.* upon a charge of stealing certain property, it is proved that he took the property in such manner as would amount in law to obtaining it by false pretences. Here the court may properly convict and punish *A.* for the offence so proved, although he had not been charged with it.

(c) *A.* is tried on charge of raping a female. It is not proved that he had committed such felony but it is satisfactorily shown in evidence that he had attempted to commit the same. Here the jury and the court may properly convict and punish *A.* either in respect of such attempt or of having committed an indecent assault.

(d) *A.* having carnally known *B.* is charged with the felony of rape. It is proved in evidence that the act had been done with *B.*'s consent, but that *B.* was under 16 years of age at the time and the jury are satisfied that *A.* had reasonable cause to believe her to have been under that age. Here *A.* is punishable for the misdemeanour, although he had been charged solely with the felony.

(e) *A.* is charged with the manslaughter of *B.*, a child of whom he had the custody and care, and it appears from the evidence that *B.* had been cruelly treated and exposed to unnecessary sufferings whilst living under *A.*'s custody. The court and jury are justified in convicting and punishing *A.* for such cruelty although he may be acquitted of the charge of manslaughter.

Consequences of conviction for felony, etc.

130. If a person is convicted of felony or is sentenced to imprisonment for three years or more, the following consequences shall ensue, unless the court otherwise orders, namely —

- (1) any public office held by him within the jurisdiction of the court shall forthwith become vacant;
- (2) any pension, superannuation allowance, or emolument payable to him out of the general revenue or out of any public fund, or chargeable on any rate or tax, and any accruing right to any such pension, allowance or emolument, shall determine and be forfeited as from the time of the commission of the crime:

Provided that —

- (a) none of the consequences mentioned in this section shall ensue in the case of a person who, at the time of committing the crime of which he is convicted, was a minor;
- (b) in case the person receives a pardon, he shall thereby, unless the pardon otherwise directs, be relieved from all the consequences mentioned in this section, except as to any office or employment which, having been vacated under the provisions of this section, has been filled up before he receives the pardon.

BOOK II
SUMMARY OFFENCES

TITLE ix
INTRODUCTORY PROVISIONS

131. If, on the hearing of any complaint under this Book, the magistrate is of the opinion that a *bona fide* question of title to land, or to any interest therein or accruing therefrom, is raised between the parties, he shall (subject to the provisions of section 159 of this Code) dismiss the complaint, and may make such order in respect of the costs thereof as he thinks fit.

Ousting of jurisdiction of magistrate in cases where *bona fide* question of title is involved.

132. Nothing in this Book shall be construed to abolish or limit the jurisdiction of a magistrate or justice of the peace in respect of offences constituted by any other Act and not specified in this Book.

Saving of summary offences constituted by other statutes.

TITLE x
COMMON ASSAULTS AND HARM TO THE PERSON

133. Whoever unlawfully assaults any person shall be liable to a fine of one hundred and fifty dollars, or to imprisonment for three months.

Assault.
17 of 1952, s. 2.;
5 of 1987, Sch.
See s. 264.

134. (1) Whoever commits an indecent assault upon any person, whether male or female, shall be liable to imprisonment for six months.

Indecent, etc., assaults.
13 of 1979, s. 2.
See s. 264.

(2) When any person shall be charged before a magistrate with an assault or battery upon any male or child or upon any female, either upon the complaint of the party aggrieved or otherwise, the said magistrate, if the assault or battery is of such an aggravated nature that it cannot in his opinion be sufficiently punished under the provisions hereinbefore contained as to common assaults and batteries, may proceed to hear and determine the same in a summary way, and, if the same be proved, the accused person shall be liable to imprisonment for six months.

135. (1) Whoever intentionally and unlawfully causes harm or a wound to any person either with or without any weapon or instrument shall be liable to imprisonment for six months.

Causing harm or a wound.
See ss. 266 and 269.

Negligently causing harm. See ss. 267 and 272.

(2) Whoever negligently and unlawfully causes harm to any person shall be liable to imprisonment for three months.

Offences requiring sterner punishment.

136. If, upon the hearing of any complaint for an offence under this Title, it appears to the magistrate that, by reason of a previous conviction or for any other reason, such offence cannot be adequately punished under this Title (even if, in the case of a repetition of an offence, the increased punishment prescribed therefor under Title viii. of this Code were imposed), the magistrate may deal with the complaint as if it had been originally one for an indictable offence.

**TITLE xi
BROTHELS AND IMMORAL TRAFFIC**

Keeping a brothel.

137. Whoever —

(1) keeps or manages, or acts, or assists in the management of a brothel;

Allowing premises to be used as a brothel.

(2) being the tenant, lessee, occupier or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel, or for the purposes of habitual prostitution;

Letting premises to be used as a brothel.

(3) being the lessor or landlord of any premises or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or some parts thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall be liable —

Penalties. 5 of 1987, Sch.

(a) to a penalty of one hundred and fifty dollars or in the discretion of the magistrate to imprisonment for three months;

(b) on a second or subsequent conviction, to a penalty of five hundred dollars or in the discretion of the magistrate to imprisonment for six months; and in case of a third or subsequent conviction such person shall be liable to a penalty of one thousand dollars or, in the discretion of the magistrate to imprisonment for twelve months.

5 of 1987, Sch.

In addition to any such penalty or imprisonment as aforesaid the offender may be required by the magistrate to

enter into a recognisance, with or without sureties, to be of good behaviour for any period not exceeding twelve months, and, in default of entering into such recognisance, he may be imprisoned for three months in addition to any term of imprisonment awarded in respect of his offence.

138. Whoever —

- (1) knowingly lives wholly or in part on the earnings of prostitution;
- (2) in any public place persistently solicits or importunes for immoral purposes,

shall be liable to imprisonment for six months.

Persons trading in prostitution. See ss. 43, 44, 212(13).

TITLE xii PETTY THEFTS AND FRAUDS

Stealing

139. Whoever steals anything, the value of which does not in the opinion of the court exceed five hundred dollars, such stealing not being accompanied by housebreaking or burglary, nor amounting to robbery or extortion, shall be liable to imprisonment for three months.

Stealing. 17 of 1952, s. 2.; 27 of 1965, s. 2.; 5 of 1987, Sch. See s. 345.

140. Whoever is convicted of —

(1) any of the undermentioned offences, where the value of the property alleged to have been stolen or obtained does not in the opinion of the court exceed the sum of five hundred dollars, namely, any of the offences following—

Stealing in special cases.

17 of 1952, s. 2.

27 of 1965, s. 2.; 5 of 1987, Sch.

(a) stealing anything of which he had the custody, control or possession, or to which he had the means of access, by reason of any office, employment or service;

See s. 340.

(b) stealing from or in any dwelling-house, shop, manufactory, warehouse, dock, wharf or quay adjacent to any harbour or port of entry or discharge, or from, or in any vessel (not being a vessel in distress or wrecked, stranded or cast on shore);

(c) stealing from the person;

(d) stealing any cattle;

(e) committing a fraudulent breach of trust; or

(2) any attempt to commit any of the offences herein referred to; or

See ss. 347 and 350.

(3) any abetment, or conspiracy for the commission of any of the said offences,

5 of 1987, Sch.

shall, if the offender had not been previously convicted of a similar offence, be liable to imprisonment for three months, or to a fine of five hundred dollars, or to both.

Punishment for second conviction of stealing in special cases.

141. Whoever is convicted of an offence under section 140 and has been once previously convicted at any time of a similar offence shall be liable to the increased term of imprisonment that may be imposed under the provisions of this Code for the repetitions of an offence notwithstanding the provisions of section 140.

20 of 2010, s. 36.

142. *Repealed.*

Provisions as to thing found.

143. (1) Whoever takes possession of anything which appears to be of some value, and to have been lost by another person, shall within forty-eight hours, or so soon as may be reasonably practicable, after taking possession of it, deliver it to the owner or to a magistrate or peace officer or other person by law authorised to receive it.

(2) Whoever makes default in obeying the provisions of this section shall be liable to imprisonment for one month.

(3) Nothing in this section shall exempt a person from any liability to punishment as for stealing or receiving, if he does an act amounting to either of the said offences.

False Pretences and Frauds

Fraud by false pretences.
17 of 1952, s. 2.;
27 of 1965, s. 2.;
5 of 1987, Sch.
See s. 348.

144. Whoever fraudulently obtains from any other person by any false pretence anything the value of which does not in the opinion of the court exceed five hundred dollars shall be liable to imprisonment for three months.

Fraud as to ticket, witchcraft, weights, measures, certificates, etc.

145. Whoever does any of the following acts shall be liable to imprisonment for four months, namely —

- (1) transfers to any other person, or accepts from any other person, any ticket or pass for travelling in any vessel or on any conveyance, knowing that such ticket or pass is not transferable;
- (2) accepts or offers to accept any money or other property for or on pretence of using any kind of witchcraft, sorcery, enchantment or conjuration, or art of telling fortunes;
- (3) defrauds any person by means of any false weight or measure, or by any false use of any weight or measure;

See s. 232.

-
- (4) makes, gives or uses any certificate or testimonial of health, sickness, character, qualification or competency, knowing the same to be false in any material particular;
 - (5) knowingly makes any false return or statement of any matter as to which he is required by law to make a return or statement; or
 - (6) procures a charitable contribution of any kind or nature under any false or fraudulent pretence.

146.(1) In this section “stamp” means a revenue stamp and (unless the context otherwise requires) includes as well a stamp impressed by means of a die as an adhesive stamp.

Frauds in relation to revenue stamps.

- (2) Whoever —
 - (a) fraudulently removes or causes to be removed from any document an adhesive stamp or affixes to any other document any such stamp which has been so removed, with intent that the stamp may be used again;
 - (b) sells or offers for sale or utters or affixes any such stamp which has been so removed;
 - (c) utters any document having thereon any such stamp which has to his knowledge been so removed;
 - (d) practices or is concerned in any fraudulent act, contrivance or device not specially provided for, with intent to defraud the Government of any fee or duty payable in stamps,

See s. 369.

shall be liable to a fine of five hundred dollars.

5 of 1987, Sch.

(3) Whoever being required by an Act relating to stamp duties to stamp any document and to cancel the stamps affixed thereon, wilfully neglects or refuses duly and effectually to do so in the manner therein provided shall be liable to a fine of twenty-five dollars.

Neglecting to stamp documents in lawful form.
5 of 1987, Sch.

(4) Whoever, upon receiving a sum exceeding ten dollars, gives a receipt for a sum not exceeding ten dollars or divides the amount paid into two or more, receipts with intent to evade the duty shall in every such case be liable on conviction to a fine of fifty dollars.

Offences relating to receipts.
5 of 1987, Sch.

(5) All fines imposed under this section shall be recovered by the Treasurer or some person authorised in writing by him before a stipendiary and circuit magistrate

Recovery of penalties.

or where authorised by fiat of the Attorney-General before a magistrate of the district in which the offence was committed.

Interpretation.

147. (1) For the purposes of this section —

“agent” includes any person employed by or acting for another; and a person serving under the Crown or under any corporation or board is an agent within the meaning of this section;

“consideration” includes valuable consideration of any kind;

“principal” includes an employer.

(2) Whoever —

Punishment for corrupt transactions with agents or by agents.

(a) being an agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal’s affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal’s affairs or business;

See s. 354.

(b) corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do or for having done or forborne to do, any act in relation to his principal’s affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal’s affairs or business;

(c) knowingly gives to any agent, or being himself an agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

5 of 1987, Sch.

shall be liable, on summary conviction, to imprisonment for four months, or to a fine of five hundred dollars, or to both such imprisonment and such fine.

(3) A prosecution for an offence under this section shall not be instituted without the consent of the Attorney-General.

Prosecution for offences.

(4) Where in any proceedings against a person for an offence under this section it is proved that any money, gift or other consideration has been paid or given to or received by a person in the employment of Her Majesty or any government department of The Bahamas or a public body by or from a person, or agent of a person, holding or seeking to obtain a contract from Her Majesty or any government department of The Bahamas or public body, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as an inducement or reward within the meaning of this section unless the contrary is proved.

Presumption of corruption in certain cases.

(5) Proceedings for an offence under this section may be commenced at any time before the expiration of six months after the first discovery of the offence by the prosecutor.

Time for taking proceedings.

Receiving and Unlawful Possession

148.(1) Whoever dishonestly receives anything which he knows to have been obtained or appropriated by any offence, and the value of which does not exceed five hundred dollars, shall be liable to imprisonment for four months.

Dishonestly receiving.
17 of 1952, s. 2;
27 of 1965, s. 2;
5 of 1987, Sch.
See ss. 358 and 359.

(2) Whoever is brought before the court charged with having in his possession or conveying in any manner anything which is reasonably suspected of having been stolen or unlawfully obtained, and who does not give an account, to the satisfaction of the court, as to how he came by the same, shall be liable to a fine of five hundred dollars or to imprisonment for six months.

Accounting for possession of thing suspected of having been stolen.
29 of 1927, s. 4.;
5 of 1987, Sch.
See s. 64(1).

149.(1) Upon any complaint made to the court by any person claiming to be entitled to the property or possession of any goods which are being or have been unlawfully disposed of or detained by any other person, the value of which shall not be greater than five hundred dollars, the court may summon the person complained of and inquire into the title thereto or the possession thereof; and if it shall appear to the court that such goods have been detained without just cause after due notice of the claim made by the person claiming, the court may order the goods to be returned to the owner thereof uninjured within a time to be specified in the order, and in default of the

Unlawful detention of goods under \$500 in value.
17 of 1952, s. 2.;
27 of 1965, s. 2.;
5 of 1987, Sch.

5 of 1987, Sch. goods being so returned that the complainant be paid such sum as the court shall determine is the full value thereof not being greater than five hundred dollars, which sum or value shall be recoverable by distress and sale of the defaulter's goods and chattels.

Penalty for disobedience to order. (2) Whoever neglects or refuses to deliver up such goods or the value thereof according to such order shall be liable to imprisonment for one month.

Unlawful possession of animal or bird or part thereof. **150.** If any animal or bird, or the carcase, head, skin, plumage or any part of any animal or bird is found in the possession or on the premises of any person with his knowledge, and if the person does not satisfy the court that he came lawfully by the animal or bird or carcase, head, skin or other part of any animal or bird, he shall be liable to a fine of one hundred and fifty dollars.

21 of 1939, s. 2.

5 of 1987, Sch.

20 of 2010, s. 36. **151. Repealed.**

152. Whoever is found in or upon any warehouse, shop, store, wharf, quay or landing-place, or on the beach, or on board of any vessel, having in his possession any tube, quill, or other instrument for the purpose of unlawfully obtaining any wine, spirits or other liquors, or having in his possession any skin, bladder or other material or utensil for the purpose of unlawfully secreting or carrying away any wine, spirits, or other liquors, shall be liable to imprisonment for three months.

153. Whoever deals in, buys or sells old junk, old iron, old copper, old brass, composition, or marine stores of any description, shall register his name at the office of the Commissioner of Police and shall conform to the following regulations (that is to say) —

- (1) he shall keep a book fairly written, and shall enter therein an account of such marine stores as he may from time to time become possessed of (except such as he may purchase at public auction), stating in respect of each article the month and year when and the person from whom he purchased or received the same, adding in the case of every such last-mentioned person a description of his business and place of abode;
- (2) such book shall at all times be open for inspection by police officers of and above the rank of inspectors;

- (3) he shall not by himself or his agents purchase marine stores of any description from any person apparently under sixteen years of age, *28 of 1957, s. 2.*

and every person who offends against any of the provisions of this section shall be liable to imprisonment for two months.

TITLE xiii
COMMON OFFENCES AGAINST
RIGHTS TO PROPERTY

Mischief, etc.

154.(1) Whoever intentionally and unlawfully in any way commits any trespass upon, damages, spoils or destroys anything belonging to or in the possession of any other person or to which any other person has the right of possession, notwithstanding such thing is not of any pecuniary or saleable value, or of any value whatever except to the person to whom it belongs, or in whose possession it is, or in whom exists the right of possession shall be liable to a fine of twenty-five dollars, although no pecuniary damage to any such thing may be committed by the person so offending. *Trespass or damage although no pecuniary damage caused. See s. 328.*

5 of 1987, Sch.

(2) Whoever unlawfully and maliciously attempts by any overt act, to commit any one of the crimes mentioned under Title xxii. of this Code (other than the crime of arson) may, at the discretion of the magistrate upon his being satisfied that the accused had not been previously convicted of any such crime, be prosecuted summarily for such attempt and, on summary conviction, shall be liable to imprisonment for six months. *Attempts to commit certain crimes in respect to property.*

155. Whoever intentionally and unlawfully causes damage not exceeding twenty-five dollars to any land, or to any animal or thing in any case not specially provided for in this Title, shall be liable to a fine of fifty dollars or to imprisonment for three months. *Damages in cases not provided for. 17 of 1952, s. 2; 5 of 1987, Sch. See ss. 328 to 338.*

156. *Repealed.* *20 of 2010, s. 36.*

157. Whoever intentionally and unlawfully causes damage to any article of agricultural produce shall, if the same is growing in any public or private garden or pleasure ground or in any building, be liable to a fine of five hundred dollars or to imprisonment for six months. *Damage to agricultural produce.*

158. Whoever intentionally and unlawfully destroys or damages any part of any live or dead fence whatsoever, *Damage to fence, etc. 5 of 1987, Sch. See s. 338.*

or any post, pale, rail or wire used as a fence, or any stile or gate, or any part thereof respectively, shall be liable to a fine of one hundred dollars.

Squatters and Trespassing

Power of
magistrate.

159.(1) When on the hearing of any complaint against any person for having, without probable claim or pretence of title, entered upon or taken possession of any premises in The Bahamas, it shall appear to the magistrate that the defendant has entered upon or taken possession of the premises without any probable claim or pretence of title, the magistrate may make an order directing him to deliver up to the person named in such order, peaceable possession of such premises together with all crops growing thereon, and to remove any animal or movable property which the defendant may have placed or have thereon; and in case the defendant shall not, within fourteen days after service thereof, comply with the terms of such order, the magistrate may sentence him to be imprisoned for a term of fourteen days; and the magistrate may make a further order for the immediate delivery over of the possession of such premises to the person named in the order and for the removal of any animal or movable property which the defendant may have placed or have thereon.

Penalty for
retaking lands
from which the
person has been
ejected.
5 of 1987, Sch.

(2) If any person against whom an order is made under subsection (1) of this section obeys such order but subsequently takes possession of the premises in respect of which such order was originally made, the magistrate may sentence the person so offending to be imprisoned for a term of one month; and may make a further order for the immediate delivery of the possession of such premises to the person named in such order.

In cases of
dismissal of
complaint.

(3) In case any complaint shall be dismissed, the magistrate may, if he shall think fit, order the person by whom the same may have been preferred, whether such complaint may have been preferred by the Crown Lands Officer or by any other person, to pay to the person against whom the same may have been preferred, such sum as the magistrate may consider to be the amount of costs fairly incurred by such person by reason of such complaint so dismissed.

(4) If the premises mentioned or referred to in any such complaint shall belong to or be vested in the Crown such complaint shall be preferred by the Crown Lands Officer, or by some person acting under his authority and on his behalf; but if the premises shall belong to or be vested in any person other than the Crown, such complaint shall be preferred by the owner of such premises or by some person, who, as general or special agent, attorney, trustee or otherwise, may be authorised to represent and to act for and on behalf of such owner, or by some person who may be authorised by the Supreme Court to prefer such complaint.

By whom
complaint
preferred.

(5) No order for the delivery up of possession of any premises shall be made by any magistrate if it shall appear to him that the person against whom any such order is sought has by himself or by those under whom he claims title been in quiet possession of the premises for three years next before the date of the complaint, or that such person has any probable claim or pretence of lawful right to such premises or to the occupation thereof.

Proviso in cases
of three years'
quiet possession.

(6) No appeal shall lie from any order made under this section.

No appeal.

(7) For the purpose of any such order made by any magistrate as aforesaid, the adjudication of such magistrate shall be conclusive as to the title of the person to whom delivery of the said premises may be directed to be made; but nothing herein contained shall extend to take away or abridge the jurisdiction by law vested in the Supreme Court in taking cognisance of, and adjudicating upon, titles to land: and any person against whom any such order as aforesaid may have been made, may, notwithstanding such order, proceed by the ordinary course of law to recover possession of such premises in case he shall be able to establish a title thereto, and may also in such case recover reasonable compensation for the damage he may have sustained by reason of his having been compelled to deliver up possession of the said premises; and in like manner, in case of the dismissal of any such complaint, the party having preferred the same may proceed before the ordinary tribunals, as if no such complaint had been preferred.

The adjudication
of magistrate to
be conclusive as
to title. Does not
affect jurisdiction
of Supreme
Court.

160. Whoever —

(1) is found upon any premises without being able to give a lawful excuse for being there;

Penalty for
insulting trespass
on land.

- (2) enters upon the premises of any other person against the will and permission of the owner or occupier of such premises;
- (3) unlawfully enters and remains on any such premises after having been required to depart therefrom;
- (4) having lawfully entered upon any such premises, misconducts himself by behaving in an insulting, annoying or threatening manner;
- (5) being on any such premises remains thereon after having been lawfully required to depart therefrom, or returns thereto after being removed therefrom,

See s. 209(2).

5 of 1987, Sch.

shall on the complaint of the owner or occupier of such premises, be liable to a fine of fifty dollars.

Dogs

19 of 2010, s. 55.

161. Repealed.

19 of 2010, s. 55.

162. Repealed.

19 of 2010, s. 55.

163. Repealed.

19 of 2010, s. 55.

164. Repealed.

Injuries to Animals, etc.

19 of 2010, s. 55.

165. Repealed.

19 of 2010, s. 55.

166. Repealed.

19 of 2010, s. 55.

167. Repealed.

19 of 2010, s. 55.

168. Repealed.

Stray Cattle

169. Repealed.

19 of 2010, s. 55.

170. Repealed.

19 of 2010, s. 55.

171. Repealed.

19 of 2010, s. 55.

Pounds

172. Repealed.

19 of 2010, s. 55.

173. Repealed.

19 of 2010, s. 55.

174. Repealed.

19 of 2010, s. 55.

175. Repealed.

19 of 2010, s. 55.

176. Repealed.

19 of 2010, s. 55.

177. <i>Repealed.</i>	<i>19 of 2010, s. 55.</i>
178. <i>Repealed.</i>	<i>19 of 2010, s. 55.</i>
179. <i>Repealed.</i>	<i>19 of 2010, s. 55.</i>
180. <i>Repealed.</i>	<i>19 of 2010, s. 55.</i>
181. <i>Repealed.</i>	<i>19 of 2010, s. 55.</i>
182. <i>Repealed.</i>	<i>19 of 2010, s. 55.</i>
183. <i>Repealed.</i>	<i>19 of 2010, s. 55.</i>
184. <i>Repealed.</i>	<i>19 of 2010, s. 55.</i>

Harbours and Sea-shores

185. Whoever throws any anchors (except such as may be necessary to anchor any ships) or any ballast, dirt or rubbish —

Penalty for throwing dirt, etc., into harbours.

- (1) into any part of the harbours of New Providence between the East End of New Providence and the point commonly called Delaporte Point west-wardly, and between the West End of Salt Cay and the entrance of Green Cay eastwardly;
- (2) into any harbour or anchoring place in an Out Island, shall be liable to a fine of fifty dollars.

5 of 1987, Sch.

Damage by Fire

186. *Repealed.*

20 of 2010, s. 36.

187. Whoever shall wilfully set fire to anything or by the negligent use or control of fire, shall burn, destroy, damage or endanger —

Damaging and endangering property by the wilful and negligent use of fire.
34 of 1926, s. 2.
20 of 2010, s. 36.

- (1) *Repealed.*
- (2) any house, stable, coach-house, out-house, warehouse, office, shop, mill, barn, store-house, granary, hovel, shed or any farm building, or any building or erection used in farming land or for any agricultural purpose or for the carrying on of any trade or manufacture or for any branch thereof;
- (3) any other property of any kind whatsoever, being the property of any other person and whether the same shall then be in the possession of the offender or in the possession of any other person,

shall be guilty of an offence against this Act.

Penalty.

*34 of 1926, s. 3
5 of 1987, Sch.*

188. Whoever shall commit an offence against the provisions of section 187 shall be liable on summary conviction to a penalty of five hundred dollars and in default of payment may be imprisoned for twelve months.

Power of court to award compensation.

34 of 1926, s. 4.

189. When actual damage has been done to the property of another person and the offender has been convicted the magistrate may direct that a portion of the fine to be paid shall be paid to the person injured as compensation.

Effect of acceptance of compensation.

34 of 1926, s. 5.

190. When any person who is injured by the commission of an offence under section 187 receives compensation for such injury under the order of the court, the receipt of such compensation shall be a bar to any action for the same injury; but subject to the provisions of this section, nothing in sections 187 to 189 contained shall affect the right of action of any person in respect of any injury sustained by his property by the commission of an offence against section 187.

20 of 2010, s. 36.

191. *Repealed.*

False Fire Alarms

Penalty for maliciously giving false fire alarm.
*33 of 1926, s. 2;
5 of 1987, Sch.*

192. Whoever by means of any telephone, message or otherwise maliciously gives or sends a false alarm of fire to the fire brigade or any member thereof shall be liable on summary conviction to a penalty of five hundred dollars.

TITLE xiv PETTY FRAUDS BY FORGERY AND FALSE COIN

Forgery, etc., of a document for or under \$500 in value.

*17 of 1952, s. 2;
27 of 1965, s. 2;
5 of 1987, Sch.*

193. Whoever, with intent to defraud any person to an amount or value which does not in the opinion of the magistrate exceed five hundred dollars, forges any document whatsoever or whoever, with the like intent, has in his possession any forged document which he knows to be forged, may, at the discretion of the magistrate upon his being satisfied that the accused had not been previously convicted of a similar offence, be prosecuted summarily for such offence and, on summary conviction, shall be liable to imprisonment for six months.

*See ss. 17, 367,
368, 375 and 376.*

Imitation of revenue or postal stamps, envelopes, forms and marks.
See s. 369.

194. Whoever without due authority —

- (1) makes, issues or sends by post or otherwise any envelope, wrapper, card, form or paper in imitation of one issued by or under the authority

of any revenue law or of the postmaster, or of any foreign or colonial revenue or postal authority, or having on any postal packets any words, letters or marks which signify or imply or may reasonably lead the recipient to believe that the postal packet bearing them is sent on The Bahamas Government's service;

5 of 1987, Sch.

- (2) makes on any envelope, wrapper, card, form, or paper for the purpose of being issued or sent by post or otherwise, or otherwise used, any mark in imitation of or similar to or purporting to be any stamp or mark of any revenue or postal department of The Bahamas, or under any foreign or colonial revenue or postal authority, or any words, letters or marks which signify or imply, or may reasonably lead the recipient thereof to believe, that a postal packet bearing them is sent on The Bahamas Government's service;
- (3) issues or sends by post or otherwise any envelope, wrapper, card, form or paper so marked,

shall be liable to a fine of ten dollars.

5 of 1987, Sch.

195. (1) Whoever —

- (a) makes, knowingly utters, deals in, or sells any fictitious stamp, or knowingly uses for any revenue or postal purpose any fictitious stamp;
- (b) has in his possession, unless he shows a lawful excuse, any fictitious revenue or postal stamp;
- (c) makes, or, unless he shows a lawful excuse, has in his possession any die, plate, instrument, or materials for making any fictitious revenue or postal stamp,

Fictitious
revenue stamps.

*See ss. 368,
369 and 374.*

shall be liable, on a prosecution by order of the Treasurer, to a fine of five hundred dollars.

5 of 1987, Sch.

(2) For the purposes of this section “fictitious stamp” means any facsimile or imitation or representation, whether on paper or otherwise, of any stamp for denoting any rate of revenue duty or postage including any stamp for denoting a rate of revenue duty or postage of any country of the Commonwealth, or of any foreign country.

*43 of 1964,
Third Sch.*

196. Whoever tenders, utters or puts off any of the gold, silver, copper or cupro-nickel coin current in The

Uttering defaced
coin.
*5 of 1987, Sch.
See s. 375.*

Bahamas which has been defaced by stamping thereon any name or word, whether the coin has or has not been thereby diminished or lightened, shall be liable to a fine of fifteen dollars:

5 of 1987, Sch.

Provided that a prosecution for an offence under this section shall not be instituted except with the consent of the Attorney-General.

Mode of dealing with suspected coin when tendered in payment.

16 of 1936, s. 4.

197.(1) Where any coin is tendered as current gold or silver coin to any person who suspects it to be diminished otherwise than by reasonable wearing or to be counterfeit, it shall be lawful for such person to cut, break, bend or deface such coin.

(2) If any coin so cut, broken, bent or defaced appears to be diminished otherwise than by reasonable wearing or to be counterfeit, the person tendering it shall bear the loss thereof; but if it is of due weight and appears to be lawful coin, the person cutting, breaking, bending or defacing it shall receive it at the rate it was coined for.

(3) If any dispute arises whether the coin so cut, broken, bent or defaced is diminished in manner aforesaid or counterfeit, the same shall be heard and finally determined in a summary manner by any magistrate, who may examine upon oath as well the parties as any other person in order to determine such dispute.

Mode of dealing with counterfeit coin when discovered in any place, etc.

16 of 1936, s. 5.

See s. 372(2).

198.(1) If any person finds or discovers, in any place, or in the custody or possession of any person having the same without lawful authority or excuse any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold, silver or copper coin or any coin of any foreign prince, state or country, or any instrument, tool or engine whatsoever adapted and intended for the counterfeiting of any such coin, or any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which has been produced or obtained by diminishing or lightening any current gold or silver coin, the person so finding or discovering shall seize the same, and carry it forthwith before some magistrate.

(2) Where any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings or bullion, or any such gold or silver in dust, solution or otherwise, as aforesaid, is or are in any case seized and carried before a magistrate, he shall, if necessary, cause the same to be secured for the purpose of being produced in evidence against any person who may be prosecuted for any offence relating to coin; and all such

false and counterfeit coin, and all such instruments, tools and engines, and all such machines, and all such filings, clippings and bullion, and all such gold and silver in dust, solution or otherwise, as aforesaid, after they have been produced in evidence or when they have been seized and are not required to be produced in evidence, shall be forfeited and applied as the court directs.

199. Whoever, without lawful authority or excuse (the proof whereof shall lie on him) has in his custody or possession any greater number of pieces than five pieces of false or counterfeit coin resembling, or apparently intended to resemble or pass for, any gold or silver coin of any foreign prince, state or country, or any kind of coin not being current coin, but resembling, or apparently intended to resemble or pass for, any copper coin, or any other coin made of any metal or mixed metals, of less value than the silver coin of any foreign prince, state or country, shall, on being convicted thereof, forfeit all such false and counterfeit coin (which shall be cut in pieces or otherwise destroyed by order of any magistrate) and shall, for every such offence, be liable to a fine of ten dollars for every such piece of false and counterfeit coin which is found in his custody or possession.

Having possession of more than five pieces of counterfeit foreign coin, etc.

16 of 1936, s. 6

5 of 1987, Sch.

TITLE xv COMMON OFFENCES AGAINST PUBLIC ORDER, HEALTH AND MORALITY

Drunken, Riotous and Disorderly Conduct

200. (1) Whoever is found drunk in any public place shall be liable to a fine of five dollars or imprisonment for four days.

Intoxicated persons.
29 of 1927, s. 5;
5 of 1987, Sch.

(2) Whoever is drunk and disorderly or drunk and incapable in any public place shall be liable on a first conviction to a fine of fifteen dollars or to imprisonment for seven days and on a second or subsequent offence to a fine of fifty dollars or to imprisonment for fourteen days.

Drunk and disorderly.
29 of 1927, s. 5;
5 of 1987, Sch.
5 of 1987, Sch.

201. (1) Whoever is drunk and behaves violently or indecently in any public place or is drunk on the premises of any person, to the annoyance or disturbance of that person or of any inmate of the premises, shall be liable on a first conviction to a fine of fifteen dollars or to imprisonment for seven days and on a second or subsequent offence to a fine of fifty dollars or to imprisonment for fourteen days.

Offensive and habitual drunkenness.
29 of 1927, s. 6;
5 of 1987, Sch.

(2) Whoever, having been thrice convicted under the provisions of any law for having been drunk and behaving violently or indecently, is, within one year from the first conviction, found drunk in any public place, shall be liable to imprisonment for three months as an habitual drunkard.

Unlawfully
carrying arms.
See s. 417.

202. (1) Whoever with intent to cause terror to any of the public, or without lawful cause, carries about his person any deadly or dangerous instrument shall be liable to imprisonment for one month; and any such instrument shall be forfeited.

Peace officer
may arrest any
person with
deadly weapons.

(2) For the better discovery and punishment of offences under this section, it shall be the duty of any peace officer, upon being credibly informed, or otherwise becoming aware that any person is armed, in contravention of this section, to arrest or cause such person to be arrested, and to take or cause to be taken, from him, the deadly or dangerous instrument with which he may be so armed as aforesaid.

(3) Any punishment imposed under this section shall be in addition to any other punishment that an offender may incur under any Act relating to the use and licensing of firearms.

See Ch. 198.

Threat of harm.

203. Whoever threatens any other person with unlawful harm, with intent to put that person in fear of unlawful harm, shall be liable to imprisonment for one month.

Causing public
terror.

204. (1) Whoever, in any public place, or being unlawfully in any place not public, wantonly does any act with intent to cause terror to any person, shall, if harm is thereby caused to any person, or if his act was of such a character as to be likely to cause harm to any person by terror, be liable to imprisonment for three months.

See s. 29(2).

(2) For the purposes of this section, harm shall in this case be deemed to have been caused by the act, although the harm be the mere inward effect of the terror caused by the act.

Illustrations

(a) *A.* goes about the streets, or in a cemetery at night, dressed up in a white sheet in order to pass for a ghost. If any person is thereby seriously frightened and made ill or insane, *A.* is guilty of an offence against this section.

(b) *A.* lets off a firework in a crowd. Although he may not have actually purposed to cause harm to any person, yet, if any person is injured by fright or by the movement of the crowd in consequence of the explosion, *A.* is guilty of an offence against this section.

(c) *A.* wilfully raises a false alarm of fire in a theatre, and a panic ensues in which a person is injured. *A.* is guilty of an offence against this section.

205. Whoever mischievously beats or strikes any animal which is being led, or on which any person is riding, with intent to frighten it, or fires off any gun, pistol, or other kind of firearm or waves or exhibits any flag or other signal with the intent aforesaid, or mischievously excites any bull, ox or cow to break loose from any person leading or conducting it, shall be liable to a fine of twenty-five dollars.

Mischievously
frightening
animals.

5 of 1987, *Sch.*

206. Whoever —

- (1) in any public place or in any place within sight or hearing of persons then being in the neighbourhood is guilty of any riotous, indecent, disorderly or insulting behaviour;
- (2) in any court or police station or lock-up house, or in any place of public entertainment, is guilty of any riotous, indecent, disorderly or insulting behaviour,

Riotous
behaviour in a
public place.

See s. 439.

shall be liable to a fine of twenty-five dollars.

5 of 1987, *Sch.*

207. Whoever —

- (1) is guilty of any riotous, disorderly or insulting behaviour in any place of divine worship, whether during divine service or at any other time;
- (2) disturbs or molests any person in any place of divine worship, whether during divine service or at any other time;
- (3) disturbs or molests any minister of religion while celebrating any religious rite or office in any public place, or any other person aiding or attending at the celebration of such rite or office,

Riotous
behaviour at
divine service,
etc.

See s. 212.

shall be liable to a fine of fifty dollars.

5 of 1987, *Sch.*

208. Whoever —

- (1) makes use of any violent, scurrilous or highly abusive term of reproach or other words, or any obscene language, or sings any offensive or insulting song or ballad, with intent to provoke any other person to commit a breach of the peace;

Making use of
threatening,
violent or
obscene
language, etc.

- (2) makes use of any threatening, abusive, insulting, obscene, or profane language, or sings any insulting or offensive song or ballad, to the annoyance of any person in any place;
- (3) in any public place, or within hearing of any person therein sings any profane, indecent or obscene song or ballad;
- (4) writes or draws any profane, indecent or obscene matter, word, figure or representation upon any wall, door, window, shutter or other place open to the public view, or upon any paper or other material and exposes the same to public view;
- (5) sells, or distributes, or offers for sale or distribution any profane, indecent, or obscene book, paper, print or representation;
- (6) in any public place fights or disturbs the public peace; or
- (7) in any public place makes use of or concerning any other person any threatening or abusive language,

See s.212(14).

See s. 489.

5 of 1987, Sch.

shall be liable to a fine of one hundred and fifty dollars.

Idle and Disorderly Persons

Idle and disorderly persons.

209.(1) Whoever —

- (a) being able by labour or other lawful means to maintain himself or herself, or his wife or child, or her child, where the wife or child is without other means of support, refuses or neglects so to do, or wanders abroad, or places himself in any public place, to beg or gather alms, or causes, procures or encourages any child so to do;
- (b) sleeps or loiters in, upon or under any verandah, gallery, outhouse, passage, gateway or building wholly or in part unoccupied, or is found in or under any cart, carriage or vessel, or on or under any wharf, quay, jetty, bridge, footway or other public place, and refuses to leave or remove therefrom when required or called upon so to do by any peace officer or by any person in charge of the wharf, quay, jetty, bridge, footway or other public place, or is found within any

enclosed land, without leave of the owner, occupier, or person in charge thereof, and does not give a good account of himself;

- (c) pretends or professes to tell fortunes; or
- (d) plays or bets in any public place at any game or pretended game of chance, or with any instrument of gaming,

shall be dealt with by a peace officer as an idle and disorderly person and shall, on conviction, be liable to imprisonment for one month.

(2) Where any person having no visible means of support is convicted of trespassing on premises for the purpose of committing theft, he shall be liable to imprisonment for six months.

See s. 160.

210. Whoever is found having in his possession by day any key, picklock, crow, jack, bit or other instrument of housebreaking, with intent to commit any indictable offence, shall be liable to three months' imprisonment; and, on conviction, such instrument shall be forfeited.

Possession of housebreaking instruments in day-time.
See s. 365.

211. (1) If a person secretes himself and goes to sea in a vessel without the consent of either the owner, master or of the person in charge of the vessel, or of any other person entitled to give that consent, he shall be liable to a fine of one hundred and fifty dollars, or to imprisonment for a period of one month.

Stowaways.
2 of 1938, s. 2

5 of 1987, Sch.

(2) Every person who goes to sea in a vessel without such consent as aforesaid, shall, so long as he remains in the vessel, be deemed to belong to the vessel, and be subject to the same laws and regulations for preserving discipline, and to the same fines and punishments for offences constituting or tending to a breach of discipline, as if he were a member of, and had signed the agreement with the crew.

*Nuisances and Obstructions in the Streets,
and the Like*

212. Every person who does any of the following acts shall, in every case, be liable to a penalty of one hundred and fifty dollars, that is to say, every person who —

Various minor offences.
5 of 1987, Sch.

Shouting or blowing horn, etc., in public place.
29 of 1927, s. 7.

(1) in any public place, wilfully or wantonly shouts or vociferates, or blows any horn or shell, or beats any drum or other instrument, to the annoyance or disturbance of any householder, or sounds or plays upon any musical instrument, or sings, quarrels or makes any other loud or unseemly noise near any house after being required to depart;

Wantonly discharging firearm, etc.
15 of 1974, s. 11.

(2) throws or discharges any stone or other missile, to the annoyance, damage or danger of any person, or, in any public place in any town, makes any bonfire or sets fire to or throws when lighted any firework;

Permitting disturbance.
29 of 1927, s. 7.

(3) being the owner or occupier of premises in any town or settlement knowingly permits any disturbance of the public peace by loud shouting or otherwise in or upon such premises;

Flying kite or playing game in public way.

(4) in any street or place of public resort, flies any kite or plays at cricket or any game to the annoyance or danger of passengers or residents;

Making fire in town elsewhere than in kitchen.

(5) in any part of any town or settlement or any place immediately adjacent thereto, makes or causes to be made any fire in the yard or other part of any house or premises, except the kitchen, whereby the town, or any house or building, in or near it may be endangered;

Lighting or carrying fire in town.

(6) in any part of any town or settlement or any place immediately adjacent thereto, lights, or causes to be lighted, any fire, or carries any lighted torch, candle or other lighted thing, or any fire, through the same, unless secured in a lantern or some other safe thing in which it may be conveyed;

Extinguishing or damaging street lamp.

(7) wantonly extinguishes the light of or destroys or interferes or meddles with, any public or street lamp;

Assembling in public way for idle, etc. purpose and not dispersing when required.

(8) assembles with other persons in any public place, or in any open space near a public place, for any idle, vicious or disorderly purpose, or otherwise than in the regular performance or in pursuance of some, lawful calling or object, to the annoyance or obstruction of any passenger or person

- frequenting such public place or any person living near it, and does not move away when required by any peace officer;
- (9) loiters, carouses or the like in or about any shop, in any public place, and does not quietly move away when desired so to do by any peace officer or by the owner of the shop or his agent; Loitering about shop, etc.
- (10) behaves irreverently near any church, chapel or other building appropriated for religious worship during divine service, or behaves irreverently or indecently in or near any public burial ground during the burial of a body; Behaving irreverently near church or burial ground.
See s. 207.
- (11) having the custody of any child above the age of five years, permits it to go naked; Allowing child to go naked.
- (12) wilfully and indecently exposes his person in any public place or within view thereof, or in any place with intent to insult any female; Indecent exposure of person.
See s. 490.
- (13) loiters or wanders about and importunes any passenger for the purposes of prostitution; Acting as common prostitute.
See s. 138.
- (14) without the consent of the owner or occupier thereof, affixes any posting-bill or other paper against or upon any building, wall, fence, pillar, post or pale, or writes upon, soils, defaces or marks any building, wall, fence, pillar, post or pale, with chalk or paint; or in any other way or with any other material; Posting bill on building, etc., without consent of owner or occupier.
See s. 208.
- (15) being in charge of, and by means of, any cart, dray, waggon or other vehicle, or by other means wilfully, or negligently breaks, damages or destroys any curb-stone, lamp-post, wall or other public property; Damage to public property by user of vehicle.
- (16) peddles, hawks, sells or exposes for sale any goods or other articles whatsoever on a highway; Peddling and hawking.
11 of 1951, s. 5.
- Provided that —
- (i) the provisions of this paragraph shall not apply to persons who shall first obtain a permit from the Commissioner of Police to sell vegetables, fish, fruit, victuals, ice, coal, seeds, roots, or goods or articles the product of a person's own manufacture or work, or

to persons selling in any public market, or at public auctions, or to commercial travellers;

(ii) every such permit shall be in such form and subject to such conditions as the Commissioner of Police may prescribe and may be cancelled by him in his discretion upon the breach of any such conditions;

Begging.

13 of 1929, s. 2.

(17) (a) begs for alms, or annoys any person by importuning, soliciting, or asking for custom for any purpose whatsoever on any highway or public place or upon any private premises, or causes, or procures, or encourages any child or young person so to do; or

(b) being a parent or guardian allows any child or young person for whom he is responsible to commit any of the offences hereinbefore in this subsection mentioned;

Processions.

(18) holds or takes part in any procession in any public street or place without the previous written permission of the Commissioner of Police;

Car washing.

(19) washes any vehicle or motor vehicle in Rawson Square or in any part of Bay Street which is within the limits of the City of Nassau as defined by the Interpretation Act.

Ch. 2.

Further as to prohibition of noises.

E.L.A.O., 1974.

213.(1) The Minister responsible for Road Traffic may from time to time make rules for the prohibition or restriction in the public places, streets, highways, courts and alleys in New Providence —

(a) of the firing or throwing of fireworks, crackers and all other explosives whatsoever;

(b) of the sounding or use of horns, trumpets and all instruments of sound other than those used or employed by a duly organised instrumental

band.

5 of 1987, Sch.

(2) All rules made under this section shall be published in the *Gazette* and have the force and effect of law.

(3) Whoever commits any breach of any rule made under this section shall be liable to a fine of one hundred and fifty dollars. *5 of 1987, Sch.*

(4) Rules made under this section shall be in addition to the offences prescribed in rules made under the authority of this or any other Act; but so that a person be not punished twice for the same offence.

Trading on Sunday, etc.

214.(1) Whoever sells or causes or procures to be sold, or exposes for sale or causes or procures to be exposed for sale, any goods or other articles whatsoever on any Sunday, Christmas Day or Good Friday, shall, in respect of each act of sale or exposure for sale, be liable to a fine of ten dollars. *Prohibition of selling of goods on Sunday and other specified days. 5 of 1987, Sch.*

(2) The provisions of this section shall only apply to such islands, towns, settlements or places as the Governor-General may by Order direct. *29 of 1927, s. 8.*

215. There shall be excepted from the operation of section 214 — *Exemptions from operation of section 214.*

- (1) the sale of drugs or medicines;
- (2) the sale of ice;
- (3) the sale of fresh fish, butchers' meat or fresh fruit, not later than noon;
- (4) the sale of bread or milk;
- (5) the sale of cooked food in hotels, inns or taverns;
- (6) the sale of any article required for the burial of a dead body, or in case of illness of any person or animal, where the seller thereof has reasonable grounds for believing the article to be required for either of those purposes; the reasonableness whereof is to be determined by the magistrate before whom the complaint is heard;
- (7) the sale of petroleum products;
- (8) the sale of fresh water.

29 of 1927, s. 2.

Offences Against Sanitation

Throwing putrid substances into any water near a town.

5 of 1987, Sch.

216. Whoever throws or causes to be thrown, into any harbour or other waters adjacent to any town or settlement within The Bahamas, any putrid hides or the carcasses of any dead animal or other putrescent substance, shall be liable to a fine of one hundred dollars for each offence.

Fouling drinking water.

*5 of 1987, Sch.
See s. 494(d).*

217. Whoever causes or suffers to be brought or to flow into any stream, well, tank, reservoir or place used or intended for supply water to a main, or into any conduit communicating therewith, any substance, or does any act, whereby the water therein, or which may enter therein, may be fouled, shall be liable to a fine of one hundred dollars, and to a further fine of ten dollars for every day during which the offence is continued after conviction.

Keeping putrid substances.

5 of 1987, Sch.

218. Whoever within the limits of any town or settlement within The Bahamas, or the suburbs thereof, lays out to air or dry or otherwise exposes whether for sale or otherwise, any green or putrid hides or any putrid meat, fish or other substance, or keeps any such offensive substance in any place whatever, to the annoyance of the persons residing in the neighbourhood, shall be liable to a fine of twenty-five dollars for each offence.

Placing any impurity in a thoroughfare.

5 of 1987, Sch.

219. Whoever throws or places or causes to be thrown or placed upon any part of any public thoroughfare in any town or settlement within The Bahamas any soapsuds, pickle or other liquid or solid substance of an impure or otherwise offensive description not coming within the description of substances referred to in section 218, shall be liable to a fine of five dollars for every offence.

Order of abatement.

220. Upon conviction under sections 216 to 219, the magistrate may order the nuisance complained of, if continuing at the time of conviction, to be abated and the offensive substance constituting the nuisance to be destroyed or removed, and to issue all necessary orders and warrants for the purpose; and all expenses incurred in carrying out such order shall be borne by the person or persons convicted of any offence in connection therewith, as aforesaid, and be recoverable in the same manner as any fine imposed under this Code.

221. The provisions of sections 216 to 220 shall be in addition to the provisions concerning offences declared punishable under the Health Services Act or any other Act providing for securing the public health; but so that a person is not twice punished for the same act or matter.

Saving for Health Services Act.

Ch. 231.

222. (1) Whoever interrs or causes or procures to be interred the body of any deceased person —

Burial in places other than public cemeteries, etc.

- (a) in any place within any town or settlement or the suburbs thereof in which, or within two miles whereof, there is any parochial or other public burial ground or any public ground set apart by any religious society or congregation, except in such parochial or other burial ground as aforesaid;
- (b) in any grave which shall be less than four feet in depth below the level or surface of the ground,

shall be liable to a fine of one hundred and fifty dollars:

5 of 1987, Sch.

Provided that this subsection shall not apply to a burial ground of the Order or Society of Love and Charity or of any Society established under the Friendly Societies Act and to the interment therein of any deceased member or the deceased relatives of any member of any such society, but then only (a) if the site selected for such burial ground has been approved by the Minister for Health; (b) if each grave is of the depth herein before specified; and (c) if the burials in such burial grounds conform with all rules governing interments in public burial grounds. Burial grounds coming within the meaning of this proviso which have been in use without approval shall be deemed to have been established under the authority of this proviso and may continue to be used until closed under the provisions of subsection (2) of this section.

Friendly Societies may acquire burial ground.

Ch. 312.

15 of 1936, s. 4.

(2) It shall be lawful for the Minister responsible for Public Health whenever occasion thereof shall arise, by Order to prohibit the use of any particular burial ground as a place of interment; and every such Order so issued shall remain in force until the same shall be revoked by the said Minister.

Power to close burial grounds.

E.L.A.O., 1974.

Penalty for
infringing closing
order.

(3) Whoever during the continuance in force of any such Order so issued, inters, or causes or procures to be interred, the body of any deceased person in any burial ground referred to in such Order, shall be liable to imprisonment for three months.

Disposition of
fines.

(4) One half of any fine imposed and recovered under any provision of this section may be paid to the person who shall give information leading to the conviction of the offender or offenders.

Cruelty to Animals

19 of 2010, s. 55.

223. Repealed.

19 of 2010, s. 55.

224. Repealed.

19 of 2010, s. 55.

225. Repealed.

19 of 2010, s. 55.

226. Repealed.

19 of 2010, s. 55.

227. Repealed.

19 of 2010, s. 55.

228. Repealed.

19 of 2010, s. 55.

229. Repealed.

19 of 2010, s. 55.

230. Repealed.

19 of 2010, s. 55.

231. Repealed.

Practising Obeah, etc.

Practising obeah
or other
superstitious
devices.

See s. 145(2).

232. Whoever practises obeah, or by an occult means or any assumption of supernatural power or knowledge intimidates or attempts to intimidate any person, or obtains or endeavours to obtain anything from any person, or pretends to discover any lost or stolen thing or the person who stole the same, or to inflict any disease, loss, damage or personal injury upon any person, or to restore any person to health, shall be liable to imprisonment for three months.

Seizure, under
warrant, of
article used in
practice of
obeah.

233. (1) If it is made to appear, upon the oath of any credible witness, that there is reasonable cause to suspect that any person is in possession of any article or thing used, or intended to be used, by him in the practice of obeah or such other practice as is mentioned in section 232, it shall be lawful for any justice of the peace, by warrant to cause any place whatever belonging to or under the control

of the person to be searched, either in the day or in the night, and, if any such article or thing is found in any place so searched, to cause it to be seized and brought before him to be secured for the purpose of being produced in evidence in any case in which it may be required.

(2) Where any such article or thing is found as aforesaid, the person in whose possession the article or thing is found shall, unless and until the contrary is proved, be deemed to be a person practising obeah within the meaning of the said section, at the time at which the article or thing was so found.

234. If, on the hearing of any case before any court, the court has reasonable cause to suspect that the accused or any witness in the case then in court has concealed about him an instrument of obeah, the court may direct the police forthwith to search the suspected person without a written warrant, and if any instrument of obeah is found upon him, he shall be liable to a fine of twenty-five dollars.

Searching of persons suspected of having instrument of obeah in court.

5 of 1987, Sch.

TITLE xvi COMMON OFFENCES RELATING TO THE PUBLIC SERVICE

235. If any public officer who is bound as such officer to pay or account for any moneys or valuable things, or to produce or give up any documents or other things, fails to pay or account for, or to produce or give up, the same according to his duty to any other officer or person lawfully demanding the same, he shall (without prejudice to his liability in any civil proceeding, or to his liability as for any offence punishable under any other Title of this Code) be liable to imprisonment for three months:

Withholding of public money, etc., by public officer.

Provided that if a public officer is summarily adjudged to be imprisoned under the provisions of this section, he shall be discharged upon his satisfying the court before which he was convicted, or any court of similar jurisdiction, that he has since his conviction performed the duty for default in performance of which he was adjudged to be imprisoned.

Unlawfully
having
possession of
police arms, etc.,
or assuming
dress, etc.

236. Whoever, not being a member of the police force —

- (1) has in his possession any arms, ammunition, clothing, accoutrements or appointments supplied to any member of the force and is not able satisfactorily to account for his possession thereof;
- (2) puts on, or assumes the dress, designation, name, or description of any member of the police force for the purpose of unduly obtaining admission to any house or other place, or of doing or procuring to be done any other act which such person so putting on or assuming such dress, designation or name or description, would not by law be entitled to do or procure to be done of his own authority,

See s. 245.

5 of 1987, Sch.

shall, in addition to any other punishment to which he may be liable, be liable to a fine of fifty dollars.

Smuggling.

237. Whoever is convicted of —

- (1) smuggling any goods, or landing or attempting to land any goods without having first obtained the permission in writing of the chief or other proper officer of the Customs Department of the district within which such goods are landed or attempted to be landed;
- (2) receiving or harbouring such goods knowing that they have been smuggled or landed within The Bahamas;
- (3) inducing or attempting to induce or directing or soliciting any other person to smuggle or to bring into or land at any place within The Bahamas any goods without paying the duties of customs which may be payable by law,

5 of 1987, Sch.

shall be liable to a fine of one thousand dollars, and in default of payment to be imprisoned for nine months.

Saving all laws
relating to the
Customs.

238. The provisions of section 237 shall be in addition to the several provisions, concerning such penalties and forfeitures as may be imposed for offences against the laws relating to the Customs Department of The Bahamas.

239.(1) Whoever —

- (a) wilfully assaults, obstructs or interferes with any officer of the magistrate's court in attendance thereat in the performance of his duty at the court;
- (b) within the room or place where the magistrate is sitting wilfully misbehaves in a violent, threatening, obstructive, or disrespectful manner;
- (c) wilfully insults the magistrate or any officer of the court during his sitting or attendance in court,

Power to preserve order in court.

See ss. 206(2), 420 and 440.

shall be liable to be immediately apprehended by order of the magistrate, and if the court is then sitting or about to sit to be detained until the rising of the court, and on enquiry and consideration then and there and without further trial to be punished for every such offence with a fine of one hundred dollars, or with imprisonment for ten days, in the discretion of the magistrate.

5 of 1987, Sch.

(2) Where any person is punished under this section the magistrate shall make and keep a minute recording the facts of the case and the extent of the punishment, and shall forthwith send a copy of such minute to the Judicial and Legal Service Commission.

Minute to be recorded.
G.N. 172/1964.

240. Whoever being charged with the execution of a warrant of distress or a writ of execution, wilfully retains from the produce of any goods sold to satisfy the same, or otherwise exacts any greater costs and charges than those to which he is for the time being entitled by law, or makes any improper charge, shall be liable to a fine of five hundred dollars in addition to his liability to repay to the proper person the amount so exacted or improperly charged as aforesaid.

Penalty for extortion, etc.

See s. 453.

5 of 1987, Sch.

241.(1) Whoever, without reasonable excuse, makes default in obeying any summons, process or order lawfully issued or made by any court for his attendance or for his examination on oath as a witness in any judicial proceeding, or for the production by him of any written or other evidence in any judicial proceeding, shall be liable to imprisonment for ten days, unless he in the meantime obeys the order of the court, or he may be summarily punished by a fine of ten dollars.

Disobedience to summons as witness.

See s. 436.

5 of 1987, Sch.

13 of 1929, s. 2.

(2) If any person attending as a witness or so summoned or brought up on a warrant as aforesaid refuses to be examined on oath concerning the premises or refuses to take such oath, or having taken oath refuses to answer any lawful question put to him, without giving just excuse for so doing, the magistrate may by warrant commit such person to prison there to remain and be imprisoned for ten days unless he in the meantime consents to be examined and to answer concerning the premises, or the magistrate may order him to pay a fine of twenty-five dollars.

5 of 1987, Sch.

Removing goods to evade legal process.

See ss. 356 and 357.

242. Whoever, knowing that any execution, warrant or other process of law has been awarded or issued for the seizure of anything belonging to him or in his possession, custody or control, removes, conceals or in any manner disposes of the thing with intent to defeat or evade the execution, warrant or other process, shall be liable to imprisonment for three months.

Deceit of public officer.

See ss. 427 and 432.

243. Whoever, with intent to defeat, obstruct or pervert the course of justice or the due execution of the law, or to evade the requirements of the law, or to defraud or injure any person, endeavours to deceive any public officer, acting in the execution of any public office or duty, by personation, or by any false instrument, document, seal or signature, or by any false statement, whether verbal or in writing, shall be liable to imprisonment for three months.

Making false report.

5 of 1987, Sch.

244. Where a person causes wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed or to give rise to an apprehension for the safety of any persons or property or tending to show that he has information relevant to any police inquiry, he shall be liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Falsely pretending to be public officer, etc.
See ss. 236 and 451.

245. Whoever pretends to be or acts as a public officer or juror, not being lawfully authorised to act as such officer or juror, and in or under colour of such assumed character does or attempts to procure any person to do or

abstain from doing any act whatsoever, shall be liable to imprisonment for three months, unless he shows either —

- (1) that he so pretended or acted under a mistake of law or of fact; or
- (2) in the case of a person acting as a public officer that he so acted in good faith for the public benefit.

246. Whoever being lawfully commanded by any public officer, peace officer or other person to give aid for the prevention of crime, or for arresting any person, or for preventing the rescue or escape of any person, refuses or neglects to give such aid according to his ability, shall be liable to a fine of fifty dollars.

Refusal or neglect to aid in prevention of crime.
5 of 1987, Sch. See ss. 88 and 447.

247. Whoever assaults, molests, obstructs or resists, aids or incites any other person to assault, molest, obstruct or resist any public or peace officer, or any person employed by a public or peace officer, acting or proceeding to act in the execution of any public office or duty or in the execution of any warrant or legal process, shall be liable to imprisonment for six months

Assault, etc., of public officer.
13 of 1929, s. 2. See ss. 265, 420 and 422.

248. Whoever —

(1) knowingly harbours, entertains or permits to abide and remain in or upon his house, shop or premises, or other place any member of the police force during any part of the time appointed for his being on duty;

Harbouring peace officers on duty, etc.

(2) by any means whatsoever directly or indirectly procures or persuades or attempts to procure or persuade any member of the police force, to desert, or aids, abets, or is in any way accessory to the desertion of any member of the force, or having reason to believe that any man is a deserter from the force, harbours such deserter or aids him in concealing himself;

(3) aids, abets, or is accessory to any mutinous conduct, sedition, or disobedience to the lawful command of a superior officer by any member of the force, or endeavours to seduce any member of the force from his allegiance or duty,

shall be liable to a fine of fifty dollars.

5 of 1987, Sch.

Taking prohibited things into or out of prison, etc.

249. Whoever, without authority from the person in charge of any prison or lock-up, conveys anything into or out of any such prison or lock-up, or delivers to or receives from a prisoner in any such prison or lock-up anything whatsoever, shall be liable to imprisonment for three months.

Aiding escape of prisoner.

See ss. 444, 445 and 448.

250. Whoever aids the escape of any prisoner from any prison or from the custody of any person in charge of such prisoner shall be liable to imprisonment for six months.

Interference with prisoner outside prison.

251. Whoever in any manner interferes with any convicted prisoner without the precincts of the prison, or delivers to or receives from him anything whatever, or permits him to enter his house, yard or premises, unless by the request of the prison officer or person in charge of the prisoner, or assists him to absent himself or to neglect his work, shall be liable to imprisonment for three months.

Prison officers accessory to breaches of discipline.

252. If any prison officer or person in charge of any convicted prisoner, knowingly permits him to receive any tobacco, spirits, food, money or any other thing which the prisoner is not permitted by the prison regulations to receive, or to enter any house, yard or premises, not being the place appointed for the labour of the prisoner, he shall be liable to imprisonment for three months.

Obstruction of officers of post office.

5 of 1987, Sch.

253. (1) Whoever wilfully obstructs, or incites anyone to obstruct an officer of the post office in the execution of his duty, or whilst in any post office or within any premises belonging to any post office or used therewith, obstructs the course of business of the post office, shall be liable to a fine of ten dollars.

5 of 1987, Sch.

(2) Any officer of the post office may require any person guilty of any offence under this section, to leave a post office, or any such premises as aforesaid, and, whoever, being so required, refuses or fails to comply with the requirement shall be liable to a further fine of twenty-five dollars, and may be removed by any officer of the post office; and all peace officers are required on demand to remove or assist in removing every such person.

254.(1) Whoever sends or attempts to send a postal packet which either —

- (a) encloses any explosive substance, any dangerous substance, any filth, any noxious or deleterious substance, any sharp instrument not properly protected, or any article or thing whatsoever which is likely to injure either other postal packets in course of conveyance or an officer of the post office;
- (b) encloses any indecent or obscene print, painting, photograph, lithograph, engraving, book or card, or any indecent or obscene article, whether similar to the above or not;
- (c) has on the packet or on the cover thereof, any words, marks or designs of an indecent, obscene or grossly offensive character,

Sending by post explosive, inflammable or deleterious substances or indecent prints, words, etc.
See s. 495.

See s. 489.

shall be liable to a fine of fifty dollars.

5 of 1987, Sch.

(2) The detention in the post office of any postal packet on the ground of its being in contravention of this section shall not exempt the sender thereof from any proceedings which might have been taken if the packet had been delivered in due course of post.

255. Whoever, being employed to convey or deliver a mail bag, or a postal packet in course of transmission by post —

- (1) whilst so employed, or whilst the mail bag or postal packet is in his custody or possession, leaves it;
- (2) is guilty of any act of drunkenness whilst so employed;
- (3) is guilty of carelessness, negligence or other misconduct, whereby the safety of the mail bag or postal packet is endangered;
- (4) without authority collects or receives or conveys or delivers a postal packet otherwise than in the ordinary course of post;
- (5) gives any false information of an assault or attempt at robbery upon him;

Carelessness, negligence, or misconduct of persons employed in carrying or delivering mail bags, postal packets, etc.

See ss. 335, 342 and 456.

- (6) loiters on the road or passage, or wilfully misspends his time so as to retard the progress or delay the arrival of a mail bag or postal packet in the course of transmission by post, or does not use due care and diligence safely to convey a mail bag or postal packet at the due rate of speed,

5 of 1987, Sch.

shall be liable to a fine of five hundred dollars.

Obstruction of telegraphic service.
See s. 460.

256. Whoever unlawfully or maliciously in any manner whatsoever, prevents or obstructs the sending, conveying or delivery, of any telegraphic communication shall be liable to imprisonment for six months.

Unlawful voting at election.
See s. 452.

257. Whoever votes or offers to vote at any public election at which he knows that he is not entitled so to vote, or in respect of a qualification in respect of which he knows that he is not entitled so to vote, shall be liable to imprisonment for three months.

Attempts to commit misdemeanour against provisions of Title xxix.

258. Whoever, by any overt act, attempts to commit any offence declared to be a misdemeanour under Title xxix. of this Code may, at the discretion of the magistrate, be prosecuted summarily and on summary conviction, shall be liable to imprisonment for six months.

Compounding offence.
See s. 449.

259. Whoever makes any complaint for any summary offence alleged to have been committed by some other person, and afterwards, directly or indirectly, and without the permission of the court by which the complaint was to be heard and determined or without the leave of some public authority empowered by law to grant such leave, receives any sum of money or other reward for compounding, delaying or withdrawing the complaint, shall be liable to a fine of five hundred dollars.

5 of 1987, Sch.

Obtaining money by threat of making complaint for summary offence.
See s. 346.

260. Whoever obtains any sum of money or other reward from any person by threatening, directly or indirectly, to make a complaint before a magistrate for any summary offence when no grounds exist for the complaint, or as an inducement to forbear to make the complaint, shall be liable to imprisonment for six months.

Corruptly accepting reward for restoring property, etc.

261. Whoever accepts, or agrees or offers to accept, any reward under pretence or on account of restoring to any person, or of helping any person to recover, anything which has been appropriated by any offence punishable

under Titles xii. or xxiii. or xxiv. of this Code, upon the terms or with the understanding that the offence shall be compounded, shall be liable to imprisonment for six months.

See s. 66.

BOOK III INDICTABLE OFFENCES

TITLE xvii INTRODUCTORY PROVISIONS

262. Where a person is charged before a magistrate with an indictable offence under this Code or any statute, and it appears to the magistrate that such charge could have been laid as for a summary offence under any provisions contained in Book II of this Code —

Charges capable
of being dealt
with summarily.

- (1) the magistrate may, for the purpose of ascertaining whether it is expedient for the ends of justice to deal with the case summarily, adjourn the proceedings at any stage and may from time to time remand the accused for any period not exceeding eight days;
- (2) the procedure shall until the magistrate assumes the power to deal with such offence summarily be the same in all respects as if the offence were to be dealt with throughout as an indictable offence, but when and so soon as the magistrate assumes the power to deal with such offence summarily the procedure shall be the same from and after that moment as if the charge had been originally one for the summary offence specified in Book II of this Code;
- (3) the evidence of any witness taken before the magistrate assuming such power as aforesaid, need not be taken again; but every such witness shall, if the defendant so require it, be recalled for purposes of cross-examination;
- (4) where the magistrate has assumed the power to deal with the case summarily and shall dismiss the charge, he shall, if so required, deliver to the person charged a copy certified under his hand of the order of dismissal, and such dismissal shall

(subject to any decision of the Supreme Court on appeal) be of the same effect as an acquittal on a trial for the offence on information at the sessions.

When a young person may be tried summarily on indictable charge.

263. (1) Where a child or young person is accused of any indictable offence other than homicide, the magistrate may at any time during the hearing of the case cause the charge to be reduced into writing and read to the parent or guardian of the accused, and he shall then question such parent or guardian to the following effect:

“Do you desire this case to be tried at the sessions, or do you wish it to be dealt with summarily?”

and shall add a statement, if necessary, to such parent or guardian explaining the meaning of the case being dealt with summarily and of being tried at the sessions. And if such parent or guardian as aforesaid does not object to the case being dealt with summarily the magistrate may deal with it summarily.

Power to remand in order to secure the presence of parent or guardian.

(2) Where the parent or guardian of such child or young person is not present when the charge is being heard by the magistrate, the magistrate may adjourn the case for the purpose of causing notice to be served on such parent or guardian, with a view as far as practicable of securing his attendance at the hearing of the charge, or the magistrate may deal with the case summarily.

Punishment on conviction.

(3) Upon a summary conviction under this section, any of such punishments may be imposed as can be inflicted by a magistrate upon a child or juvenile offender in accordance with the provisions of Title viii. of this Code.

(4) Every conviction of a child or young person under this section shall contain a statement of the consent (if any) of the parent or guardian to such summary proceeding.

*1 of 1957, s. 6.
21 of 1847.*

(5) This section shall be construed subject to the provisions of the Children and Young Persons (Administration of Justice) Act*.

* This Act (formerly Ch 97) was repealed by the Child Protection Act (No. 1 of 2007) – now Ch.132.

TITLE xviii
ASSAULT AND SIMILAR OFFENCES

Assault

264. Whoever unlawfully assaults any person is guilty of a misdemeanour. Assault.
See s. 133.

265. Whoever is convicted of an unlawful assault of any of the following kinds, namely — Aggravated assault.

- (1) assault upon a person acting as a judicial officer or as a peace officer;
- (2) assault upon a minister of religion acting in the execution of the duties of his office;
- (3) assault upon a person in any court of justice, or assault upon a person in order to prevent him from doing, or on account of his doing or having, done anything as a party, agent, counsel or witness in any judicial proceedings;
- (4) assault with a purpose to commit, or in committing or attempting to commit, any other crime;
- (5) assault with any deadly or dangerous instrument or means,

See ss. 247, 420 and 422.

shall be liable to imprisonment for three years.

Criminal Harm to the Person

266. Whoever intentionally and unlawfully causes harm to any person shall be liable to imprisonment for one year. Causing harm.
See s. 135(1).

267. Whoever negligently and unlawfully causes harm to any person shall be liable to imprisonment for nine months. Negligently causing harm.
See ss. 135(2) and 281

268. Whoever unlawfully exposes or abandons any child, under seven years of age, in such a manner that any grievous harm is likely to be caused to it, shall be liable to imprisonment for seven years. Exposing child to grievous harm.

269. Whoever intentionally and unlawfully causes a wound to any person shall be liable to imprisonment for three years. Causing wound.
22 of 1931, s. 2; 12 of 1984, s. 2 and Sch. See s. 135(1).

Causing grievous harm.

*22 of 1931, s. 2;
12 of 1984, s. 2
and Sch.*

Negligently causing grievous harm.

See s. 135(2).

Causing maim or dangerous harm.

Use of deadly means of harm.
13 of 1929, s. 2.

Administering noxious matter.

Causing any harm with matter of aggravation.

270. Whoever intentionally and unlawfully causes grievous harm to any person shall be liable to imprisonment for seven years.

271. Whoever negligently and unlawfully causes grievous harm to any person shall be liable to imprisonment for eighteen months.

272. Whoever intentionally and unlawfully causes a maim or any dangerous harm to any person shall be liable to imprisonment for twenty years.

273. Whosoever uses any poison, or any explosive, corrosive, deadly, destructive or noxious means, or any instrument shall —

- (1) if he does so with intent unlawfully to cause harm to, or injure, aggrieve or annoy any person, be liable to imprisonment for five years; or
- (2) if he does so with intent unlawfully to inflict any wound or grievous harm upon any person, be liable to imprisonment for ten years; or
- (3) if he does so with intent unlawfully to maim or to cause dangerous harm to, or to endanger the life of any person, be liable to imprisonment for twenty years.

274. Whoever unlawfully and knowingly administers any noxious matter to any person shall be liable to imprisonment for three years.

275. Whoever causes another any degree of harm as mentioned in this Title with intent to facilitate the commission of any offence by himself or by any other person, or with intent to hinder the arrest or detention of himself or of any other person for any offence, or with intent to hinder the discovery of any offence or with intent to enable himself or any other person to escape from legal custody, whether for a crime or for any other cause shall —

- (1) if the offence is a felony, be liable to imprisonment for a term which may exceed by seven years the term for which he is otherwise liable to such imprisonment;
- (2) in any other case, be liable to imprisonment for seven years.

276. Whoever, with any of the intents mentioned in section 275, and by means of choking, suffocating, or strangling, or by any other violence or by means of any stupefying or overpowering drug, gas or other matter, renders or attempts to render a person unconscious or insensible or physically incapable of resistance, shall be liable to imprisonment for twenty years.

Garotting, etc.
*12 of 1984, s. 2
and Sch.*

277.(1) Whoever causes the safety of any vessel to be endangered, with intent to cause harm or danger of harm to any person, shall be liable to imprisonment for twenty years.

Intentionally
endangering
vessel.
See s. 328.

(2) Whoever sends or attempts to send, or is a party to sending or attempting to send, a British ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be liable to imprisonment for two years, unless he proves that he used all reasonable means to insure her being sent to sea in such a seaworthy state or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable.

Sending
unseaworthy
ships to sea.

(3) Every master of a British ship who knowingly takes the same to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be liable to imprisonment for two years, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable.

(4) A prosecution under subsection (2) or (3) of this section shall not be instituted except with the consent of the Attorney-General.

G.N. 187/1964.

278. Whoever in any manner unlawfully interferes with or obstructs the working of any lighthouse, beacon, buoy, signal or other apparatus or thing, which is used or maintained for the safety of navigation, shall, although he does not intend to cause harm or danger of harm to any person, be liable to imprisonment for three years.

Interference with
signal, etc.
See s. 329.

279.(1) Whoever in constructing or repairing any vessel, or any fittings or machinery for a vessel, knowingly uses such materials, or so does any work, or so conceals any defect, as that the safety of the vessel, or of any person on board the vessel, is likely to be endangered, shall be liable to imprisonment for ten years.

Fraud or
negligence
endangering
vessel.
See s. 328.

(2) Whoever supplies for use on board any vessel any medical or surgical stores or instruments, or any lifebelt or apparatus for saving life, of such inferior quality or in such a condition as to be substantially unfit for the purposes for which the same are or is supplied or as to be likely to endanger life, shall, if he does so knowingly, be liable to imprisonment for seven years or shall, if he does so negligently, be liable to imprisonment for two years.

Wrongfully leaving any seaman at sea or on shore.

280. Whoever, being the master of or other person connected with any ship belonging to The Bahamas (whether the ship be or be not registered as such) wrongfully forces on shore, and leaves behind or otherwise wilfully and wrongfully leaves behind in any place on shore or at sea in or out of Her Majesty's dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged, or the return of the ship to The Bahamas, is guilty of a misdemeanour.

Person in charge of dangerous thing, surgeon, etc., negligently causing harm or danger.

See s. 267.

281. Whoever —

- (1) being solely or partly in charge of any steam-engine, machinery, spring-gun, man-trap or dangerous thing or matter of any kind;
- (2) having undertaken or being engaged in medical or surgical treatment of any person;
- (3) having undertaken or being engaged in the dispensing, supply, selling, administering or giving away of any medicine or any poisonous or dangerous matter,

negligently causes harm to any person, or negligently endangers the life of any person, shall be liable to imprisonment for two years.

9 of 1991, s. 38 and Sch.

**TITLE xix
KIDNAPPING**

Kidnapping.
21 of 1939, s. 4.

282. Whoever kidnaps any person shall be liable to imprisonment for ten years.

Child-stealing.

283. Whoever steals any person under fourteen years of age, whether with or without his consent, shall be liable to imprisonment for ten years.

284. Whoever by duress causes any person to marry against his or her will, shall be liable to imprisonment for two years. Compulsion of marriage.

285. If a female is compelled to marry another person by such duress as avoids the marriage or makes it voidable, the marriage is of no effect for the purpose of Book I. of this Code with respect to consent. Effect of avoidance of marriage as regards consent.

286. A person is guilty of kidnapping — Definition of kidnapping.

- (1) who unlawfully imprisons any person, and takes him out of the jurisdiction of the court, without his consent; or
- (2) who unlawfully imprisons any person within the jurisdiction of the court, in such a manner as to prevent him from applying to a court for his release or from discovering to any other person the place where he is imprisoned, or in such a manner as to prevent any person entitled to have access to him from discovering the place where he is imprisoned.

287.(1) A person is guilty of stealing another person — Definition of child-stealing.

- (a) who kidnaps him;
- (b) who unlawfully takes or detains him, with intent to deprive of the possession or control of him any person entitled thereto or with intent to steal anything upon or about his body or with intent to cause any harm to him.

(2) For the purposes of this section, it is not necessary to prove that the person stolen had been taken from the possession, care or charge of any person, if it is shown that some person, other than the accused person, was entitled to the control or possession of the person stolen.

288. For the purposes of the sections of this Title relating to child-stealing — Special provisions as to child-stealing.

(1) it is not necessary that the taking or detaining should be without the consent of the person taken or detained, and it suffices if the person is persuaded, aided or encouraged to depart or not to return; *9 of 1991, s. 38 and Sch.*

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- (2) it is not necessary that there should be an intent permanently to deprive any person of the possession or control of the person taken or detained;
 - (3) a taking or detention is unlawful unless some person entitled to give consent to the taking or detention of the person taken or detained, for the purposes for which he is taken or detained, gives consent to the taking or detention for those purposes;
 - (4) a person having the temporary possession, care or charge of another person for a special purpose, as his attendant, employer or school-master or in any other capacity, can be guilty of stealing that person by acts which he is not authorised to do for such special purpose, and he cannot give consent to any act by another person which would be inconsistent with such special purpose; and
 - (5) notwithstanding the general provisions of Book I of this Code with respect to mistake of law, a person is not guilty of stealing another person by anything which he does in the belief that he is entitled by law as a parent or guardian, or by virtue of any other legal right, to take or detain the other person for the purposes for which he takes or detains him; but this rule shall not be construed to exempt a person from liability to punishment on the plea that he did not know or believe or had not the means of knowing, that the other person was under twelve or sixteen years of age, as the case may be; nor to exempt a person from liability to punishment as for stealing if he took or detained the other person for any immoral purpose.

*9 of 1991, s. 38
and Sch.*

*9 of 1991, s. 38
and Sch.*

*9 of 1991, s. 38
and Sch.*

TITLE xx HOMICIDE AND SIMILAR CRIMES

289. Whoever causes the death of another person by any unlawful harm is guilty of manslaughter. If the harm was negligently caused, he is guilty only of manslaughter by negligence.

Definition of
manslaughter.

290.(1) Whoever intentionally causes the death of another person by any unlawful harm is guilty of murder, unless his crime is reduced to manslaughter by reason of such extreme provocation, or other matter of partial excuse, as in this Title hereafter mentioned.

Definition of murder

See ss. 298 to 303.

(2) Every person who is convicted of murder committed in any of the following circumstances shall be sentenced in accordance with section 291(1), that is to say—

34 of 2011, s. 2.

- (a) the murder of—
 - (i) a member of a disciplined force acting in execution of his duties or of a person assisting a member so acting;
 - (ii) a judicial officer acting in the execution of his duties or of a person assisting a judicial officer so acting; or
 - (iii) any person acting pursuant to powers, authorities and privileges as are given to members of the Royal Bahamas Police Force under the provisions of any law in force for the time being;
- (b) the murder of any person for any reason attributable to
 - (i) the status of that person as a witness or party in a pending or concluded civil cause or matter or in any criminal proceedings; or
 - (ii) the service or past service of that person as a juror in any criminal trial;
- (c) any murder committed by a person in the course of or furtherance of—
 - (i) robbery;
 - (ii) rape;
 - (iii) kidnapping;
 - (iv) terrorism,
 and any other felony.
- (d) the murder of more than one person;
- (e) any murder committed by a person who before that murder had been previously convicted of another murder done on a different occasion anywhere within or outside of The Bahamas;

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- (f) any murder committed pursuant to an arrangement whereby money or anything of value —
- (i) passes or is intended to pass from one person to another or to a third party at the request or direction of that other person; or
 - (ii) is promised by one person to another or to a third person at the request or direction of that other person,

as consideration for that other person causing or assisting in causing the death of any person or counselling or procuring any person to do any act causing or assisting in causing that death.

34 of 2011, s. 2.

(3) If in the course of any murder referred to in subsection (2)(a) to (f) two or more persons are convicted, the provisions of section 291 (1) shall apply to each person who either by his own act caused the death of the person, or who did some act in furtherance of a joint enterprise between him and the other person to cause the death of the person.

34 of 2011, s. 2.

(4) In this section —

“disciplined force” has the same meaning as in Article 31 of the Constitution;

“judicial officer” means —

- (a) a Justice of Appeal of the Court of Appeal or a Justice of the Supreme Court or any person for the time being performing the functions of a Justice of Appeal or a Justice of the Supreme Court;
- (b) the Registrar or Deputy Registrar of the Court of Appeal or of the Supreme Court or any person for the time being performing the functions of Registrar or Deputy Registrar;
- (c) a Magistrate or any person for the time being performing the functions of a Magistrate;
- (d) a counsel and attorney employed in the Office of the Attorney-General or of the Department of Public Prosecutions or any person for the time being performing the functions of the Attorney-General or of the Director of Public Prosecutions.

291.(1) Notwithstanding any other law to the contrary—

Sentence for
murder
34 of 2011, s. 3.

- (a) every person who is convicted of murder falling within section 290(2)(a) to (f) shall be sentenced to death or to imprisonment for life;
- (b) every person convicted of murder to whom paragraph (a) does not apply—
 - (i) shall be sentenced to imprisonment for life; or
 - (ii) shall be sentenced to such other term given the circumstances of the offence or the offender as the court considers appropriate being within the range of thirty to sixty years imprisonment:

provided that where a person under eighteen years of age is convicted of murder he shall not be sentenced in accordance with this subsection but instead subsection (4) shall apply to the sentencing of such person.

(2) A person shall not be sentenced to death under this section by reason of a previous conviction for murder referred to in section 290 (2)(e) unless —

- (a) at least seven days before the trial, notice is given to him that it is intended to prove the previous conviction; and
- (b) before he is sentenced, his previous conviction for murder is admitted by him or is found to be proven by the trial Judge.

(3) Before sentencing a person under subsection (1), the court shall hear submissions, representations and evidence, from the prosecution and the defence, in relation to the issue of the sentence to be passed.

(4) A person who, in the opinion of the court, was at the lime when the murder was committed under eighteen years of age shall be sentenced to be detained during the court's pleasure and shall be liable to be detained, subject to subsection (5), in such place and under such conditions as the Court may direct, and whilst so detained shall be deemed to be in legal custody.

(5) A sentence of detention imposed in accordance with subsection (4) shall during its currency be reviewed by a judge in the first instance upon the expiration of twenty years and thereafter every five years with a view as to whether the detention should be maintained or

discontinued having regard to the reported conduct of the offender during his detention and for that purpose the Registrar of the court shall cause the offender to be brought before a judge.

(6) In this Code “imprisonment for life” means imprisonment for the whole of the remaining years of a convicted person's life.

Attempt to
commit murder.

292. Whoever attempts to commit murder shall be liable to imprisonment for life.

Manslaughter.

293. Whoever commits manslaughter by negligence shall be liable to imprisonment for five years; and whoever commits manslaughter in any other case shall be liable to imprisonment for life.

Attempt to
commit and
abetment of
suicide.

294. Whoever attempts to commit suicide is guilty of a misdemeanour, and whoever abets the commission of suicide by any person shall, whether or not the suicide be actually committed, be liable to imprisonment for life.

Abortion.

295. Whoever intentionally and unlawfully causes abortion or miscarriage shall be liable to imprisonment for ten years.

Causing harm to
child at birth.

296. Whoever intentionally and unlawfully causes harm to a living child during the time of its birth shall be liable to imprisonment for ten years.

Concealment of
body of child.

297. Whoever conceals the body of a child, whether the child was born alive or not, with intent to conceal the fact of its birth, existence or death, or the manner or cause of its death, shall be liable to imprisonment for two years.

Infanticide.

21 of 1939, s. 5.

298. (1) Where a woman by any wilful act or omission causes the death of her child, being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this section the offence would have amounted to murder, she shall be guilty of felony, to wit, of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months,

the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, the jury may, notwithstanding that the circumstances were such that but for the provisions of this section they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this section shall affect the power of the jury upon an indictment for the murder of a child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section 312, except that for the purpose of that section a child shall be deemed to have recently been born if it had been within twelve months before its death.

(4) The said section 312 shall apply in the case of the acquittal of a woman upon an information for infanticide as it applies upon the acquittal of a woman upon an indictment for murder.

Special Provisions

299. A person who intentionally causes the death of another person by unlawful harm shall be deemed to be guilty only of manslaughter, and not of murder, if any of the following matters of extenuation are proved on his behalf, namely —

- (1) that he was deprived of the power of self-control by such extreme provocation given by the other person as is mentioned in section 300; or
- (2) that he was justified in causing some harm to the other person, and that, in causing harm in excess of the harm which he was justified in causing, he acted from such terror of immediate death or grievous harm as in fact deprived him for the time being of the power of self control; or
- (3) that, in causing the death, he acted in the belief, in good faith and on reasonable grounds, that he was under a legal duty to cause the death or to do the act which he did; or
- (4) in the case of a woman who causes the death of her child recently born, that, although she was not insane, she was deprived of the power of self

Cases in which intentional homicide is reduced to manslaughter.
See s. 305.

control by a disease or disorder of mind produced by child-bearing.

Illustration

Para. (3) —A soldier is ordered by his commanding officer to fire upon a mob, there being no necessity for such an order to be given. Here, if the soldier in good faith believed himself bound to obey the order, he is not guilty of murder.

Matters which amount to provocation. See ss. 107(4) and 112.

300. The following matters may amount to extreme provocation to one person to cause the death of another person, namely —

- (1) an unlawful assault and battery committed upon the accused person by the other person, either in an unlawful fight or otherwise, which is of such a kind, either in respect of its violence or by reason of accompanying words, gestures or other circumstances of insult or aggravation, as to be likely to deprive a person, being of ordinary character, and being in the circumstances in which the accused person was, of the power of self-control;
- (2) the assumption by the other person, at the commencement of an unlawful fight, of an attitude manifesting an intention of instantly attacking the accused person with deadly or dangerous means or in a deadly manner;
- (3) an act of adultery committed in the view of the accused person with or by his wife or her husband, or the crime of unnatural carnal knowledge committed in his or her view upon his or her wife or child; and
- (4) a violent assault and battery committed in the view or presence of the accused person upon his or her wife, husband, child, or parent, or upon any other person being in the presence and in the care or charge of the accused person.

Cases in which benefit of provocation is excluded.

301. (1) Notwithstanding proof on behalf of the accused person of such matter of extreme provocation as in section 300 is mentioned, his crime shall not be deemed to be thereby reduced to manslaughter if it appears, either from the evidence given on his behalf or from evidence given on the part of the prosecution —

- (a) that he was not in fact deprived of the power of self control by the provocation;

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- (b) that he acted wholly or partly from a previous purpose to cause death, or harm or to engage in an unlawful fight, whether or not he would have acted on that purpose at the time or in the manner in which he did act but for the provocation;
 - (c) that, after the provocation was given, and before he did the act which caused the harm, such a time elapsed or such circumstances occurred that a person of ordinary character might have recovered his self control; or
 - (d) that his act was, in respect either of the instrument or means used or of the cruel or other manner in which it was used, greatly in excess of the measure in which a person of ordinary character would have been likely under the circumstances to be deprived of his self control by the provocation.

(2) Where a person, in the course of a fight, uses any deadly or dangerous means against an adversary who has not used or commenced to use any deadly or dangerous means against him, if it appears that the accused person purposed or prepared to use such means before he had received any such blow or hurt in the fight as might be a sufficient provocation to use means of that kind, he shall be presumed to have used the means from a previous purpose to cause death, notwithstanding that, before the actual use of the means, he may have received any such blow or hurt in the fight as might amount to extreme provocation.

Illustrations

Subs. (1) —(b) *A.*, who has long been seeking an occasion to fight in a deadly manner with *B.*, is struck by *B.* and kills *B.* Here, if the jury think that *A.* put himself in *B.*'s way for the purpose of taking any opportunity which might occur to fight with *B.*, the crime of *A.* is not reduced to manslaughter by reason of the blow which he received from *B.*

(d) *A.* receives a slight blow from a weaker man *B.*, and beats and kicks *B.* to death. *A.*'s crime is not reduced to manslaughter.

302. A lawful blow, arrest or other violence may be a provocation, notwithstanding its lawfulness, if the accused person neither believed nor, at the time of his act, had reasonable means of knowing or reasonable ground for supposing, that it was lawful.

Mistake as to matter of provocation.

Mistake as to person giving provocation.
See s. 290.

303. Where a sufficient provocation has been given to the accused person by one person, and he kills another person under the belief, on reasonable grounds, that the provocation was given by him, the provocation shall be admissible for reducing the crime to manslaughter in the same manner as if it had been given by the person killed; but, except as in this section mentioned, provocation given by one person is not a provocation to kill a different person.

Question of provocation for jury.
22 of 1959, s. 3.

304. Where on the charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

Persons suffering from diminished responsibility.
22 of 1959, s. 2.

305. (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

22 of 1959, s. 4.

(5) The defences provided in this section shall be in addition and without prejudice to and notwithstanding the provisions of this Code.

Special provisions as to causing death.
See s. 14.

306. The general provisions of Book I. of this Code with respect to causing an event are, in their application with respect to the causing of death by harm, subject to the following explanations and modifications, namely —

- (1) the death of a person shall be held to have been caused by harm, if, by reason of the harm, death has happened otherwise or sooner, by however short a time, than it would probably have happened but for the harm;
- (2) it is immaterial that the harm would not have caused the person's death but for his infancy, old age, disease, intoxication or other state of body or mind, at the time when the harm was caused;
- (3) it is immaterial that the harm would not have caused the person's death but for his refusal or neglect to submit to or seek proper medical or surgical treatment, or but for his negligent or improper conduct or manner of living or of treating the harm, unless it is made to appear that the person acted as he did with the purpose of causing his own death;
- (4) death shall be held to have been caused by harm if the death is caused by the medical or surgical treatment of the harm, unless such treatment itself amounts to murder or manslaughter; and
- (5) death shall not be held to have been caused by harm unless the death takes place within a year and a day of the harm being caused.

307. The general provisions of Book I. of this Code with respect to abetment are, in their application for the purposes of this Title, subject to the following special provision, namely, where a person commands the killing of another person, knowing that the killing will be unlawful, then, although the offence of the person so commanded be reduced to manslaughter, or to an attempt to commit manslaughter, by his belief that he was under a legal duty to obey the command, the person giving the command is guilty of the same offence as if the person commanded had not believed himself to be under a legal duty to obey the command.

Special provision as to abetment of homicide.

See ss. 86 and 87.

308. (1) In order that child may be such a person that it may be murder or manslaughter to cause its death, it is necessary that, before its death, the child should have been completely brought forth alive from the body of the mother.

Explanation as to a child as the object of homicide.

(2) It is not necessary either that a circulation of blood, independent of the mother's circulation, should have commenced in the child, or that the child should have breathed, or that it should have been detached from the

mother by severance of the umbilical cord; and it is murder or manslaughter, as the case may be, to cause death to happen to a child after it becomes a person, within the meaning of this section, by means of harm caused to it before it became such a person.

Explanation as to causing abortion.

309. (1) The offence of causing abortion or miscarriage of a woman can be committed either by that woman or any other person; and that woman or any other person can be guilty of using means with intent to commit that offence, although the woman is not in fact pregnant.

(2) The offence of causing abortion can be committed by causing a woman to be prematurely delivered of a child, with intent unlawfully to cause or hasten the death of the child.

Explanation as to causing harm to a child at birth.

310. (1) Where harm is caused to a child during the time of its birth, or where, upon the discovery of the concealed body of the child, harm is found to have been caused to it, the harm shall be presumed to have been caused to the child before its death.

(2) The expression “during the time of birth” includes the whole period from the commencement of labour till the time when the child so becomes a person as that it may be murder or manslaughter to cause its death.

Explanation as to concealment of body of child.

311. (1) Any secret disposition of the body of a child, whether it be intended to be permanent or not, may be concealment.

(2) The abandonment of the body of a child in any public place may be a concealment, if the body is abandoned for the purpose of concealing the fact of its birth or existence.

(3) Section 297 shall not apply to the case of a child of less than six months’ growth before its birth.

(4) Section 297 shall not apply to the case of intent to conceal the birth, existence or death of a child, or the manner or cause of its death, from any particular person or persons only, but it is requisite that there should be an intent to conceal the same from all persons, except such persons as abet or consent to the concealment; and

(5) The provisions of section 297 apply as well to the mother of the child as to any other person.

Illustrations

Subs. (4) —(a) A woman conceals from her father or mother the body of her child. She is not guilty of concealment of birth, unless she intended to conceal it from persons generally.

(b) A woman conceals the body of her child from all persons except a nurse who helps her in the concealment. The woman is guilty of concealment of birth, notwithstanding that she did not conceal it from her accomplice.

312. If any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the jury, by whose verdict such person shall be acquitted, to find, in case it shall so appear in evidence, that the child had recently been born, and that such person did, by some secret disposition of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment against the provisions of section 297.

Alternative verdict upon acquittal in trial for murder of a new-born child.

313. (1) Where any person does an act in good faith, for the purposes of medical or surgical treatment, an intent to cause death shall not be presumed from the fact that the act was or appeared likely to cause death.

Savings in case of medical or surgical treatment.

(2) Any act which is done, in good faith and without negligence, for the purposes of medical or surgical treatment of a pregnant woman is justifiable, although it causes or is intended to cause abortion or miscarriage, or premature delivery, or the death of the child.

314. Where harm is unlawfully caused to a person within the jurisdiction of the court, and his death is thereby caused, but the death happens beyond the jurisdiction of the court, any person who is guilty of having caused or abetted the causing of the harm may be tried and punished under this Code for murder or manslaughter as if the death had happened within the jurisdiction.

Special provision as to jurisdiction in case of homicide.

Illustration

A. wounds *B.* in The Bahamas. *B.* sails from The Bahamas and dies of the wound in Jamaica. *A.* is punishable in The Bahamas for the murder or manslaughter.

TITLE xxi
LIBEL

Negligent and intentional libel.

315. (1) Whoever is convicted of negligent libel shall be liable to imprisonment for six months.

(2) Whoever is convicted of intentional libel shall be liable to imprisonment for two years.

Special Provisions

Cases in which a person is guilty of libel.

316. A person is guilty of libel who, by print, writing, painting, effigy or by any means otherwise than solely by gestures, spoken words, or other sounds, unlawfully publishes any defamatory matter concerning another person, either negligently or with intent to defame that other person.

Definition of defamatory matter.

317. (1) Matter is defamatory which imputes to a person any crime or misconduct in any public office, or which is likely to injure him in his occupation, calling or office, or to expose him to general hatred, contempt or ridicule.

(2) In this section “crime” includes any act, where-soever committed, which if committed by a person within the jurisdiction of the court, would be punishable on indictment under any law.

Definition of publication.

318. (1) A person publishes a libel if he causes the print, writing, painting, effigy or other means by which the defamatory matter is conveyed, to be so dealt with, either by exhibition, reading, recitation, description, delivery or otherwise as that the defamatory meaning thereof becomes known or is likely to become known to either the person defamed or any other person.

(2) It is not necessary for libel that a defamatory meaning should be directly or completely expressed; and it suffices if such meaning and its application to the person alleged to be defamed, can be collected either from the alleged libel itself or from any extrinsic circumstances, or partly by the one and partly by the other means.

Definition of unlawful publication.

319. Any publication of defamatory matter concerning a person is unlawful, within the meaning of this Title, unless it is privileged on one of the grounds hereafter mentioned in this Title.

320.(1) The publication of defamatory matter is absolutely privileged, and no person shall under any circumstances be liable to punishment under this Code in respect thereof, in any of the following cases, namely —

- (a) if the matter is published by the Governor-General or by the Senate or the House of Assembly of The Bahamas in any official document or proceeding;
- (b) if the matter is published in the Senate or in the House of Assembly of The Bahamas by the Governor-General or by a member of either House;
- (c) if the matter is published by order of the Governor-General;
- (d) if the matter is published concerning a person subject to military or naval discipline for the time being, and relates to his conduct as a person subject to such discipline, and is published by some person having authority over him in respect of such conduct, and to some person having authority over him in respect of such conduct;
- (e) if the matter is published by a person acting in any “judicial proceeding” within the meaning of section 423, whether as a judge or magistrate, or as Attorney-General or other public prosecutor, or as a juror or a member of a commission of enquiry, or as a witness;
- (f) if the matter published is in fact a fair report of anything said, done or published in the Senate or the House of Assembly of The Bahamas;
- (g) if the person publishing the matter is legally bound to publish it; or
- (h) if the matter is true, and if it is found by the jury that it was for the public benefit that it should be published.

Cases in which publication of defamatory matter is absolutely privileged.
43 of 1964, Third Sch.

(2) Where a publication is absolutely privileged, it is immaterial for the purposes of this Title (notwithstanding any of the general provisions of Book I. of this Code with respect to justifications or excuses) whether (except as in the last paragraph of subsection (1) of this section is mentioned) the matter be true or false, and whether it be or be not known or believed to be false, and whether it be or be not published in good faith:

Provided that nothing in this section shall exempt a person from any liability to punishment under any other Title of this Code or under any other law.

Cases in which publication of defamatory matter is conditionally privileged.

321. A publication of defamatory matter is privileged, on condition that it was published in good faith, in any of the following cases, namely —

- (1) if the matter published is in fact a fair report of anything said, done or shown in a civil or criminal inquiry or proceeding before any court or commission of inquiry:

Provided that if the court or commissioners prohibit the publication of anything said or shown before it, on the ground that it is seditious, immoral or blasphemous, the publication thereof shall not be privileged;

- (2) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under section 320;
- (3) if the matter is published by a person acting as counsel or advocate in the course of, or in preparation for, any legal proceeding;
- (4) if the matter is an expression of opinion in good faith as to the conduct of a person in a judicial, official or other public capacity, or as to his personal character so far as it appears in such conduct;
- (5) if the matter is an expression of opinion in good faith as to the conduct of a person in relation to any public question or matter, or as to his personal character so far as it appears in such conduct;
- (6) if the matter is an expression of opinion in good faith as to the conduct of any person as disclosed by evidence given in a public legal proceeding, whether civil or criminal, or as to the conduct of any person as a party, witness or otherwise in any such proceeding, or as to the character of any person so far as it appears in any such conduct as in this subsection mentioned;
- (7) if the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech or other work, performance or

act published, or publicly done or made, or submitted by a person to the judgment of the public, or as to the character of the person so far as it appears therein;

- (8) if the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the other person, or on the character of the other person so far as it appears in such conduct;
- (9) if the matter is a complaint or accusation made by a person in good faith against another person in respect to his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct, or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter; or
- (10) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published, or of some person in whom the person to whom it is published is interested.

322. (1) A publication of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of section 321, if it is made to appear either —

Explanation as to good faith.

- (a) that the matter was untrue, and that he did not believe it to be true;
- (b) that the matter was untrue, and that he published it without having taken reasonable care to ascertain whether it was true or false; or
- (c) that, in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he claims to be privileged.

(2) If it is proved, on behalf of the accused person, that the defamatory matter was published under such circumstances that the publication would have been justified if made in good faith, the publication shall be

presumed to have been made in good faith until the contrary is made to appear, either from the libel itself, or from the evidence given on behalf of the accused person, or from evidence given on the part of the prosecution.

TITLE xxii
ARSON AND MISCHIEF TO
PROPERTY

Arson

Arson of dwelling-house or vessel.

323. Whoever intentionally and unlawfully causes any dwelling-house or vessel to be set on fire shall be liable to imprisonment for twenty years.

Arson of building, etc.

324. Whoever intentionally and unlawfully causes any building, or vessel, whether it be completed or in an unfinished state, or causes anything in or near to any building or vessel to be set on fire, with intent to destroy or materially damage that or any other building or vessel, shall be liable to imprisonment for twenty years.

20 of 2010, s. 36.

325. *Repealed.*

Use of explosive matter with intent to cause damage.
5 of 1987, Sch.

326. Whoever uses any explosive matter with intent unlawfully to cause material damage to any building, or vessel, or to any bridge or road, or to any machine, or to any property exceeding one hundred dollars in value, shall be liable to imprisonment for twenty years.

Causing damage by fire or explosion generally.

5 of 1987, Sch.

327. Whoever intentionally and unlawfully, in any case not otherwise in this Title expressly provided for, causes damage by fire or explosion to any movable or immovable property, shall, if the damage so caused exceeds twenty-five dollars or harm is caused to any person, be liable to imprisonment for five years, or otherwise to imprisonment for one year.

See s. 154(2).

Other Criminal Mischief

Damage to building, or construction, etc.
See ss. 154, 155, 277 and 279.
5 of 1987, Sch.

328. Whoever in any manner intentionally and unlawfully causes material damage —

- (1) to any house, wall, fence, building or vessel or to any bridge or to any machine or engine or tools exceeding twenty-five dollars in value; or
- (2) to any building, bank, wall, dam or floodgate or other structure, work, or apparatus constructed, used or maintained for the purposes of any port, harbour, dock, canal, fish or salt-pond or water-works, or for the purpose of regulating the

action of the sea or of any river, or for the purpose of protecting any coast or land from inundation by sea-water or other water, or for the purpose of the supply of water to any manufactory, mill, machinery, or stream, or fish or salt-pond or for the purpose of irrigation,

shall be liable to imprisonment for ten years.

329. Whoever intentionally and unlawfully causes damage to, or renders permanently or temporarily useless, or obstructs the working of, any lighthouse, beacon, buoy, signal or other apparatus or thing, of what kind soever, which is used or maintained for the safety of navigation, shall be liable to imprisonment for ten years.

Damage to lighthouse, etc.
See s. 278.

330. Whoever intentionally or unlawfully causes damage to, or attempts to damage any telegraph station or damages or obstructs or attempts to damage or obstruct the working of any telegraph station or any battery, machine, mast, pole, wire, or apparatus used for the purposes of any telegraph, shall be liable to imprisonment for five years.

Damage to telegraph.

331. Whoever intentionally and unlawfully causes damage to anything in course of manufacture or of preparation for sale, or to anything manufactured or prepared for sale, or to any plantation of trees or of any agricultural produce, whether growing or severed from the soil, and whether in any building, yard, stack or wheresoever situate, shall, if the damage caused exceeds five hundred dollars, be liable to imprisonment for five years, or shall, if the damage caused is to the amount of or less than five hundred dollars, but exceeds five dollars, be liable to imprisonment for one year.

Damage to manufacture, and other produce.
See ss. 155 to 157.

5 of 1987, Sch.

332. (1) Whoever intentionally and unlawfully kills, maims, or wounds any cattle, or causes any damage to the amount of or exceeding five hundred dollars to any cattle, or uses poison with intent unlawfully to cause any damage to any cattle, shall be liable to imprisonment for five years.

Damage to cattle and doping of horses.

5 of 1987, Sch; 17 of 1952, s. 6. See s. 165.

(2) Whoever administers or causes or procures to be administered or permits the administration of any drug or other substance to any horse with intent in any way to affect the manner in or speed at which such horse shall run on any race course licensed under the Racecourse Betting Act shall be liable to imprisonment for two years.

11 of 1951, s. 6.

Ch. 386.

Taking fish in private water situate on land adjoining dwelling-house or in private fishery elsewhere.

Unlawfully taking away or opening mail bag sent by vessel employed under post office.
See s. 342.

Criminal diversion of letters from addressee.
See ss. 255 and 456.

333. Whoever intentionally and unlawfully takes or destroys fish in any private water in any land adjoining or belonging to the dwelling-house of the owner of such water, or takes and destroys fish exceeding twenty-five dollars in value placed in any crawl, private fishery or pond elsewhere shall be guilty of a misdemeanour.

334. Whoever unlawfully takes away or opens a mail bag sent by any vessel employed by or under the post office for the transmission of postal packets under contract, or unlawfully takes a postal packet in course of transmission by post out of a mail bag so sent, shall be liable to imprisonment for fourteen years.

335. (1) Whoever, not being in the employment of the postmaster, wilfully and maliciously, with intent to injure any other person, either opens or causes to be opened any letter which ought to have been delivered to that other person, or does any act or thing whereby the due delivery of the letter to that other person is prevented or impeded, is guilty of a misdemeanour.

(2) Nothing in this section shall apply to a person who does any act to which this section applies where he is a parent, or in the position of parent or guardian, of the person to whom the letter is addressed.

(3) A prosecution shall not be instituted in pursuance of this section except by the direction or with the consent of the Attorney-General.

(4) A letter in this section means a postal packet in course of transmission by post and any other letter which has been delivered by post.

Abstracting of electricity.

336. (1) Whoever intentionally and unlawfully abstracts, causes to be wasted or diverted, consumes or uses any electricity supplied and belonging to the Government or a public board, corporation or company is guilty of felony.

(2) The provisions of this section shall be in addition to the offences and penalties mentioned in the Electricity Act and any other Act relating to the public supply of electric light and energy; but so that a person is not twice punishable for the same act or matter.

Ch. 194.

Damage to document.
See ss. 341, 428 and 455.

337. Whoever unlawfully damages any document with intent to destroy or materially damage it, with a purpose to defraud or injure any person, shall be liable to imprisonment for five years; or shall, if it is a will or a

document of title to land or to any interest in land be liable to imprisonment for twenty years.

338. Whoever intentionally and unlawfully causes damage exceeding twenty-five dollars to any land or to any animal or thing in any case or with any unlawful intent not specially provided for in this Title or causes any material damage to any public record or to any work of art in a public place, shall be liable to imprisonment for two years.

Damage in cases not provided for. 5 of 1987, Sch. See ss. 155 and 158.

TITLE xxiii ROBBERY, FRAUD AND EXTORTION

Robbery, Stealing, etc.

339.(1) Whoever commits robbery shall be liable to imprisonment for fourteen years.

Robbery and robbery with violence.

(2) Whoever commits robbery, being armed with any offensive instrument, or having made any preparation for using force or causing harm, shall be liable to imprisonment within the range of fifteen to twenty-five years:

12 of 1984, s. 2 and Sch.

34 of 2011, s. 4.

Provided that whoever commits robbery, being armed with any offensive instrument shall, where the offensive instrument is a firearm, be liable to imprisonment for life.

10 of 2000, s. 2.

(3) In subsection (2) “firearm” means any barrelled weapon of any description capable of inflicting injury from which any shot, bullet or other missile can be discharged and includes anything which has the appearance of being a firearm notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet or other missile.

2 of 1989, s. 2.

340. Whoever is convicted of stealing —

- (1) anything from a place of worship;
- (2) anything belonging to or being on board any ship or vessel in distress or wrecked, stranded or cast on shore;
- (3) any pole, wire or apparatus in use for the working of any public telegraph or telephone,

Sacrilege and stealing in special cases.

and whoever is convicted of stealing anything to the value in the whole of five hundred dollars or more in any of the following cases, or whoever, having been previously convicted of a similar offence, is convicted of stealing anything of any value, in the following cases, namely —

17 of 1952, s. 2; 5 of 1987, Sch.

See s. 140.

- (4) stealing anything of which he had the custody, control or possession, or to which he had the means of access, by reason of any office, employment or service;
- (5) stealing from or in any dwelling house, shop, manufactory or vessel, or from or on any dock, wharf or quay adjacent to any harbour or port of entry or discharge;
- (6) stealing from the person; or
- (7) stealing any cattle,

shall be liable to imprisonment for ten years.

*12 of 1984, s. 2
and Sch.*

1 of 2011, s. 77.

Stealing mail bag
or postal packet.

See s. 337.

341. Repealed.

342. (1) Whoever is convicted of —

- (a) stealing a mail bag;
- (b) stealing from a mail bag, or from a post office, or from an officer of the post office, or from a mail, any postal packet in course of transmission by post;
- (c) stealing any chattel or money or valuable security out of a postal packet in course of transmission by post,

shall be liable to imprisonment for fourteen years.

Fraudulent
retention of mail
bag or postal
packet.

(2) Whoever fraudulently retains, or wilfully secretes or keeps, or detains, or, when required by an officer of the post office, neglects or refuses to deliver up —

- (a) any postal packet which is in course of transmission by post and which ought to have been delivered to any other person; or
- (b) any postal packet in course of transmission by post or any mail bag which shall have been found by him or any other person,

is guilty of a misdemeanour.

Fraud by mail.
39 of 1965, s. 2

343. Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretences, representations or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, furnish, or procure for unlawful use any counterfeit or spurious coin, obligation, security or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of carrying out such

scheme or artifice or attempting so to do, places in any post office or authorised depository for mail, any matter or thing whatever to be sent or delivered by the post office, or takes or receives therefrom any such matter or thing, or knowingly cause to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

5 of 1987, Sch.

344.(1) Whoever is convicted of being a common thief shall be liable to imprisonment for ten years.

Common thief.

(2) A person shall be deemed to be a common thief if it is proved against him that, in or whilst committing or attempting to commit or abetting the commission of any offence punishable under this Title or Title xxiv. of this Code, he used or was in possession of any tools, implement or means specially contrived or adapted for the purpose of committing the offence, or acted in company with or abetted, or was abetted by, any other person or persons using or in possession of any such tools, implements or means.

Definition of a common thief.

345. Whoever is convicted of stealing, in any case in which some other punishment is not provided in this Title, shall be liable to imprisonment for five years.

Stealing.
See s. 139.

346.(1) Whoever extorts any property from any person by means of threats shall be liable to imprisonment for five years.

Extortion.
See s. 260.

(2) Whoever for the purposes of extortion, accuses or threatens to accuse a person (whether living or dead) of an infamous offence, shall be liable to imprisonment for fifteen years.

39 of 1961, s. 2.

Fraudulent Breach of Trust

347. Whoever is convicted of fraudulent breach of trust shall be liable to imprisonment for five years.

Fraudulent breach of trust.
See s. 140.

False Pretences and Other Frauds

Fraud by false pretence.
See ss. 144 and 488.
Fraud as to insurance.

348. Whoever defrauds any person by any false pretence shall be liable to imprisonment for five years.

349. Whoever intentionally destroys or causes damage to any building, vessel, goods, cattle or other thing, with the purpose of claiming or obtaining, or of enabling any person to claim or obtain any moneys or compensation of any kind from any person who has insured the same, shall be liable to imprisonment for fifteen years.

Falsification of accounts, etc.
See ss. 140 and 455 to 458.

350. Whoever, being a clerk, servant or public officer, and whoever, being an officer of any partnership, company or corporation, does or concurs in the doing of any of the acts hereinafter mentioned, with intent to cause or enable any person to be defrauded, or with intent to commit or to facilitate the commission by himself or by any other person, of any offence, that is to say —

- (1) conceals, injures, destroys, alters or falsifies any book, paper or account kept by or belonging or entrusted to his employers or to the partnership, company or corporation, or entrusted to him, or to which he has access, as such clerk, servant or officer, or omits to make a full and true entry in any account of any thing which he is bound to enter therein; or
- (2) publishes any account, statement or prospectus relating to the affairs of the partnership, company or corporation, which he knows to be false in any material particular,

shall be liable to imprisonment for seven years.

Fraud in sale or mortgage of land.

351. Whoever, in order to induce any person to become a purchaser or mortgagee of any land or interest in land, fraudulently conceals any document which is material to the title to such land or interest, shall be liable to imprisonment for three years.

Fraudulent debtors.

352. (1) Whoever —

- (a) obtains credit by any fraud or false pretence;
- (b) with intent to defraud his creditors, or any of them, makes any gift, or transfer of or any charge on any of his property;
- (c) with intent to defraud his creditors, or any of them, conceals or removes any of his property, after or within two months before the date of

any unsatisfied payment or order obtained against him,

shall be liable to imprisonment for one year.

(2) The provisions of this section shall be in addition to any provisions of any other law relating to bankruptcy or insolvency, but so that a person is not twice punishable for the same act or matter.

353. Whoever by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money, or to agree to the terms on which money is or is to be borrowed, is guilty of a misdemeanour.

Money lending under false pretence.

354. (1) For the purposes of this section —

Interpretation.

“agent” includes any person employed by or acting for another; and a person serving under the Crown or under any corporation or board is an agent within the meaning of this section;

See s. 147.

“consideration” includes valuable consideration of any kind;

“principal” includes an employer.

(2) Whoever —

Punishment of corrupt transactions with agents.

(a) being an agent corruptly accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal’s affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal’s affairs or business; or

(b) corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do or having done or forborne to do, any act in relation to his principal’s affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal’s affairs or business; or

(c) knowingly gives to any agent, or being himself an agent knowingly uses with intent to deceive

his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

shall be liable on conviction to imprisonment for a term of two years, or to a fine of two thousand dollars, or to both such imprisonment and such fine.

5 of 1987, Sch.

Prosecution for offences.

(3) A prosecution for an offence under this section shall not be instituted without the consent of the Attorney-General.

Fraud as to boundaries or documents.

355. Whoever with intent to defraud —

- (1) removes, injures, alters or falsifies any boundary mark or thing serving or intended to distinguish the land or other property of himself, or of any person, from the land or other property of any other person; or
- (2) conceals, injures, alters or falsifies any bill of lading, invoice, manifest, receipt or other document evidencing the quantity, character or disposition of any property, or the receipt or disposition of, or the title of any person to, any property,

shall be liable to imprisonment for two years.

Fraud as to thing pledged or taken in execution.
See s. 242.

356. Whoever, secretly or by duress or deceit, and with intent to defraud, takes or obtains any property from any person to whom he has pawned, pledged or otherwise bailed it, or from any person having, by virtue of any execution, seizure or other process of law, the possession, custody or control thereof, is guilty of a misdemeanour.

Fraud in removing goods to evade legal process.
See s. 242.

357. Whoever, knowing that any execution, warrant or other process of law has been awarded or issued for the seizure of anything belonging to him or in his possession, custody or control, removes, conceals or in any manner disposes of the thing, with intent to defeat or evade the execution, warrant or other process, is guilty of a misdemeanour.

Receiving

358. Whoever dishonestly receives any property which he knows to have been obtained or appropriated by any offence punishable under this Title shall, if the offence was a felony, be guilty of felony, or shall, if the offence was a misdemeanour, be liable to the same punishment as if he had committed the offence.

Dishonestly receiving properly obtained by indictable offence.
See ss. 62 to 65 and 148.

359.(1) Whoever is convicted of being a common receiver shall be liable to imprisonment for fourteen years.

Common receiving.
See s. 148.

Definition of a common receiver.

(2) A person shall be deemed to be a common receiver —

- (a) if he is twice within ten years convicted of the offence of receiving;
- (b) if the proceeds of two or more offences punishable under Title xi. or this Title or Title xxiv. of this Code are in his possession at the same time; or
- (c) if he, knowingly and without reasonable excuse, has in his possession any tools, implements or means specially contrived or adapted for the purpose of breaking up, melting or otherwise preventing the identification of the proceeds of any offence as aforesaid.

Special Provisions

360.(1) No person shall be convicted by any evidence whatsoever of any offence mentioned under this Title or under Title xxiv. of this Code in respect of any act done by him as a trustee or as an officer of any partnership, company or corporation, or as a factor or agent acting under any power of attorney, if he shall at any time previously to his being charged with such offence have first disclosed such an act on oath in consequence of any compulsory process of any court of law or equity, in any action, suit or proceeding which shall have been *bona fide* instituted by any party aggrieved, or if he shall have first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency.

Exemption of person making previous disclosure in compulsory proceedings.

No prosecution to be commenced without sanction of civil court.

(2) Where any civil proceeding shall have been taken against any trustee, officer, factor or agent to whom the provisions of this section may apply, no person who shall have taken such civil proceeding shall commence any prosecution for an offence under any Title in this Book without the sanction of the court or judge before whom such civil proceeding shall have been had or shall be pending.

No exemption as to answering questions in any suit or action. No civil remedy shall be affected. Conviction shall not be received in civil suits.

(3) No such trustee, officer, factor or agent as is referred to in this section, nor any other person expressly exempted from conviction under the proviso to section 341, shall be enabled or entitled, by anything in this Code contained, to refuse to make a full and complete discovery by answer to any pleading, or to answer any question or interrogatory in any court or upon the hearing of any matter in bankruptcy or insolvency; nor shall any proceeding, conviction or judgment, to be had or taken as aforesaid against any person, prevent, lessen or impeach any remedy at law or in equity which any party aggrieved by any such offence as aforesaid might have had if this Code had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and nothing in this Code contained shall affect or prejudice any agreement entered into or security given by any trustee having for its object the restoration or repayment of any trust property misappropriated.

TITLE xxiv BURGLARY AND HOUSEBREAKING

Definition of housebreaking.
17 of 1952, s. 2.

361. In this Code —

- (1) a person commits housebreaking if he unlawfully breaks any building for the purpose of executing, or of facilitating or abetting the execution of the offence of stealing or any felony therein, by himself or by any other person, for the purpose of effecting or facilitating the escape therefrom of himself or of any other person after the commission of or attempt to commit the offence of stealing or any felony therein;

- (2) a person breaks a building, if, for any of the purposes hereinbefore mentioned in this section, he uses any force or threat of force to any person who is within the building, or causes damage to anything which is in or forms part of the building, or commences to force or undo or open any lock, bolt, latch or other fastening, or opens a closed door or window, or is aided in entering or quitting the building by any person who is therein, and who aids him for the purpose of abetting the commission of the offence of stealing or any felony therein by him or by any other person;
- (3) a person unlawfully enters or is in a building or other place if he enters or is therein, as the case may be, otherwise than in his own right or by the consent of some other person able to give consent for the purposes for which he enters or is therein.

Definition of breaking.

Definition of unlawful entry.

362. Whoever commits housebreaking shall be liable to imprisonment for fourteen years.

House-breaking.
12 of 1984, s. 2 and Sch.

363. Whoever commits housebreaking by night in the case of a dwelling-house is guilty of burglary, and shall be liable to imprisonment for twenty years.

Burglary.
12 of 1984, s. 2 and Sch.

364. Whoever unlawfully enters or is by night in any building for the purpose of committing any indictable offence therein, shall, if the offence is a felony, be liable to imprisonment for seven years, or shall, if the offence is a misdemeanour, be liable to imprisonment for seven years.

Entry into a building by night, etc.

365. Whoever is found by night armed with any offensive instrument with the purpose of committing housebreaking or burglary, or is found by night having in his possession, without lawful excuse, any tool, implement or means contrived or adapted for housebreaking, or unlawfully enters or is by night in any building for the purpose of committing any crime therein, or in any building adjoining or near thereto, shall be liable to imprisonment for seven years.

Possession of instrument for burglary, etc.
See s. 210.

TITLE xxv
FORGERY AND FALSE COIN

Forgery of will,
judicial or official
document, etc.
See s. 17.

366. Whoever with intent to defraud, or with intent to defeat, obstruct or pervert the course of justice or the due execution of the law, forges any document of any of the following kinds, namely, any will, any document of title to land, any judicial or official document, certificate or record, any power of attorney, any bank-note, bill of exchange, promissory note or other negotiable instrument, any policy of insurance, or any cheque, post office money order or other authority for the payment of money by a person carrying on business as a banker, shall be liable to imprisonment for ten years.

Forgery of
document for
more than \$500.
17 of 1952, s. 2;
27 of 1965, s. 2;
5 of 1987, Sch.

367. Whoever with intent to defraud any person to an amount or value of more than five hundred dollars forges any document whatsoever shall be liable to imprisonment for seven years.

Forgery of other
document.

*See ss. 193 and
469.*

368. Whoever forges any document whatsoever with intent to defraud or injure any person, or with intent to defeat, obstruct, or pervert the course of justice or the due execution of the law, or with intent to evade the requirements of the law, or with intent to commit, or to facilitate the commission of any offence, shall be liable to imprisonment for three years.

Forgery of, and
other offences
relating to
stamps.

*See ss. 146, 194
and 195.*
*43 of 1964, Third
Sch.*

369. Whoever —

- (1) forges any stamp, whether impressed or adhesive, used for postal or revenue purposes by the Government, or by the Government of Great Britain, or of Northern Ireland, or of any other country of the Commonwealth or by any foreign prince or state;
- (2) without lawful excuse (the proof whereof shall lie on him) makes or has knowingly in his possession any die or instrument capable of making the impression of any such stamp;
- (3) fraudulently cuts, tears or in any way removes from any material any stamp used for postal or revenue purposes by the Government, with intent that any use should be made of the stamp or of any part thereof;

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- (4) fraudulently mutilates any such stamp as last aforesaid with intent that any use should be made of any part of it;
 - (5) fraudulently fixes or places upon any material, or upon any such stamp as last aforesaid, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn or in any way removed from any other material or out of or from any other stamp;
 - (6) fraudulently alters, erases or otherwise either really or apparently removes from any stamped material any cancellation, name, sum, date or other matter or thing whatsoever written thereon, with the intent that any use should be made of the stamp;
 - (7) fraudulently cancels any such stamp, by writing thereon or on any instrument to which the same may be affixed; or
 - (8) knowingly and without lawful excuse (the proof whereof shall lie upon him) has in his possession any stamp or part of a stamp which has been fraudulently cut, torn or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date or other matter or thing has been fraudulently erased or otherwise either really or apparently removed,

shall be liable to imprisonment for five years.

370.(1) Whoever is convicted of being a common forger shall be liable to imprisonment for fifteen years.

Common forging.

(2) A person shall be deemed to be a common forger —

Definition of common forger.

- (a) if he is proved to have used, or to have abetted the use of, any means specially contrived or adapted for purposes of forgery;
- (b) if he is convicted of any forgery punishable under this Code, after having been convicted of any similar offence punishable under this Code;

- (c) if he is proved to have had in his possession, custody or control at the same or at different times, two or more documents which he knew to have been forged, and by means of which he purposed to commit any offence punishable under this Code.

Counterfeiting coin, etc., and common coining.

371. Whoever with intent to defraud counterfeits or falsifies any coin, or imports or exports any counterfeited or falsified coin shall be liable to imprisonment for five years.

Clipping, etc., of coin and being in possession of clippings, etc.

372. (1) Whoever impairs, diminishes or lightens any coin, with intent that when so dealt with it may pass as current coin, shall be liable to imprisonment for ten years.

*16 of 1936, s. 7.
See s. 198.*

(2) Whoever without lawful excuse (the proof whereof shall lie on him) has in his possession any filings or clippings, gold or silver bullion, or gold or silver in dust, solution or otherwise, produced or obtained by diminishing or lightening any current gold or silver coin, knowing it to have been so produced or obtained, shall be liable to imprisonment for seven years.

Common coiner.

373. (1) Whoever is convicted of being a common coiner shall be liable to imprisonment for fifteen years.

Definition of a common coiner.

(2) A person shall be deemed to be a common coiner —

- (a) if he is proved to have used, or to have abetted the use of, any means specially contrived or adapted for purposes of committing any crime with respect to coin;
- (b) if he is convicted of any crime with respect to coin, after having been convicted of any similar offence punishable under this Code;
- (c) if he is proved to have had in his possession, custody or control, at the same or at different times, three or more coins which he knew to have been counterfeited or falsified, and by means of which he purposed to commit any offence punishable under this Code.

Being in possession of means of coining or forging.
See s. 77.

374. Whoever without lawful excuse (the proof whereof shall lie on him) has in his possession any instrument or thing specially contrived or adapted for purposes of forgery or of committing any crime relating to coin, shall be liable to imprisonment for seven years.

375. Whoever, with any of the intents mentioned in this Title, utters or in any manner deals with or uses any such document, stamp or coin as is in this Title mentioned, knowing the same to be forged, counterfeited, or falsified, as the case may be, or knowing the same not to be genuine, shall be liable to the like punishment as if he had with that intent forged, counterfeited or falsified, as the case may be, the document, stamp or coin.

Uttering forged documents, etc.
See ss. 193 and 196.

376. If any person, with intent to defraud, demands or accepts for himself or for any other person, any money or money's worth as being due under or by virtue of any document which he knows to be forged or not to be genuine, he shall be liable to the same punishment, as if he had forged the document with intent to defraud some person of the money or money's worth.

Claiming upon forged document.

See s. 193.

377. Whoever, with any of the intents mentioned in this Title, has in his possession any document, stamp or coin which is forged, counterfeited or falsified, or which he knows not to be genuine, shall be liable to the like punishment as if he had, with that intent, forged, counterfeited or falsified, as the case may be, the document, stamp or coin.

Possessing forged document, etc.

378. (1) If any person without due authority or excuse (the proof whereof shall lie upon him) makes or has in his possession for sale, or offers for sale or sells, any medal, cast, coin or other like thing made wholly or partially of metal or any metallic combination and resembling in size, figure, and colour any current gold or silver coin, or having thereon a device resembling any device on any gold or silver coin, or being so formed that it can by gilding, silvering, colouring, washing, or other like process, be so dealt with as to resemble any gold or silver coin, he shall be guilty of a misdemeanour, and on being convicted, shall be liable to be imprisoned for one year.

Punishments for selling medals resembling current coin.
16 of 1936, s. 8.

(2) For the purposes of this section "current gold or silver coin" means any gold or silver coin coined in any mint belonging to the Government or the Central Bank of The Bahamas, or for or on behalf of the Government or the Central Bank of The Bahamas or lawfully current by virtue of any law in force in The Bahamas or in any other part of the Commonwealth, or lawfully current in any foreign country.

5 of 1987, Sch.

Forgery.

379.(1) If any person, with intent to defraud, forges or alters any currency note, or, knowing any note purporting to be a currency note to be forged or altered, utters the same, he shall on conviction be liable to imprisonment for ten years.

(2) If any person without lawful authority or excuse (the proof whereof shall lie upon him) receives from any other person or has in his possession any forged or altered note purporting to be a currency note, knowing the same to be forged or altered, or any unfinished or incomplete note purporting to be a currency note issued by the commissioners, he shall be liable on conviction to imprisonment for five years.

Possession of materials for forging notes.

380.(1) If any person without lawful authority or excuse (the proof whereof shall lie upon him) —

- (a) makes or uses or sells or exposes for sale, or knowingly has in his possession —
 - (i) any instrument for the making of paper with any words, device or distinction peculiar to and appearing in the substance of the paper used for currency notes;
 - (ii) any paper with any such words, device or distinction as aforesaid;
- (b) by any art or contrivance causes any such words, device or distinction, or any words, device or distinction intended to resemble and pass for the same to appear visible in the substance of any paper,

such person shall be liable on conviction to imprisonment for five years.

(2) If any person without lawful authority or excuse (the proof whereof shall lie upon him) —

- (a) engraves or in any wise makes upon any plate whatsoever, or upon any material, any note purporting to be currency note or a part of a currency note, or any name, word, number, figure, device, character or ornament resembling or apparently intended to resemble any signature to a currency note;

16 of 1936, s. 8.

- (b) uses any such plate or material, or any other instrument or device for the making or printing of any currency note;
- (c) knowingly has in his possession any such plate, material, instrument or device;
- (d) knowingly utters or has in his possession any paper upon which an impression of any such matter as aforesaid is made or printed,

such person shall be liable on conviction to imprisonment for five years.

381. If any person without lawful authority or excuse (the proof whereof shall lie upon him) mutilates or in any way defaces a currency note, whether by writing, printing, drawing or stamping thereon or by attaching or affixing thereto anything in the nature or Form of an advertisement, he shall on conviction be liable to a fine of five hundred dollars.

Mutilating or defacing currency notes.
16 of 1936, s. 8.

5 of 1987, Sch.

382. (1) If any person makes or causes to be made or uses for any purpose whatsoever or utters any document purporting to be or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency note or any part thereof, he shall be liable on conviction to a fine of one hundred dollars in respect of each such document and it shall be lawful for the court to order the document in respect of which the offence was committed and any copies of that document and any plates, block, dies or other instruments used for or capable of being used for printing or reproducing any such document which are in the possession of such offender to be destroyed.

Imitation of currency notes.
16 of 1936, s. 8.

5 of 1987, Sch.

(2) If any person, whose name appears on any document the making of which is an offence under this section refuses to disclose to a police officer the name and address of the persons by whom it was printed or made he shall be liable on conviction to a fine of one hundred dollars.

5 of 1987, Sch.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under this section or on any other document used or distributed in connection with that document it shall be *prima facie* evidence that that person caused the document to be made.

Procuring,
making, etc., of
document by
force, etc.

383. Whoever, with any of the intents mentioned in this Title, causes any person, by duress, deceit, or in any manner without his consent, to make, alter, cancel or injure any such document as is in this Title mentioned, shall be liable to the like punishment as if he had forged the document with such intent.

Forging hallmark
on gold or silver
plate or bullion.

384. Whoever with intent to defraud forges or counterfeits any hallmark or mark appointed under authority of law, by any corporation or public officer to denote the weight, fineness or age, or place of manufacture of any gold or silver plate or bullion, shall be liable to imprisonment for two years.

Imitating
authorised
marks.

385. Whoever fraudulently counterfeits, or imitates in a manner calculated to deceive, any mark which under law is impressed upon or otherwise made upon or affixed to any chattel, or upon or to anything containing or connected with such chattel, for the purpose of denoting the quality of such chattel, or the fact that it has been tested or examined and approved by or under the authority of any public body, or by any public officer, shall be liable to imprisonment for seven years.

Imitating
customary
marks.

386. (1) Whoever fraudulently counterfeits, or imitates in a manner calculated to deceive, any mark impressed or otherwise made upon or affixed to any chattel, or upon or to anything containing or connected with such chattel, which mark is by recognised practice understood to denote that the thing marked has been examined and certified to be of a particular quality by any particular officer or person, whether such officer or person be authorised by law or not so to certify, shall be liable to imprisonment for two years.

Ch. 322.

(2) The provisions of this section and section 385 shall be in addition to the provisions concerning offences punishable under the Trade Marks Act or under any Acts passed in amendment thereof or in substitution therefor; but so that a person is not twice punishable for the same act or matter.

Search warrants.
10 of 1959, s. 2.

387. (1) If it shall be made to appear by information on oath before a magistrate that there is reasonable cause to believe that any person has in his custody or possession without lawful authority or excuse —

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- (a) any currency note; or
 - (b) any implement for making paper or imitation of the paper used for currency notes; or
 - (c) any material having thereon any words, forms, devices or characters capable of producing or intended to produce the impression of a bank note; or
 - (d) any forged document, seal or die; or
 - (e) any machinery, implement, utensil or material used or intended to be used for the forgery of any such document,

the magistrate may grant a warrant to search for the same; and if the same shall be found on search, it shall be lawful to seize and carry it before a magistrate of the district in which the warrant was issued, to be by him disposed of according to law.

388. Where any forged currency note, or any machinery, implement, utensil or material used or intended to be used for the forgery of a currency note is lawfully seized under a warrant granted in pursuance of section 387 or otherwise, the currency note, machinery, implement, utensil or material, as the case may be, shall be delivered up to the Minister for Finance, or to any person authorised by him for the purpose, by order of the court before which the offender is tried, or if there is no trial, by order of a magistrate.

Disposal of forged currency notes and plant used for forging currency notes.

10 of 1959, s. 2; G.N. 172/1964.

TITLE xxvi

TREASON AND CRIMES AGAINST THE SAFETY OF THE STATE

389. Whoever compasses, imagines, invents, devises or intends any act, matter or thing, the compassing, imagining, inventing, devising or intending whereof is treason by the law of England for the time being in force, and expresses, utters or declares such compassing, imagination, invention, device or intention, by publishing any printing or writing or by any overt act, or does any act which, if done in England, would be deemed to be treason according to the law of England for the time being in force, shall be adjudged to be a traitor, and shall be liable to suffer death.

Treason.

Misprision of treason.

390. Whoever knows of any treason and does not forthwith reveal the same to the Governor-General or to some justice of the peace, shall be guilty of misprision of treason, and shall be liable to imprisonment for seven years.

Treason felony.

391. Whoever compasses, imagines, invents, devises or intends any act, matter or thing, the compassing, imagining, inventing, devising or intending whereof is felony by the law of England for the time being in force, and expresses, utters or declares such compassing, imagination, invention, device or intention, by publishing any printing or writing, or by open and advised speaking, or by any overt act, shall be liable to imprisonment for life.

Application of English law of treason, etc.

392. All the enactments, provisos, requirements and limitations of the law of England for the time being in force relating to treason, misprision of treason and treason felony, shall be and the same are hereby declared to be enactments, provisos, requirements and limitations of the law of The Bahamas.

Setting up independent state, etc.

5 of 1987, Sch.

393. Any person who prepares or endeavours to procure by force the setting up of an independent state in any part of The Bahamas or the secession of any part of The Bahamas from The Bahamas, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding twenty years.

Use of armed force against the Government, etc.

394. Whoever prepares or endeavours, by armed force or the show of armed force, to procure an alteration in the Government or laws or to resist the execution of the laws, or to compel the Governor-General or any member of the Senate, or the House of Assembly, or any person in command of any military or naval forces or of any peace officers, to do, or to abstain from doing, any act of a public or official character shall be liable to imprisonment for life.

Interpretation as to sedition.

395. In this Title —

“import” includes to bring or cause to be brought into The Bahamas by land, air or sea;

“periodical publication” includes every publication issued periodically or in parts or numbers at intervals whether regular or irregular;

21 of 1939, s. 6.

“publication” includes all written or printed matter and everything whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication;

“seditious publication” means a publication having a seditious intention;

“seditious words” means any words having a seditious intention.

A “seditious intention” is an intention —

- (i) to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, Her Heirs or successors, or the Government of The Bahamas as by law established; or
- (ii) to excite Her Majesty’s subjects or inhabitants of The Bahamas to attempt to procure the alteration, otherwise than by lawful means, of any other matter in The Bahamas as by law established; or
- (iii) to bring into hatred or contempt or to excite to disaffection against the administration of justice in The Bahamas; or
- (iv) to raise discontent or disaffection amongst Her Majesty’s subjects or inhabitants of The Bahamas.

But an act, speech, or publication is not seditious by reason only that it intends —

- (a) to show that Her Majesty has been misled or mistaken in any of her measures; or
- (b) to point out errors or defects in the government or constitution of The Bahamas as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
- (c) to persuade Her Majesty’s subjects or inhabitants of The Bahamas to attempt to procure by lawful means the alteration of any matter in The Bahamas as by law established; or

- (d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of The Bahamas:

Provided that, in determining whether the intention with which any act was done, any words were spoken, or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.

Sedition offences.

21 of 1939, s. 7.

396. (1) Any person who —

- (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;
- (b) utters any seditious words;
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious,

5 of 1987, Sch.

shall be guilty of an offence and liable for a first offence to imprisonment for two years or to a fine of one thousand dollars or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years; and any seditious publication shall be forfeited to Her Majesty.

5 of 1987, Sch.

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and liable for a first offence to imprisonment for one year or to a fine of five hundred dollars or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication shall be forfeited to Her Majesty.

(3) No prosecution for an offence under subsection (1) or (2) of this section shall be begun except within six months after the offence is committed.

(4) A person shall not be prosecuted for an offence in contravention of subsection (1) or (2) of this section without the written consent of the Attorney-General.

(5) No person shall be convicted of an offence under subsection (1) or (2) of this section on the uncorroborated testimony of one witness.

397.(1) If the Governor-General is of opinion that the importation of any publication or of the publications of any particular agency or institution would be contrary to the public interest he may, by Order, prohibit the importation of such publication or publications; and in the case of a periodical publication he may, by the same or a subsequent Order, prohibit the importation of any past or future issue thereof.

Power to prohibit the importation of publication.

*21 of 1939, s. 8;
29 of 1953, s. 2.*

(2) Any person who imports, publishes, sells, offers for sale, distributes, or reproduces any publication, the importation of which has been prohibited under subsection (1) of this section, or any extract therefrom, shall be guilty of an offence and liable, for a first offence to imprisonment for two years or to a fine of one thousand dollars or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years; and such publication or extract therefrom shall be forfeited to Her Majesty.

5 of 1987, Sch.

(3) Any person who without lawful excuse has in his possession any publication the importation of which has been prohibited under subsection (1) of this section, or any extract therefrom, shall be guilty of an offence and liable for a first offence to imprisonment for one year or to a fine of five hundred dollars or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication or extract therefrom shall be forfeited to Her Majesty.

5 of 1987, Sch.

(4) Any person to whom any publication the importation of which has been prohibited under subsection (1) of this section, or any extract therefrom, is sent without his knowledge or privity, or in response to a request made before the prohibition of the importation of such publication came into effect, or who has such a publication or extract therefrom in his possession at the time when the prohibition of its importation comes into effect, shall forthwith, or as soon as the nature of its contents have become known to him, or, in the case of a publication or extract therefrom coming into the possession of such person before an Order prohibiting its importation has been made, forthwith upon the coming into effect of an

Order prohibiting the importation of such publication, deliver such publication or extract therefrom to the officer in charge of the nearest police station or a commissioner, and in default thereof shall be guilty of an offence and liable to imprisonment for one year or to a fine of five hundred dollars or to both such imprisonment and fine; and such publication or extract therefrom shall be forfeited to Her Majesty.

5 of 1987, Sch.

(5) A person who complies with the provisions of subsection (4) of this section or is convicted of an offence under that subsection shall not be liable to be convicted for having imported or having in his possession the same publication or extract therefrom.

Aiding or permitting escape of prisoner of war.

398. (1) Whoever intentionally and unlawfully aids or permits the escape of a prisoner of war shall be liable to imprisonment for ten years.

(2) Whoever negligently and unlawfully permits the escape of a prisoner of war shall be liable to imprisonment for two years.

Abetment of mutiny by soldier or sailor.

399. Whoever, not being subject to any Articles of War or Articles of the Navy, abets the commission of mutiny by any person subject to such articles, shall be liable to imprisonment for fifteen years.

Abetment of desertion or insubordination by soldier or sailor, or assault on superior officer.

400. Whoever, not being subject to any Articles of War or Articles of the Navy, abets the desertion of or abets any act of insubordination by, any person subject to such articles, or abets the commission by any such person of any assault upon a superior officer being in the execution of his office, shall be liable to imprisonment for two years.

Evasion of military or naval service.

401. Whoever causes harm to himself, or procures any other person to cause harm to him, for the purpose of evading any liability to perform military or naval service or duty, shall be liable to imprisonment for two years.

Unlawful training.

402. If three or more persons meet or are together for the purposes of military training or exercise, without the permission of the Governor-General or of some officer or person authorised by law to give such permission, each of them is guilty of a misdemeanour.

403.(1) If any person is within The Bahamas obtaining or attempting to obtain recruits for the service of any foreign state in any capacity, the Governor-General may by Order either prohibit such person from so doing, or permit him to do so subject to any conditions which the Governor-General thinks fit to impose.

Recruiting may be prohibited or permitted.

(2) The Governor-General may from time to time, by Order published in the *Gazette*, either prohibit recruiting for the service of any foreign states, or impose upon such recruiting any conditions which he thinks fit.

Conditions may be imposed by Order.

(3) Whoever, in violation of the prohibition of the Governor-General or of any condition subject to which permission to recruit may have been accorded —

Penalty for violating Order.

- (a) induces, or attempts to induce, any person to accept, or agree to accept, or to proceed to any place with a view to obtaining any commission or employment in the service of any foreign state;
- (b) knowingly aids in the engagement of any person so induced by forwarding or conveying him, or by advancing money, or in any other way whatever,

shall be liable to imprisonment for seven years, or to a fine to such amount as the court thinks fit, or to both.

(4) In this section —

“foreign state” includes any person or persons exercising, or assuming to exercise the powers of the government in or over any country, colony, province or people beyond the limits of Her Majesty’s dominions.

Definition of “foreign state”.
E.L.A.O., 1974.

404. Whoever is guilty of piracy, or of any crime connected with or relating or akin to piracy, shall be liable to be tried and punished according to the law of England for the time being in force.

Piracy.

405. Any person who —

- (a) meets, or is together with, two or more persons any one or more of whom is armed with any explosive, firearm or other offensive weapon or dressed in uniform or with accoutrements of a military nature;
- (b) meets, or is together with, two or more persons for military training or exercise; or

Military operations.
6 of 1971, s. 2.

- (c) collects, stores or distributes explosives, firearms or other offensive weapons, or uniforms, accoutrements or other stores of a military nature,

in such circumstances as to give rise to reasonable suspicion that his purpose is to coerce the Government of The Bahamas, or the Government of any other country of the Commonwealth or the Government of any foreign state with which Her Majesty is at peace, or to make or facilitate an invasion or an armed attack upon the territories of any such country of the Commonwealth or foreign state, and fails to satisfy the court that such was not his purpose, shall be liable to imprisonment for a term not exceeding twenty years.

Taking or administering unlawful oath.

406.(1) Whoever takes, or administers, or attempts or offers to administer to any other person, any unlawful oath, shall be liable to imprisonment for five years.

Definition of “unlawful oath.”

- (2) In this section —

“unlawful oath” means any oath or engagement to commit or abet any crime, or to conceal a design to commit any crime, or to prevent the discovery of any crime or the conviction of any person for any crime, and any oath or engagement to conceal the existence, purposes or proceedings of any associations of persons associated for any treasonable or seditious purpose.

Breaches of official trust.

407.(1) Whoever, by means of his holding or having held an office under the Queen, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom it ought not, in the interest of the State or otherwise in the public interest, to be communicated at that time, shall —

- (a) if the communication was made or attempted to be made to a foreign state, be liable to imprisonment for fifteen years; or
 (b) in any other case be guilty of a misdemeanour.

(2) This section shall apply to a person holding a contract with the Government, or with the holder of any office under the Queen as such holder, where the contract involves an obligation of secrecy; and also to any person employed by any person holding such a contract; and the person holding the contract and the person so employed are under the like obligation of secrecy as if they were respectively holders of an office under the Queen.

(3) A prosecution for an offence under this section shall not be instituted except by the Attorney-General or with his consent.

(4) In this section —

“communication” includes any communication whether in whole or in part, and whether the document, sketch, plan, model, or information itself, or the substance or effect thereof only be communicated;

“model” includes design, pattern and specimen;

“office under the Queen” includes any office or employment in or under any department of the Government; and, so far as regards any document, sketch, plan, model, or information relating to the naval or military affairs of Her Majesty, includes any office or employment in or under any department of Her Majesty’s Government;

“sketch” includes any photograph or other mode, or representation of a place or thing.

Special Provisions

408.(1) A magistrate may issue a warrant empowering a peace officer to enter upon and search for —

- (a) any seditious publication as defined in section 395; or
 - (b) any publication the importation of which has been prohibited under subsection (1) of section 397, in any premises where any such publication or extract therefrom may be or may be reasonably suspected to be.
- (2) Any of the following officers, that is to say —
- (a) the Postmaster General or any officer authorised by him in that behalf;
 - (b) the Comptroller of Customs or any officer authorised by him in that behalf;

Search warrants and power to examine packages.

21 of 1939, s. 9.

- (c) any police officer, not below the rank of Assistant Superintendent of Police;
- (d) any other officer authorised by the Attorney-General in that behalf,

E.L.A.O., 1974.

may detain, open and examine any package or article which he suspects to contain any publication or extract therefrom which it is an offence under the provisions of subsections (2) and (3) of section 397 to import, publish, sell, offer for sale, distribute, reproduce or possess, and during such examination may detain any person importing, distributing or posting such package or article or in whose possession such package or article is found.

(3) If any such publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by the officer and the person importing, distributing, or posting it, or in whose possession it is found, may forthwith be arrested and proceeded against for the commission of an offence under subsection (2), (3) or (4) of section 397, as the case may be.

TITLE xxvii CRIMES AGAINST THE PUBLIC PEACE

Riot.
See s. 7

409. Whoever takes part in a riot is guilty of a misdemeanour.

Rioting with
weapons.

410. Whoever takes part in a riot, being armed with any offensive instrument, shall be liable to imprisonment for seven years.

Unlawful
assembly.
See s. 79.

411. Whoever takes part in an unlawful assembly shall be liable to imprisonment for one year.

Provocation of
riot.

412. Whoever does any act with intent to provoke a riot is guilty of a misdemeanour.

Riot and felony.
See s. 87(2).

413. Whoever in rioting or taking part in an unlawful assembly is guilty of any felony punishable under any of the Titles xviii., xx., xxii., xxiii. or xxiv. of this Code, shall be liable to imprisonment for a term which may exceed by three years, the term to which he would otherwise be liable under the provisions of such Title.

414.(1) If, as is provided in Book I. of this Code, proclamation is made commanding the persons engaged in a riot, or unlawful assembly, to disperse, every person who, at or after the expiration of one hour from the making of such proclamation, takes or continues to take part in the riot or assembly, shall be liable to imprisonment for five years.

Rioting after proclamation.

See ss. 80 and 81.

(2) Whoever forcibly prevents or obstructs the making of such proclamation shall be liable to imprisonment for ten years; and if the making of the proclamation is so prevented, every person who, knowing that it has been so prevented, takes or continues to take part in the riot or assembly, shall be liable to imprisonment for five years.

Preventing or obstructing the making of proclamation.

(3) Whoever assaults any magistrate, justice of the peace, officer or person executing any duty or authority for the suppression of a riot or for the dispersion or arrest of any persons engaged in a riot, or unlawful assembly, shall be liable to imprisonment for five years.

Assaulting magistrate, etc., in riot.

(4) No person shall be prosecuted for an offence under this section, unless such prosecution be commenced within twelve months after the offence is committed.

415. Whoever with violence makes any entry into any building or land, whether he be entitled to the possession thereof or not, is guilty of a misdemeanour, unless he does so in pursuance of a warrant or other lawful authority to use such violence.

Forcible entry.

416. Whoever, being unlawfully and without claim of right in or upon any building or land, maintains or attempts to maintain his possession or occupation thereof with violence, is guilty of a misdemeanour.

Forcible detainer.

417. Whoever does any act with intent to provoke any other person to fight, whether in a public place or not, with any deadly or dangerous instrument, and whoever agrees or offers so to fight, is guilty of a misdemeanour.

Challenging or agreeing to fight with weapons.

See s. 202.

418. Whoever unlawfully and maliciously threatens any person with death or grievous harm, with intent to put him in fear of death or grievous harm, is guilty of a misdemeanour.

Threat of death or grievous harm.

See s. 203.

Threat by
writing.

419. Whoever by writing threatens any person with death or grievous harm, or by writing threatens the commission of arson or of any felony punishable under Title xxii. of this Code, shall be liable to imprisonment for ten years.

Violence against
judges, etc., in
legal proceeding.
*See ss. 239, 247
and 265.
15 of 2014, s.5*

420. Whoever uses any violence with intent to deter any person from acting in any manner as a judge, magistrate, juror, witness, counsel, agent, prosecutor or party in any legal proceeding or enquiry or from acting in execution of his duty as a magistrate or peace officer, or in any judicial or official capacity, or from having recourse to any court or public officer, or on account of his having so acted or had recourse, shall be liable on conviction to imprisonment for ten years.

Disturbance of
lawful assembly.

421. Whoever unlawfully and with violence obstructs the assembly of any persons for any lawful purpose or disturbs any such assembly, or with violence disperses or attempts to disperse any such assembly, is guilty of a misdemeanour.

Obstructing
public or peace
officer.
*See ss. 247 and
265.*

422. Whoever with violence or by deceit hinders or obstructs any public or peace officer or other person acting or proceeding to act in the execution of any public office or duty, or in the execution of any warrant or legal process, is guilty of a misdemeanour.

TITLE xxviii PERJURY AND PERVERSION OF JUSTICE

Perjury and Similar Crimes

Definition of
“perjury”.

423. In this Code —

- (1) perjury is an assertion as to a matter of fact, opinion, belief or knowledge made by a witness in a judicial proceeding as part of his evidence, either upon oath or in any form allowed by law to be substituted for an oath, whether such evidence is given in open court or by affidavit or otherwise, such assertion being known to the witness to be false, and being intended by him to mislead the court, jury or persons holding the proceeding;

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- (2) every person is a witness within the meaning of this Title who actually gives his evidence upon oath or in any such form as aforesaid, whether he was competent to be a witness or not, and whether his evidence was admissible or not; Definition of “witness.”
- (3) a person fabricates evidence if he causes any circumstance to exist, or makes any false entry in any book, account or record, or makes any document containing a false statement, or forges any document, with intent to mislead any public officer, judge, magistrate, juror, or member of a tribunal acting in any judicial proceeding; Definition of “fabrication”.
- (4) every proceeding is judicial within the meaning of this Title which is held in, or under, the authority of a court or before any justice of the peace or any arbitrator or umpire, or any person or body of persons authorised by law to make an enquiry and take evidence therein upon oath, or before any person, or body of persons, acting as a court, commission of enquiry or tribunal having power to hold such judicial proceeding or enquiry whether duly constituted or not, and whether such proceeding or enquiry was duly instituted or not so as to authorise the holding of the same, and although the proceeding or enquiry, was held in the wrong place or was otherwise invalid. Definition of “judicial proceeding” for purposes of this Title.
See s. 82.
- 424.** Whoever commits perjury shall be liable to imprisonment for ten years. Perjury.
- 425.** Whoever commits perjury with intent to cause the conviction of any person for any crime punishable with death, shall be liable to imprisonment for life. Perjury on trial for capital crime.
- 426.** Whoever fabricates evidence, with intent to defeat, obstruct or pervert the course of justice in any proceeding, shall be liable to the same penalties as if he had committed perjury in that proceeding. Fabrication of evidence.
- 427.** Whoever, in any declaration made in pursuance of any Act shall wilfully or corruptly declare to the truth of any matter material to be stated in such declaration, knowing the matter so declared to be false, shall be liable to the same penalties as if he had committed perjury. False declarations.
See ss. 243, 452 and 486.
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- Destruction, etc., of public register, etc.
See ss. 337-8, 341 and 455.
428. Whoever intentionally and unlawfully falsifies, destroys, injures, removes or conceals any public register of marriages, births, baptisms, deaths or burials, or any other public register or record, or any will or any document of title to land, with intent to defeat, obstruct or pervert the course of justice, or to defraud or injure any person, shall be liable to imprisonment for twenty years.
- Removal, etc., of document used in judicial proceeding.
429. Whoever unlawfully, with intent to defeat, obstruct or pervert the course of justice, or to defraud or injure any person, removes, conceals, injures or alters any instrument or document used or intended to be used in any judicial proceeding shall be liable to imprisonment for two years.
- Fraudulent acknowledgement of judgment, etc.
430. Whoever acknowledges or consents to any judgment or confession of a cause of action, or acknowledges any deed to be enrolled or registered, or enters into any recognisance or bail (whether the same to be filed or not), in the name of any other person without his consent, is guilty of felony.
- Deceit of court by personation, etc.
431. Whoever with intent to defeat, obstruct or pervert the course of justice, or to defraud or injure any person, endeavours to deceive any court, or any judicial officer by personation, or by any false instrument, document, seal or signature, shall be liable to imprisonment for five years.
- Deceit of public officer.
See s. 243.
432. Whoever, with intent to defeat, obstruct or pervert the course of justice, or the due execution of the law, or to evade the requirements of the law, or to defraud or injure any person, endeavours to deceive any public officer acting in the execution of any public office or duty, by personation or by any false instrument, document, seal or signature, or by any false statement, whether verbal or in writing, is guilty of a misdemeanour.
- Bringing fictitious action.
Repealed by 6 of 2006, s. 31.
433. Whoever fraudulently brings any action against another person in a false or fictitious name, having no ground for such action, is guilty of a misdemeanour.
- 434.

435.*Repealed by 6 of 2006, s. 31.*

436. Whoever without reasonable excuse makes default in obeying any summons, process or order lawfully issued or made for his attendance or for his examination on oath as a witness in any judicial proceeding, or for the production by him of any written or other evidence in any judicial proceeding is guilty of a misdemeanour.

Disobedience to summons as witness.
See s. 241.

437. Whoever with intent to prevent, obstruct or delay the taking of any inquest upon the body or touching the death of any person, or to defeat the ends of justice, buries or in any manner conceals or disposes of the body, shall be liable to imprisonment for two years.

Hindrance of inquest.

438. (1) Whoever, being under a duty as a magistrate, coroner, gaoler, peace officer, or in any other capacity, to give any notice or take any measures in order to the holding of an inquest upon the body or touching the death of any person, wilfully and without reasonable excuse fails to perform the duty, shall be liable to imprisonment for two years.

Neglect to hold inquest, etc.

(2) A prosecution for an offence under this section shall not be instituted except by the Attorney-General or with his consent.

439. Whoever with force, threats or tumult, hinders, interrupts or disturbs the proceeding of any court, or wilfully or unlawfully, with force, threats or tumult, hinders any person from entering or quitting any court, or removes him therefrom, or detains him therein, shall be liable to imprisonment for two years.

Disturbance of court.

See ss. 206(2) and 239.

440. Whoever in the presence of any court is guilty of contempt of the court by any insulting, opprobrious or menacing acts or words, is guilty of a misdemeanour.

Insulting court.

See s. 239.

441. Whoever, pending any proceedings in any court, publishes in writing or otherwise anything concerning the proceedings or any party thereto, with intent to excite any popular prejudice for or against any party to the proceedings, is guilty of a misdemeanour.

Exciting prejudice as to proceeding pending in court.

Rescue, Escape, Compounding Crime, etc.

442. Whoever endeavours to resist or prevent the execution of the law —

Rescue of criminal.
See s. 250.

(1) by resisting the lawful arrest of himself or of any other person for crime; or

- (2) by rescuing any other person, or aiding any other person to escape from lawful custody for crime, if the crime is punishable with death or with imprisonment for more than seven years, shall be liable to imprisonment for ten years, or if the crime is punishable with imprisonment for not more than seven years, shall be liable to imprisonment for five years, or, if the crime is a misdemeanour, is guilty of a misdemeanour.

Rescue in other cases.

443. Whoever endeavours to resist or prevent the execution of the law —

- (1) by resisting the lawful arrest of himself or of any other person for any cause other than crime;
- (2) by rescuing any other person from lawful custody for any cause other than crime; or
- (3) by rescuing any goods or things from any public officer or peace officer or other person having the possession, custody or care thereof under or by virtue of any lawful warrant or process,

is guilty of a misdemeanour.

Escape.

See s. 250.

444. (1) Whoever, being in lawful custody for crime, or under any sentence of imprisonment, endeavours to resist or prevent the execution of the law by escaping or permitting himself to be rescued, shall be liable to imprisonment for two years.

(2) Where a person in lawful custody under any sentence of imprisonment escapes, the time during which he is at large shall not be taken into account in computing the term of his original sentence.

Permitting escape.

See s. 250.

445. Whoever having the custody of a prisoner knowingly and wilfully allows him to escape, shall be liable to imprisonment for three years; and whoever having the custody of a prisoner through negligence allows him to escape shall be liable to imprisonment for one year.

Preventing execution of person sentenced to death.

Refusal or neglect to aid public officer, etc., in prevention of crime.

See ss. 88 and 246.

446. Whoever endeavours by force to prevent the execution of any person sentenced to death shall be liable to imprisonment for fifteen years.

447. Whoever, being lawfully commanded by any public officer, peace officer or other person to give aid for the prevention of crime, or for arresting any person, or for preventing the rescue or escape of any person, refuses or neglects to give such aid according to his ability is guilty of a misdemeanour.

448. Whoever, knowing or having reason to believe, that any person has committed or has been convicted of any crime, aids, conceals or harbours the person, with the purpose of enabling him to avoid lawful arrest or the execution of his sentence, shall, if the crime is punishable with death or with imprisonment for ten years or upwards, be liable to imprisonment for five years, or shall if the crime is a felony other than aforesaid, be liable to imprisonment for two years, or shall, if the crime is a misdemeanour, be liable to imprisonment for six months.

Harbouring
criminal.
See s. 250.

449.(1) Whoever, without leave of a court or other public authority empowered by law to grant such leave, compounds any crime, shall, if the crime is a felony, be liable to imprisonment for two years, or shall, if the crime is a misdemeanour, be liable to imprisonment for six months.

Compounding
crime.
See s. 259.

(2) A person compounds a crime if he offers or agrees to forbear from prosecuting or giving evidence against a person on a criminal charge, in consideration of money, or of any other valuable thing, or of any advantage whatsoever to himself or to any other person.

Definition of
compounding.

TITLE xxix
CRIMES RELATING TO PUBLIC
OFFICES AND TO PUBLIC
ELECTIONS

See s. 258.

450. Whoever without lawful excuse refuses to serve in any public office in which he is bound to serve, and for the refusal to serve in which no penalty or punishment is provided by any statute, is guilty of a misdemeanour.

Refusal to serve
in public office.

451. Whoever pretends to be or acts as a public officer or juror, not being lawfully authorised to act as such officer or juror, and in or under colour of that assumed character does or attempts to do, or procures or attempts to procure any person to do or abstain from doing, any act whatsoever is guilty of a misdemeanour, unless he shows either —

Falsely
pretending to be
public officer or
juror, etc.
See s. 245.

- (1) that he so pretended or acted under a mistake of law or of fact; or
- (2) in the case of a person acting as a public officer, that he so acted in good faith for the public benefit.

Making false declaration, etc., for office or voting.
See ss. 257 and 427.

452. Whoever, in order that he may obtain or be qualified to act in any public office or to vote at any public election, makes, signs, publishes or uses any declaration, statement or oath required by law in such case, or any certificate or testimonial as to his conduct or services, or as to any other matter which is material for the obtaining by him of the office, or for his qualification to act in the office or to vote at the election, shall, if he does so, knowing that the declaration, statement, oath, certificate, or testimonial is false in any material particular, be liable to imprisonment for two years and is guilty of a misdemeanour.

Corruption, etc., by public officer or juror.
See ss. 240 and 472 to 477.

453. (1) Every public officer or juror who is guilty of corruption, or of wilful oppression, or of extortion, in respect of the duties of his office, commits a misdemeanour and shall be liable to imprisonment for two years.

Explanation as to oppression.

(2) A public officer or juror is guilty of wilful oppression in respect of the duties of his office if he wilfully commits any excess or abuse of his authority, to the injury of the public or of any person.

Explanation of extortion.

(3) A public officer is guilty of extortion who, under cover of his office, demands or obtains from any person, whether for public purposes or for himself or any other person, any money or valuable consideration which he knows that he is not lawfully authorised to demand or obtain, or at a time at which he knows that he is not lawfully authorised to demand the same.

Giving of false certificate by public officer.

454. Every public officer who, being bound or authorised as such officer, to attest or certify, by writing or otherwise, any document or matter, or that an event has or has not happened, attests or certifies the document or matter, knowing the same to be false in any material particular, or attests or certifies that the event has happened or has not happened, as the case may be, without knowing or having reason to believe that the same has happened or has not happened, as the case may be, according to his attestation or certificate, is guilty of a misdemeanour.

Destruction, etc., of document by public officer.
See ss. 337, 350 and 428.

455. Every public officer who intentionally and unlawfully destroys, injures, falsifies, or conceals any document which is in his possession, custody, or control, or to which he has access, by virtue of his office, is guilty of a misdemeanour.

Destruction, etc., by officer of post office of postal packet.

456. Any officer of the post office who, for any purposes whatsoever, secretes, or destroys a postal packet in course of transmission by post, shall be liable to

imprisonment for seven years, or, If the postal packet contains any chattel or money, or valuable security, to imprisonment for twenty years.

See ss. 255, 335 and 342.

457.(1) Any officer of the post office who, contrary to his duty, opens or procures or suffers to be opened any postal packet in course of transmission by post, or wilfully detains or delays, or procures or suffers to be detained or delayed any such postal packet, is guilty of a misdemeanour.

Opening or delaying of postal packets.

(2) Nothing in this section shall extend to the opening, detaining, or delaying of a postal packet returned for want of a true direction, or returned by reason that the person to whom the same is directed is dead or cannot be found, or shall have refused the same, or shall have refused or neglected to pay the postage thereof, or to the opening or detaining or delaying of a postal packet under the authority of the laws relating to the post office or in obedience to an express order in writing under the hand of the Governor-General.

G.N. 172/1964; E.L.A.O., 1974.

458.(1) Any officer of the post office who grants or issues any money order with a fraudulent intent, shall be liable to imprisonment for seven years.

Issuing money order with fraudulent intent.

(2) If any officer of the post office re-issues a money order previously paid, he shall be deemed to have issued the order with a fraudulent intent under this section.

See s. 350.

459.Whoever, being employed or engaged in any capacity whatsoever in or about a telegraph station or office, and contrary to his duty, discloses or in any way makes known or intercepts the contents or any part of the contents of any message transmitted or received to or at any such station or office is guilty of a misdemeanour and shall be liable to imprisonment for one year.

Disclosure by employee at telegraph station or office.

460.Whoever unlawfully or maliciously in any manner whatsoever, prevents or obstructs or attempts to prevent or obstruct the sending, conveying or delivering of any telegraphic communication, is guilty of a misdemeanour.

Obstruction of telegraphic service.
See s. 256.

461.Every officer of a prison who uses any kind of torture to a prisoner, or who is guilty of cruelty to a prisoner, or who intentionally and unlawfully causes any harm to a prisoner, is guilty of a misdemeanour.

Oppression by officer of prison.

Corrupting
public officer or
juror.
See ss. 472 et seq.

462. Whoever corrupts or attempts to corrupt any person in respect of any duties as a public officer or juror is guilty of a misdemeanour.

Accepting bribe
to influence
public officer or
juror.

463. Whoever accepts, or agrees or offers to accept, any valuable consideration under pretence or colour of having unduly influenced, or of agreeing or being able so to influence, any person in respect of his duties as a public officer or juror, is guilty of a misdemeanour and shall be liable to imprisonment for one year.

Corrupt promise
by judicial
officer or juror.

464. Whoever, otherwise than in the due execution of his duties as a judicial officer or juror, makes or offers to make any agreement with any person as to the judgment or verdict which he will or will not give as a judicial officer or juror in any pending or future proceeding, is guilty of a misdemeanour and shall be liable to imprisonment for one year.

*See ss. 473 to
477.*

Corrupt selection
of juror.

465. Whoever, with a purpose of procuring any undue advantage or disadvantage to any party to any judicial proceeding, procures himself or any other person to be summoned, empanelled or sworn as a juror in the proceeding, or endeavours to prevent any other person from being summoned, empanelled or sworn as a juror in the proceeding, is guilty of a misdemeanour and shall be liable to imprisonment for one year.

Unlawful sale or
purchase of
office.

See s. 471.

466. Whoever is a party to or abets the unlawful sale or purchase of any public office, or the making of any unlawful and corrupt bargain or transaction with respect to an appointment to a public office, or with respect to the profits of a public office, is guilty of a misdemeanour.

Prevention, etc.,
of election by
force, etc.
See s. 478.

467. Whoever attempts to prevent, obstruct or disturb any public election by any kind of force, violence or threats, or by any act which is a crime punishable under this Code, is guilty of a misdemeanour.

Corruption,
intimidation, and
personation in
respect of
election.

*See ss. 472 to
477.*

468. (1) Whoever is guilty of corruption, intimidation, or personation in respect of a public election, is guilty of a misdemeanour and shall be liable to imprisonment for nine months, and shall, during seven years from the date of his conviction, be incapable of voting at any public election and of holding the public office in respect of which the election was held, or any public office of the same nature.

Definition of
intimidation.

(2) A person is guilty of intimidation at a public election if he endeavours to influence the conduct of any

voter in respect of the election by a threat of any evil consequence to be caused to him, or to any other person, on account of his conduct as such voter.

469. Whoever forges or falsifies, or intentionally and unlawfully injures or destroys, any voting paper or other similar thing, or intentionally and unlawfully injures or destroys any ballot box, polling booth or other apparatus or thing used for the purposes of a public election is guilty of a misdemeanour.

Forging, etc.,
voting paper, etc.
See s. 368.

470. Whoever, being a public officer, charged with the counting of votes or the making of a return at any public election, wilfully falsifies the account of such votes or makes a false return shall be liable to imprisonment for five years.

Falsification of
return at election.

Definitions and Special Provisions

471. (1) The provisions of the section of this Title for prohibiting the sale or purchase of a public office, or relating to corrupt bargains or transactions in respect of public offices, extend to every civil public office, the sale and purchase whereof is not authorised by any Act or by rules lawfully made respecting such office by some person having authority to make the same.

Special provision
as to sale and
purchase of
office.
E.L.A.O., 1974
See s. 466.

(2) For the purposes of the said section, “corrupt bargain or transaction” includes any agreement, not made with such sanction as aforesaid, for the giving or receipt by any person of any valuable consideration for nominating or appointing a person to an office, or for procuring, soliciting or recommending the nomination or appointment of a person to an office, or for resigning or procuring the resignation of an office, or for any promise, offer or endeavour to do any such act as hereinbefore in this section mentioned, and includes any agreement, not made with such sanction as aforesaid, for paying to any person, or permitting any person to retain or receive, the whole or any part of the salary, fees or other remuneration or benefits of an office.

472. A person is guilty of corrupting a public officer, juror, or voter in respect of the duties of his office or in respect of his vote, if he endeavours directly or indirectly to influence the conduct of the public officer, juror or voter in respect of the duties of his office or in respect of his vote, by the gift, promise or prospect of any valuable consideration to be received by the public officer, juror or

Explanation as to
corruption of
public officer,
etc.
See ss. 453 and
462.

voter, or by any other person, from any person whomsoever.

Explanation as to corruption by public officer, etc.

See s. 464.

473. A public officer, juror or voter is guilty of corruption in respect of the duties of his office or vote, if he directly or indirectly agrees or offers to permit his conduct as such officer, juror or voter to be influenced by the gift, promise or prospect of any valuable consideration to be received by him, or by any other person, from any person whomsoever.

Special explanation as to corruption of and by public officer, etc.

474. It is immaterial for the purpose of either of section 472 or 473, that the person respecting whose conduct the endeavour, agreement, or offer therein mentioned is made is not yet, at the time of the making of the endeavour, agreement or offer, such a public officer, juror or voter, if the endeavour, agreement or offer is made in the expectation that he will or may become or act as such officer, juror, or voter.

Corrupt agreement for lawful act.

475. It is immaterial, for the purposes of any of sections 472 to 474, whether the act to be done by a person in consideration or in pursuance of any such gift, promise, prospect, agreement, or offer as therein mentioned be in any manner criminal or wrongful otherwise than by reason of the provisions of the said sections.

Acceptance of bribe by public officer, etc., after doing act.

476. If, after a person has done any act as a public officer, juror, or voter, he secretly accepts, or agrees or offers secretly to accept for himself or for any other person, any valuable consideration on account of such act, he shall be presumed, until the contrary is shown, to have been guilty of corruption within the meaning of this Title, in respect of such act before the doing thereof.

Promise of bribe to public officer, etc., after act done.

See ss. 453 and 464.

477. If, after a public officer, juror or voter has done any act as such officer, juror or voter, any other person secretly agrees or offers to give to or procure for him or for any other person any valuable consideration on account of such act, the person so agreeing or offering shall be presumed, until the contrary is shown, to have been guilty of having, before the doing of the act, corrupted such public officer, juror or voter in respect of the act.

Explanation as to an election.

478. No person shall be relieved from any liability to punishment under this Title by reason of any irregularity or informality in the proceedings at or preliminary or subsequent to an election.

479. The provisions of this Title relating to public elections shall be in addition to the provisions relating to offences punishable under the Parliamentary Elections Act and any other Acts for regulating the election of members to serve in the House of Assembly of The Bahamas; but so that a person is not twice punished for the same act or matter.

Provisions additional to those of other Acts.
Ch. 7

TITLE xxx
BIGAMY AND SIMILAR CRIMES

480. In this Code —

- (1) a person commits bigamy who, knowing that a marriage subsists between him or her and any person, goes through the ceremony of marriage with some other person:

Definition of and special provision as to bigamy.

Provided that a person accused of bigamy shall be acquitted if at the time of the subsequent marriage his former wife or former husband has been continually absent from him or her for seven years, and has not been heard of by him or her as being alive within that time, and if before the subsequent marriage he or she informs the other party thereto of the facts of the case so far as they are known to him or her;

- (2) upon proof by the accused person of such continued absence and information as aforesaid, it shall lie on the prosecution to prove that the former wife or husband has been heard of as aforesaid;
- (3) and where for the purposes of this Title, it is requisite to prove a former marriage of any person, it shall be requisite and sufficient to prove a marriage, wheresoever and howsoever celebrated, which would be admitted by the court as a valid marriage for the purposes of any civil proceeding, or for the purposes of the administration or distribution of the effects of a person upon his decease;
- (4) in like manner, where a person accused of bigamy defends himself or herself on the ground of a divorce from a former wife or husband, any such divorce (and no other) shall be deemed sufficient as would be admitted by the court as a valid divorce from the bond of marriage.

Mode of proving marriage or divorce.

Bigamy. **481.** Whoever is guilty of bigamy shall be liable to imprisonment for seven years.

Marriage with a person previously married. **482.** Whoever, being unmarried, goes through the ceremony of marriage with a person whom he or she knows to be married to another person is guilty of a misdemeanour, whether the other party to the ceremony has or has not such guilty knowledge as to be guilty of bigamy.

Fictitious marriage. **483.** Whoever goes through the ceremony of marriage, or any ceremony which he or she represents to be a ceremony of marriage, knowing that the marriage is void on any ground, and that the other person believes it to be valid, shall be liable to imprisonment for seven years.

Personation in marriage. **484.** Whoever personates any other person in marriage, or marries under a false name or description, with intent to deceive the other party to the marriage, shall be liable to imprisonment for seven years.

Unlawfully performing marriage ceremony. **485.** Whoever performs or witnesses as a marriage officer the ceremony of marriage, knowing that he is not duly qualified to do so, or that any of the matters required by law for the validity of the marriage has not happened or been performed, so that the marriage is void or unlawful on any ground, shall be liable to imprisonment for seven years.

Making false declaration, etc., for marriage. **486.** Whoever in any declaration, certificate, licence, document or statement required by law to be made or issued for the purposes of a marriage, declares, enters, certifies or states any material matter which is false, shall, if he does so without having taken reasonable means to ascertain the truth or falsity of the matter, be liable to imprisonment for one year, or shall, if he does so knowing that the matter is false, be liable to imprisonment for five years.

See s. 427.

False pretence of impediment to marriage. **487.** Whoever endeavours to prevent a marriage by pretence that his consent thereto is required by law, or that any person whose consent is so required does not consent, or that there is any legal impediment to the performing of the marriage, shall, if he does so knowing that such pretence is false or without having reason to believe that it is true, be liable to imprisonment for two years.

488. Whoever with intent to defeat, obstruct or pervert the law with respect to inheritance or succession, or with intent to defraud or injure any person, falsely pretends that a child, whether living or dead, is a legitimate child, or substitutes one child, whether living or dead, legitimate or illegitimate, for another child, whether living or dead, legitimate or illegitimate, shall be liable to imprisonment for ten years.

Substitution of child.
See s. 348.

TITLE xxxi CRIMINAL PUBLIC NUISANCES

489. Whoever publishes, sells, or offers for sale any blasphemous or obscene book, writing or representation, shall be liable to imprisonment for two years:

Publication or sale of blasphemous or obscene libel.
See ss. 208(5) and 254(1)(b).

Provided that no one shall be convicted under this section for publishing any opinion on religious subjects expressed in good faith and in decent language, or for attempting to establish by arguments used in good faith and conveyed in decent language any opinion on a religious subject.

Illustrations

(1) *A.* publishes a book for the use of physicians or surgeons, or persons seeking medical or surgical information. Whatever may be the subjects with which the book deals, if they are treated with as much decency as the subject admits, *A.* is not guilty of an offence against this section.

(2) *B.* publishes extracts from the book mentioned in the last illustration arranged or printed in such a manner as to give unnecessary prominence to indecent matters. If the court or jury think that such publication is calculated unnecessarily and improperly to excite passion, or to corrupt morals, *B.* ought to be convicted.

490. Whoever publicly and wilfully commits any grossly indecent act is guilty of a misdemeanour.

Committing grossly indecent act.
See s. 212(12).

491. Whoever unlawfully hinders the burial of the dead body of any person, or without lawful authority in that behalf disinters, dissects or harms the dead body of any person or, being under a duty to cause the dead body of any person to be buried, fails to perform the duty, is guilty of a misdemeanour.

Hindering burial of dead body, etc.

Publishing false news.

492. Whoever, with intent to cause any public alarm or disturbance, publishes, or attempts to cause the publication of, any news or telegram which he knows or believes to be false, is guilty of a misdemeanour.

Selling, etc., unwholesome food.

493. Whoever sells, or prepares or offers for sale, as being fit for consumption as food or drink, anything which he knows or has reason to believe to be in such a condition, from putrefaction, adulteration or other cause, as to be likely to be obnoxious to health, is guilty of a misdemeanour.

Carrying on of noxious trade, and other interferences with public rights.

494. (1) Whoever without lawful authority or excuse (the proof whereof shall lie on him) commits any of the following nuisances, namely —

- (a) so carries on any noxious, offensive or noisy business at any place, or causes or permits any noxious or offensive matter to be collected or continued at any place, or so keeps any animals at any place, as to impair or endanger the health of the public inhabiting or using the neighbourhood of the place, or as to cause material damage to their lands, crops, cattle or goods, or as to cause material interruption to them in their lawful business or occupations, or as materially to affect the value of their property;
- (b) so makes, keeps or uses any explosive matter, or any collection of water, or any other dangerous or destructive thing, or any building, excavation, open pit or other structure, work or place, or so keeps any animal or permits it to be at large, as to cause danger of harm or damage to the persons or property of the public;
- (c) causes damage to, or any obstruction to the public use of, any public way or work, or any navigable water, well, spring or reservoir, so as to deprive the public of the benefit thereof; or
- (d) corrupts or fouls the water of any public well, tank, spring or reservoir, used by man for drinking or domestic purposes or for manufacturing food or drink for the use of man or beast,

shall be liable to fine, and shall, upon conviction for a continuance or repetition of any such offence, be liable to imprisonment for six months.

See s. 217.

(2) The following provisions shall have effect with respect to the nuisance of carrying on a noxious, offensive or noisy business, at any place, or of causing or permitting noxious or offensive matter to be collected or continued at any place, or of keeping animals at any place as mentioned in this section, namely —

Explanation as to carrying on of noxious trade, etc.

- (a) “business” includes not only any trade, manufacture, work, business or occupation carried on for gain, but also any continued or frequent repetition of any act or series of acts of any kind; and
- (b) it is necessary, in order that a person may be punishable in respect of any such nuisance, that the prejudice or danger caused thereby should extend to persons inhabiting or occupying, under separate tenancies, not less than three houses or other tenements.

(3) A person shall not be deemed to be guilty, within the meaning of this section, of obstructing the public use of any public way or work by reason only of his being a party to any meeting assembled in or upon or near any public way or work, unless the purposes of the meeting are or include the obstruction of the public by force or threats or show of force.

Explanation as to obstruction of public way.

(4) The provisions of section 493 and of this section regarding any noxious business shall be in addition to the provisions concerning offences punishable under the Public Market and Slaughterhouse Act or any Act passed in amendment thereof or in substitution therefor; but so that a person is not twice punishable for the same act or matter.

Ch. 240.

495.(1) Whoever sends or attempts to send a postal packet which either —

- (a) encloses any explosive substance, any dangerous substance, any filth, any noxious or deleterious substance, any sharp instrument not properly protected, or any article or thing whatsoever which is likely to injure either other postal packets in course of conveyance or an officer of the post office;

Sending by post explosive, inflammable or deleterious substance or indecent prints, words, etc.

See s. 254.

- (b) encloses any indecent or obscene print, painting, photograph, lithograph, engraving, book or card, or any indecent or obscene article, whether similar to the above or not; or
- (c) has on the packet, or on the cover thereof any words, marks or designs of an indecent, obscene or grossly offensive character,

shall be liable to imprisonment for twelve months.

(2) The detention in the post office of any postal packet on the ground of its being in contravention of this section shall not exempt the sender thereof from any proceedings which might have been taken if the packet had been delivered in due course of post.

TITLE xxxii CONCLUDING PROVISIONS, REPEALS, ETC.

References to corresponding offences under previous and existing law.

496.(1) A reference in any other Act to any offence under the law as it existed before the commencement of this Code shall be deemed to be a reference to any corresponding offence under this Code.

(2) A reference in this Code to any offence under this Code shall be deemed to be a reference to any corresponding offence under the law as it existed before the commencement of this Code.

Commencement of Code.

497.(1) This Code shall come in force on such specific day as the Governor shall by Proclamation appoint.¹

(2) The provisions of this Code shall apply to all offences committed on or after that day, but shall not apply to any offence the commission of which was begun before that day, although such offence may have become complete on or after that day.

Trial of offences committed before commencement of Code.

(3) Every offence committed before the commencement of this Code shall be determined and punished, and (subject to the provisions of this section) shall be inquired into and tried, as if the Acts and enactments repealed by this Act had not been so repealed

¹ The Governor appointed by proclamation the first day of January, 1927.