

CHAPTER 1

GRENADA

AN ACT to establish a Code of Offences punishable on Summary Conviction and on Indictment.

Acts Cap 76
1958 Revision
23/1962
32/1962
1/1963
7/1964
5/1966
10/1966
45/1972
18/1973
35/1973
36/1973
12/1974
3/1980
16/1993
36/1993

[20th January, 1987]

PRELIMINARY

- 1. This Act may be cited as the Short title
CRIMINAL CODE,
and is hereinafter referred to as "this Code."
- 2. This Code is divided into Books, Parts and Titles, as follows:— Arrangement of the Code

BOOK I

GENERAL PROVISION (p.p. 4-47)

- PART I INTRODUCTORY PROVISION
- TITLE I PRELIMINARY MATTERS

PART II RULES AS TO CRIMINAL RESPONSIBILITY

TITLE II GENERAL EXPLANATIONS

TITLE III SPECIAL EXPLANATIONS RELATION TO CERTAIN OFFENCES

TITLE IV ATTEMPTS TO COMMIT CRIMES

TITLE V ABETMENT AND CONSPIRACY

TITLE VI GENERAL EXEMPTIONS

TITLE VII JUSTIFIABLE FORCE AND HARM

PART III PUNISHMENTS

TITLE VIII GENERAL AND SPECIAL CASES

BOOK II

SUMMARY OFFENCES (P.P. 48-84)

PART IV OFFENCES AGAINST THE PERSON

TITLE IX ASSAULTS AND CRIMINAL HARM

PART V OFFENCES AGAINST RIGHTS OF PROPERTY

TITLE X MISCHIEF TO PROPERTY

TITLE XI MISAPPROPRIATIONS AND FRAUDS

TITLE XII FORGERY AND FALSE COIN

PART VI OFFENCES AGAINST PUBLIC ORDER, HEALTH, AND MORALITY

TITLE XIII PUBLIC NUISANCES

TITLE XIV PERJURY

TITLE XV MISCELLANEOUS OFFENCES

BOOK III

INDICTABLE OFFENCES (P.P. 84-158)

PART VII OFFENCES AGAINST THE PERSON AND REPUTATION

TITLE XVI ASSAULT AND SIMILAR OFFENCES

TITLE XVII CRIMINAL HARM TO THE PERSON

TITLE XVIII CRIMINAL HOMICIDE AND SIMILAR OFFENCES

TITLE XIX LIBEL

PART VIII OFFENCES AGAINST RIGHTS OF PROPERTY

TITLE XX MISCHIEF TO PROPERTY

TITLE XXI MISAPPROPRIATIONS AND FRAUDS

TITLE XXII HOUSE-BREAKING AND BURGLARY

TITLE XXIII FORGERY AND FALSE COIN

PART IX OFFENCES AGAINST PUBLIC ORDER, HEALTH AND MORALITY

TITLE XXIV OFFENCES AGAINST THE SAFETY OF THE STATE

TITLE XXV OFFENCES AGAINST THE PUBLIC PEACE

TITLE XXVI PERJURY AND OBSTRUCTIONS OF PUBLIC JUSTICE

TITLE XXVII OFFENCES RELATING TO PUBLIC OFFICES AND TO PUBLIC ELECTIONS

TITLE XXVIII BIGAMY AND SIMILAR OFFENCES

TITLE XXIX PUBLIC NUISANCES

PART X OFFENCES AGAINST NATIONAL FINANCIAL INTEGRITY

TITLE XXX MAIL, WIRE AND ELECTRONIC FRAUDS (SEE P.P. 155-158)

BOOK I

GENERAL PROVISIONS

PART I

INTRODUCTORY PROVISIONS

TITLE I

PRELIMINARY MATTERS

3. (1) In this Code, unless the context otherwise requires—

“act” includes any act or omission, and 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;

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

“corporation” does not include a corporation sole;

“crime” means any act punishable by death or imprisonment;

“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;

“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;

An 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, is a “felony” whether it be actually prosecuted summarily or on indictment;

“gaming house” means any building or premises kept or used by any person without lawful authority, for the purpose of directly or indirectly making gain by providing any facilities for betting or for the playing of any game of chance for money or money’s worth;

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

“Health officer” includes every Government medical officer, and any person appointed as health officer of sanitary authority in virtue of the provision of any act;

“Imprisonment” means, 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;

“industrial school” means a school for the industrial training of children, whether convicted or not; in which children are lodged, fed and clothed, as well as taught, and shall include any premises declared to be an industrial school under Subsection (1) of Section 78A of this Act;

“judicial proceedings” includes any civil or criminal trial, and any inquiry or investigation held by a judicial officer in pursuance of any duty or authority;

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

"night" means the time between the hour of nine in the evening of any day and the hour of five in the following morning;

"peace officer" means any person being or acting as a constable or special constable, or lawfully acting in aid of any such person;

"person" includes any body of persons, corporate or unincorporate; and, for the purposes 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 this State or of any other place or state, shall be deemed to be a person;

"prison" means the public prison of the State or any lock-up house, police cell, or other duly authorized place of detention, whether such place of detention is, in the case of a juvenile offender sent thereto, situate within the State or in any other British Possession in the West Indies or the Republic of Guyana.

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

"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 any 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;

"public way" includes any highway, market place, square, street, bridge, or other way which is lawfully used by the public;

Acts are done "publicly"—

- (a) if they are so done 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
- (b) if they are so done in any place, not being a public place, as to be likely to be seen by any person in any public place;

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

"statute" means any Act and any orders or rules made under the authority of any Act;

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

"vehicle" includes cart, bicycle, tricycle, and any other carriage on wheels;

"vessel" means any kind of ship, boat or raft, whether used for navigating the sea or for any inland navigation and includes any aircraft;

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

(2) In Book I. of this Code, unless the context otherwise requires—

"the Court" 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.

(3) In Book II. of this Code, unless the context otherwise requires—

"the Court" means a Magistrate's Court in the exercise of its jurisdiction in respect of summary offences;

"complaint" includes any information or charge;

"defendant" means the person against whom a complaint has been made;

"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 in the practice of obeah;

"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;

"order" includes any conviction.

(4) In Book III. of this Code, unless the context otherwise requires—

"the Court" means the Supreme Court in the exercise of its criminal jurisdiction.

4. (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.

(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.

5. 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—

- (a) any civil office, including the office of Governor, 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
- (b) any office to which a person is nominated or appointed by statute or by public election; or
- (c) 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 the two last preceding sub-heads of this section; or
- (d) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any Court; or
- (e) any Justice of the Peace;

A person acting as a minister of religion or ecclesiastical officer, of whatever 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 solemnization 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 military or naval 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:

"public election" means any election the qualification for voting at which, or the mode of voting at which, is determined or regulated by law.

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6. (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.

(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.

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

- (a) 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;
- (b) 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; and
- (c) in the construction 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.

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8. The jurisdiction of the Courts of this state for the purposes of this Code, extends to every place within this State or within one marine league of the coast thereof, measured from low water mark.

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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.

10. No person shall, except as in the next succeeding section provided, be liable to punishment by the Common Law, or in any manner otherwise than according to the provisions of this Code, for any act done within the jurisdiction of the Court.

Exclusion of
other laws

11. Nothing in this Code shall affect—

Saving of
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- (a) the liability, trial or punishment of a person for an offence against any statute other than this Code; or
- (b) the liability of a person to be tried or punished for an offence under the provisions of any Act relating to the jurisdiction of Colonial Courts, in respect of acts done beyond the ordinary jurisdiction of such Courts; or
- (c) the power of any Court to punish a person for contempt of such Court; or
- (d) 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; or
- (e) 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; or
- (f) 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:

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.

PART II

RULES AS TO CRIMINAL RESPONSIBILITY

TITLE II

GENERAL EXPLANATIONS

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.

(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 admissi-

ble if his act had taken effect against the person or in respect of the thing against whom or in respect of which he intended it to take effect.

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.

14. (1) If a person intentionally or negligently causes any 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.

Provision relating to causing an event

(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 the next subsection 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 irrespective of whether it actually causes any event.

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—

- (a) a consent shall be void if the person giving it is under seven 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;
- (b) a consent shall be void if it is obtained by means of deceit or of duress;
- (c) 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;

- (d) a consent given on behalf of a person by his parent, guardian or any other person authorized 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;
- (e) a consent shall be of no effect if it is given by reason of a mistake of fact;
- (f) 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
- (g) 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.

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

Provision relating to claim of right

17. For the purposes 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.

Provision relating to fraud (see s. 365)

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

Provisions relating to intoxication

(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 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 sub section is established, then in a case falling under paragraph thereof the accused person shall be discharged, and in a case falling under paragraph (b), sections 181 and 182 of the Criminal Procedure Code 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.

19. (1) In this Code, unless the context otherwise requires, "threat" means—

- (a) any threat of criminal force or harm; or
- (b) any threat of criminal mischief to property; or
- (c) any threat of libel or of slander; or
- (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 RELATING TO CERTAIN OFFENCES

ASSAULT

20. (1) "Assault" includes—

- (a) assault and battery;
- (b) assault without actual battery; and
- (c) imprisonment.

Different kinds of assault

(2) Every assault is unlawful unless it is justified on one of the grounds mentioned in Title VII. of this Code.

21. (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 forcibly touch him.

Definition of and provision relating to assault and battery

(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 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

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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) the slightest actual touch suffices for an assault and battery, if the intention is such as is required by this section;
- (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.

22. (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.

23. (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

(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.

UNLAWFUL DAMAGE

24. "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

25. (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 a crime 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 crime 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 crime 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 any thing which, in good faith, he believes that he is entitled to do.

26. (1) Where an intention to cause damage to a certain amount, or a causing of damage to a certain amount, is required by any 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 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.

STEALING, &C

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

28. 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.

29. (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 Part 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.

30. 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.

Provisions relating to part owners

31. 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.

Explanation as to a gratuitous trustee

Explanation as to amount of damage

Definition of stealing

Definition of fraudulent breach of trust

32. (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 deprival 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.

33. (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 crime of having defrauded by false pretences, if his acts amounted to such crime.

(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.

34. 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.

35. (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.

(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.

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

- (a) at the time of appropriating it, he knows who is the owner of the thing or by whom it has been lost; or
- (b) 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; or

Special provision as to money, &c. in cases of embezzlement

Consent by a wife in case of stealing

Explanation as to stealing of thing found

which it to an appropriation

action consent and necessity

- (c) 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.

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37. 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 is a mineral or water, or gas, or of any other nature, and whether the value thereof is intrinsic or for purposes of evidence, or is 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 is complete or incomplete, and whether or not it is satisfied, exhausted, or cancelled.

FALSE PRETENCES AND OTHER FRAUDS

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38. 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.

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39. (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 of 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.

40. 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.

Explanation
as to
personation

41. 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—

Provisions
relating to
fictitious
trading

- (a) that at the time of giving the order or making the bargain, he purposed to make default as aforesaid; and
- (b) 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—

- (i) 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; or
- (ii) 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 he obtained the goods or things only for the purpose of so dealing with them.

RECEIVING

42. (1) A person is guilty of dishonestly receiving any property which he knows to have been obtained or appropriated by any crime, 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.

(2) It is immaterial whether the crime 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 punishable under this Code, such act is for the purposes of this section equivalent to a crime punishable under this Code.

TITLE IV

ATTEMPTS TO COMMIT CRIMES

43. (1) A person who attempts to commit a crime by any means shall not be acquitted on the grounds 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 crime is intended to be committed, or by reason of the absence of such person or thing, the crime could not be committed according to his intent.

(2) Whoever attempts to commit a crime 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 crime 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 crime 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 crime, as defined by any provision 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 a crime is or is not only preparation for the commission of that crime, and too remote to constitute an attempt to commit, is a question of law.

44. 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 a purpose that such instruments, materials, or means, may be used by him or by any other person, in committing any forgery, or any crime relating to coin, shall be liable to punishment in like manner as if he had attempted to commit that crime; and any such instruments, materials, or means shall be forfeited and applied as the Court directs.

Preparation for committing crime. (see s. 308)

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TITLE V

ABETMENT AND CONSPIRACY

45. (1) Whoever directly or indirectly, instigates, commands, counsels, procures, 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 a crime by any other person, whether known or unknown, certain or uncertain, is guilty of abetting that crime, and of abetting the other person in respect of that crime.

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

(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 shall be punishable on indictment or on summary conviction, according as he would be punishable for committing that crime.

(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.

(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 crime or not, and whether they abetted the same or different parts of the crime.

(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 a crime, shall be punishable as if he had abetted that crime.

46. (1) Where a person abets a particular crime, or abets a crime against or in respect of a particular person or thing, and the person abetted actually commits a different crime, or commits the crime 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 crime actually committed was not a probable consequence of the endeavour to commit, nor was substantially the same as the crime which the abettor intended to abet, nor was within the scope of the abetment, the abettor shall be punishable for his abetment of the crime which he intended to abet in the manner provided by this Title with respect to the abetment of crimes which are not actually committed; and
- (b) in any other case, the abettor shall be deemed to have abetted the crime 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.

47. Whoever knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent

Cases where one crime is abetted and a different crime is committed

Duty to prevent felony

the commission or completion thereof, is guilty of a misdemeanour.

piracy

48. (1) If two or more persons agree to act together with a common purpose in committing or abetting a crime, whether with or without any previous concert or deliberation, each of them is guilty of conspiracy to commit or abet that crime, 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 crime 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 a crime to be committed beyond the jurisdiction, "crime" means any act which, if done within the jurisdiction, would be a crime under this Code or under any other law.

abatement
piracy

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

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

TITLE VI

GENERAL EXEMPTIONS

criminal
as of
age

50. (1) Nothing is a crime which is done by a person under seven years of age.

(2) Nothing is a crime which is done by a person of or above seven 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.

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

Criminal
liability of
married
woman

52. (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.

TITLE VII

JUSTIFIABLE FORCE AND HARM

53. (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 hereafter 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.

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

Grounds on
which force
or harm may
be justified,
within pre-
scribed limits

- (a) express authority given by a statute; or
- (b) authority to execute the lawful sentence or order of a Court; or
- (c) the authority of an officer to keep the peace or of a Court to preserve order; or
- (d) authority to arrest, and detain for felony; or
- (e) authority to arrest, detain or search a person otherwise than for felony; or
- (f) necessity for prevention of or defence against crime; or

- (g) necessity for defence of property or possession or for overcoming obstruction to the exercise of lawful rights; or
- (h) necessity for preserving order on board a vessel; or
- (i) authority to correct a child, servant or other similar person, for misconduct; or
- (j) the consent of the person against whom the force is used (save where otherwise expressly provided in this Code).

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

- (a) which is in excess of the limits hereinafter prescribed in the section of this Title relating to that matter; or
- (b) 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.

56. Whoever is authorized by the provision of any statute to use force may justify the use of necessary force according to the terms and conditions of his authority.

57. Whoever is authorized to execute any lawful sentence or order of a Court may justify the use of the force mentioned in the sentence or order.

58. Whoever is authorized 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.

59. (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 retaken.

(2) Whoever is duly authorized 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 retaken, although in fact the felony has not been committed by the other person, or although in fact no felony has been committed.

60. 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.

61. Where the arrest, detention, or search of a person is justifiable only on the authority of a warrant or other 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.

62. (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.

(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

Use of force to arrest, detain, or search a person otherwise than for felony

Right of person arrested, &c. to inspect warrant

Use of force for prevention of or defence against crime

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may justify any necessary force or harm, extending, in 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.

(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.

63. 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:—

- (a) a person in actual possession of a house, land, vessel, or goods, or his servant or any other person authorized 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;
- (b) a person in actual possession of a house, land, or vessel, or his servant or any other person authorized 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;

- (c) 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; and
- (d) 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.

64. 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.

Use of force for preserving order on board a vessel

65. 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:—

- (a) 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;

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

Use of force for defence of property or possession, or for overcoming an obstruction of right

- (b) 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;
- (c) 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;
- (d) 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;
- (e) a person who is authorized to inflict correction as in this section mentioned may, in any particular case, delegate to any fit person the infliction of such correction; and
- (f) 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.

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

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

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

- (d) 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;

- (e) consent to the use of force for the purposes of medical or surgical treatment does not extend to any improper or negligent treatment;
- (f) 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 a 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
- (g) 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 authorized by him or by law to give or refuse consent on his behalf dissents from the use of such force.

67. 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.

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

68. Whoever is authorized 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.

69. 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.

PART III

PUNISHMENTS

TITLE VIII

GENERAL AND SPECIAL CASES

70. The following punishments may be inflicted under this Code:—

- (1) death;
- (2) imprisonment, including detention in an Industrial School as defined in section 3 of this Ordinance;
- (3) flogging;
- (4) whipping;
- (5) fine; and
- (6) payment of compensation.

71. (1) Any person who is convicted of an indictable offence may be adjudged by the Court to make compensation to any person injured by his offence.

(2) Any person who is convicted of a summary offence punishable under this Code may be adjudged by the Court to make compensation, not exceeding five thousand dollars, to any person injured by his offence.

(3) Any such compensation may be either in addition to or in substitution for any other punishment.

72. 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.

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 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.

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

(2) Where a crime 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, or to a fine of four thousand dollars, or to both.

(3) Subject to the provisions of this Code or of any other statute relating to the crime, the Court before which any person is convicted of a crime 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 crime.

(4) Subject to the provisions of this Code or of any other statute 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:

Effect of payment of compensation or imprisonment for non-payment

General rules for punishment

Provided that no fine for the infringement of any Ordinance relating to the Revenue shall be reduced below the amount or proportion allowed in that behalf by the Ordinance specially relating thereto, except with the consent of the Governor-General.

74. A "juvenile offender" for the purposes of this Title 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 the age of seven and under the age of sixteen years.

75. (1) A juvenile offender shall not be sentenced to flogging, but in lieu thereof he may be sentenced to be whipped.

(2) No sentence of flogging or whipping shall be passed upon a female of any age; but, in lieu of any such sentence, the Court may sentence a female to solitary confinement or any other such additional punishment as the law for the time being permits to be inflicted on a female for an offence against the rules of the prison.

(3) Flogging shall be with a cat of a pattern approved by the Governor-General and a sentence of flogging shall specify the number of strokes, which shall not exceed twelve.

(4) Whipping shall be with a light rod or cane or birch of tamarind or other twigs, and a sentence of whipping shall specify the number of strokes, which shall not exceed twelve.

(5) No person shall be sentenced to be flogged or whipped more than once for the same offence.

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

(2) 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.

77. If a person is convicted of felony and is sentenced to imprisonment for three years or more, the following conse-

quences shall ensue, unless the Court otherwise orders, namely—

- (a) any public office held by him within the jurisdiction of the Court shall forthwith become vacant: and
- (b) any pension, superannuation allowance, or emolument payable to him out of the revenues of this state or out of any public fund, or chargeable on any rate or tax, and any according 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—

- (i) 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; and
- (ii) 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.

78. (1) The Court before which a person is convicted may, according to the circumstances of the case and subject to the provisions of this Code with respect to flogging and whipping, substitute for a punishment assigned by this Code a different punishment, as follows:—

- (a) In the case of manslaughter or of any misdemeanour, the Court may substitute a fine, which in the case of a summary offence shall not exceed two thousand dollars;
- (b) where a juvenile offender is convicted of any offence punishable by fine or imprisonment, the Court may substitute whipping for the fine or imprisonment; and
- (c) the Court before which a person is convicted of any offence may order that, in lieu of or in addition to any other punishment, he enter into his own recognizance,

Imposition of alternative punishments

with or without sureties, for keeping the peace and being of good behaviour; and that, in default of such recognizance or sureties, he be imprisoned, in addition to the term, if any, of imprisonment to which he is sentenced, for any term not exceeding six 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.

(2) Whenever a juvenile offender is convicted of any offence punishable by fine or imprisonment and in accordance with the power conferred by this section the Court substitutes the punishment of whipping in lieu of a fine or imprisonment, it shall be lawful for the Court to order that the offender shall be detained in custody for not more than forty-eight hours until the punishment shall have been inflicted.

(3) (a) Where a person is convicted on indictment of an offence for which he is liable to be sentenced to imprisonment and it appears to the Court—

- (i) that the person is not less than ten nor more than sixteen years of age, and
- (ii) that by reason of his criminal habits or tendencies, or association with persons of bad character, it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime, it shall be lawful for the Court, in lieu of passing a sentence of imprisonment; to order that such person be sent to, and detained in, an Industrial School;

(b) where a person is summarily convicted of any offence for which the Court has power to impose a sentence of imprisonment for one month or upwards without the option of a fine, and such a person is of an age or character by reason of which had he been convicted on indictment it would have been lawful for the Court to have ordered such person to be sent to, and detained in, an Industrial School in the manner aforesaid; and, further, it is proved that the offender has previously been convicted

of any offence or, that having been previously placed on probation, he failed to observe a condition of his order; it shall be lawful for the Court, in lieu of passing a sentence of imprisonment, to order that such person be sent to, and detained in, an Industrial School: Provided that before making such order as aforesaid the Court shall ensure that adequate accommodation is available at the Industrial School at which it is proposed to detain the offender.

- (c) the detention order shall specify the time for which the juvenile offender is to be detained, being not less than two years or more than five years, but not in any case extending beyond the date on which such person will, in the opinion of the Court, attain the age of eighteen years;
- (d) (i) the person by whom any offender ordered to be sent to an Industrial School is detained shall with the least possible delay deliver him into the custody of the constable responsible for his conveyance to the school, who shall deliver him to the superintendent or other person in charge of the school in which he is to be detained, together with the order in pursuance of which the offender was detained and is sent to the school;
- (ii) the detention order in pursuance of which the offender is sent to an Industrial School shall be a sufficient authority for his conveyance to and detention in the school.
- (e) every offender who is ordered by the Court to be sent to and detained in an Industrial School in the manner aforesaid shall be deemed to have been so detained from the date of conviction unless the Court shall otherwise direct;
- (f) every offender ordered to be detained in an Industrial School outside the state of Grenada shall be in every way subject to the laws of the state in which such Industrial School is situated in a like manner as if he had been ordered to be detained in such Industrial School by a court of competent jurisdiction in such state.

(g) where an offender has been sentenced to imprisonment, and has been pardoned by Her Majesty on condition of his placing himself under the care of some charitable institution for the reception and reformation of such offenders, the Governor-General may direct him, if under the age of sixteen years, to be sent to an Industrial School for a period of not less than two and not more than five years, but not in any case extending beyond the time when he will, in the opinion of the Governor-General, attain the age of eighteen years; and thereupon the offender shall be subject to all the provisions of this section as if he had been originally sentenced to detention in an Industrial School.

78A. (1) The Governor-General may from time to time, by order, declare any premises to be an industrial school for the industrial training of children, whether convicted or not, and in which children are to be lodged, fed, clothed and taught.

(2) The Governor-General may make rules for the government of an industrial school and for the conduct and duties of the officers and for the diet, clothing, maintenance, education and discipline of the children.

78B. The order of the Court by which a person is ordered to be detained in an industrial school shall be in the form of the Schedule to the Ordinance, or to the like effect.

SCHEDULE (Section 78B)

GRENADA

In the Supreme Court of Grenada and the West Indies Associated States

DETENTION ORDER, INDUSTRIAL SCHOOL

TO: The Keeper of the Industrial School.

In pursuance of the provisions of paragraph of subsection (3) of section 78 of the Criminal Code, I the undersigned do order that being a person apparently of the age of years be sent to the industrial school and that he be there detained for a period of *..... years or until he attains the age of eighteen years or until he shall sooner be lawfully allowed to depart from such school.

This order shall take effect from the day of 19.....

Given under my hand at St. George's this day of 19.....

..... Chief Justice

..... Puisne Judge

* Strike out part not applicable.

(Being not less than two years nor more than five years, but in no case extending beyond the date on which such person will, in the opinion of the Court, attain the age of eighteen years).

79. (1) Where a person, having been convicted of crime, is again convicted of crime, 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:

Increase of punishment on repetition of crime; and execution of sentence where former term of imprisonment unexpired

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 or 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 punishment than the punishment mentioned in the said Table, and any flogging or other different punishment 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 a crime on the ground of negligence.

(2) Where a person after conviction for a crime is convicted of a different crime, either before sentence is passed upon him under the first conviction or before the expiration of that sentence, any sentence, other than a sentence of death or of flogging or whipping, which is passed upon him under the subsequent conviction, shall be executed after the expiration of the

former sentence, unless the Court directs that it shall be executed in lieu of the former sentence or of any part thereof.

(3) A conviction of a person for a crime 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.

TABLE. — PART I

SCALE OF INCREASED PUNISHMENTS FOR REPETITION OF CRIME

Nature of Conviction	Nature of previous Convictions.	Punishment to be substituted for the punishment mentioned in this Code.
Summary conviction for crime.	Summary conviction for a similar crime.	Imprisonment for twice the maximum of imprisonment which might otherwise be inflicted.
Do.	Conviction on indictment for a similar crime.	Imprisonment for one year in addition to the punishment mentioned in this Code
Conviction or indictment for crime punishable by imprisonment for one year.	Do.	Do.
Conviction on indictment for crime punishable by imprisonment for two years or more.	Do.	Imprisonment for two years in addition to the punishment mentioned in this Code.

NOTE TO PART I. OF THIS TABLE.

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

(2) Where a person has, in any part of Her Majesty's Dominions beyond 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 crime which is punishable under a Title of this Code is similar to every other crime punishable under the same Title. And any crime punishable under any of the Titles XVI. to XVIII. is similar to every other crime punishable under any of those Titles; and any crime punishable under any of the Titles XX. to XXIII. is similar to every other crime punishable under any of those Titles.

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.	A period of one year.
A conviction upon indictment for any crime for which a sentence of imprisonment with hard labour for three years or more has not been passed.	A period of three years, exclusive of any term of imprisonment suffered after the commencement of the period under any other conviction.
A conviction upon indictment for any crime for which a sentence of imprisonment with hard labour for three years or more has been passed.	A period of ten years, exclusive of any term of imprisonment with or without hard labour after the commencement of the period under any other conviction.

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

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

(1) where a person does several acts against or in respect of one person or thing, each of which acts is a crime, 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 crime or for any one or several of such acts as one crime, and all the acts may be taken into consideration in awarding punishment, but he shall not be liable to separate punishments as for several crimes; and

(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.

BOOK II

SUMMARY OFFENCES

PART IV

OFFENCES AGAINST THE PERSON

TITLE IX

ASSAULTS AND CRIMINAL HARM

ASSAULTS

81. (1) Whoever unlawfully assaults any person shall be liable to imprisonment for three months, or to a fine of one thousand dollars, or to both;

(2) Where any person is convicted of an assault upon any child whose age does not, in the opinion of the Court, exceed fourteen years, or upon any female, and the assault is, in the opinion of the Court, of such an aggravated nature that it cannot be sufficiently punished under the provisions of subsection (1) thereof, the person shall be liable to imprisonment for six months, or to a fine of two thousand dollars, or to both.

CRIMINAL HARM

82. (1) Whoever intentionally and unlawfully causes harm to any person shall be liable to imprisonment for one year, or to a fine of three thousand dollars, or to both.

(2) Whoever intentionally and unlawfully causes a wound to any person shall be liable to imprisonment for two years, or to a fine of four thousand dollars, or to both.

(3) Whoever negligently and unlawfully causes harm to any person shall be liable to imprisonment for six months, or to a fine of two thousand dollars, or to both.

(4) If, upon the hearing of any complaint for an offence under this section, it appears to the Court that such offence can-

not be sufficiently punished under the provisions of this section, all further proceedings thereon as for a summary offence shall be stayed, and depositions shall be taken, and the case shall in all other respects be dealt with as if the charge had been originally one for an indictable offence.

PART V

OFFENCES AGAINST RIGHTS OF PROPERTY

TITLE X

MISCHIEF TO PROPERTY

83. Whoever intentionally and unlawfully kills, maims, or wounds any cattle, the value of the animal killed, maimed, or wounded not exceeding four dollars and eighty cents, or causes any damage not exceeding twenty-four dollars to any cattle, shall be liable to imprisonment for three months.

Damage to cattle (see s. 269)

84. Whoever intentionally and unlawfully kills, maims, or wounds any animal, not being cattle, which is of some value, and which is and appears tamed or domesticated or is in a state of actual confinement, shall be liable to imprisonment for two months.

Damage to animal, not being cattle

85. Whoever intentionally and unlawfully takes or destroys any fish in any water which is private property shall be liable to a fine of twenty-four dollars.

Taking or destroying fish in private water

86. Whoever intentionally and unlawfully catches, takes, or drives, or attempts to catch, or drive, any cattle from or out of any pasture, enclosure, stable, or other place, for the purpose of riding it, or of using it in the carrying of any load or burden or in the drawing of any cart or carriage, or for the purpose of setting it loose or of driving it about, or for any other unlawful or mischievous purpose, without the consent of the owner or of the person entrusted with the charge thereof, and without having any probable claim or pretence of title thereto, shall be liable to a fine of twenty-four dollars.

Taking and using cattle, &c., without consent of owner

87. (1) Whoever intentionally and unlawfully causes damage not exceeding four dollars and eighty cents to any tree growing in any public place or in any private garden or pleasure ground, or damage not exceeding twenty-four dollars to any tree growing in any other place, shall be liable to imprisonment for six weeks.

(2) Whoever intentionally and unlawfully causes damage exceeding four dollars and eighty cents to any tree growing in any public place or in any private garden or pleasure ground, or damage exceeding twenty-four dollars to any tree growing in any other place, shall be liable to imprisonment for three months.

88. (1) Whoever intentionally and unlawfully causes damage not exceeding twenty-four cents to any cultivated plant shall, if the same is growing in any public or private garden or pleasure ground or in any building be liable to imprisonment for six weeks, or if the same is growing elsewhere, be liable to imprisonment for one month.

(2) Whoever intentionally and unlawfully causes damage exceeding twenty-four cents to any cultivated plant, shall, if the same is growing in any public or private garden or pleasure ground or in any building, be liable to imprisonment for two months, or shall, if the same is growing elsewhere be liable to imprisonment for one month.

89. Whoever intentionally and unlawfully destroys or damages any part of any live or dead fence whatsoever, 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 nine dollars and sixty cents.

90. Whoever intentionally and unlawfully—

- (a) throws any substance poisonous to fish into any river, or stream, in order to poison or stupefy the fish therein;
- (b) turns or obstructs any river or stream, for the purpose of taking or destroying fish;
- (c) throws any substance poisonous to fish into any part of the sea at the mouth of any river or stream running into

the sea, for the purpose of poisoning, stupefying, taking, or destroying any fish;

- (d) uses dynamite or other explosive substance to catch or destroy fish in any river or stream;

shall be liable to imprisonment for two months.

91. Whoever intentionally and unlawfully damages, destroys, or takes away any net, crawl, pot, or other apparatus of any other person, being or set in the sea, or in any river, or stream, for the purpose of catching, taking, or keeping turtle or fish, or any turtle or fish caught or being in any net, crawl, pot, or other apparatus of any other person, being or set as aforesaid, shall be liable to a fine of twenty-four dollars.

Damage to apparatus set to catch turtle or fish, or turtle or fish caught in same

92. Every artificer, workman, journeyman, apprentice, servant, or labourer who intentionally and unlawfully damages, spoils, or destroys any goods, wares, work, or materials committed to his care and charge, without the consent of the person by whom he is hired, retained, or employed, the damage done being less than twenty-four dollars in value shall be liable to a fine of forty-eight dollars.

Damage by artificer, &c., to goods committed to his care

93. 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-four 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

94. (1) Whoever intentionally and unlawfully causes damage not exceeding twenty-four cents 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 nine dollars and sixty cents.

Damages in cases not provided for (see s. 271)

(2) Whoever intentionally and unlawfully causes damage exceeding twenty-four cents to any land, or to any animal or

thing, in any case not specially provided for in this Title, shall be liable to imprisonment for three months.

TITLE XI

MISAPPROPRIATIONS AND FRAUDS

STEALING

95. (1) Whoever steals anything, the value of which does not exceed five thousand dollars, such stealing not being accompanied by house-breaking or burglary, nor amounting to robbery, shall be liable to imprisonment for one year, or to a fine of three thousand dollars, or to both.

(2) Whoever is convicted of—

(a) any of the undermentioned offences, where the value of the property alleged to have been stolen or obtained does not exceed the sum of five thousand dollars, namely, any of the offences following—

(i) 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;

(ii) stealing from or in any dwelling-house, shop, garage, manufactory, warehouse, or vessel;

(iii) stealing any goats or swine;

(iv) committing a fraudulent breach of trust, or

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

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

shall be liable to imprisonment for one year, or to a fine of three thousand dollars, or to both, and whether with or without flogging or whipping in respect of any offences for which flogging or whipping may be lawfully inflicted.

(3) Whoever is convicted of stealing from the person, or of attempting to steal from the person, or of abetting or conspiring to steal from the person; where the value of the property that is the subject of the offence under this subsection does not exceed the sum of three thousand dollars, shall be liable to imprisonment for two years, or to a fine of four thousand dollars, or to both, and whether with or without flogging or whipping in respect of any offences for which flogging and whipping may be lawfully inflicted.

Stealing from the person (see s. 275 (d))

96. (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 police constable or other person by law authorized to receive it.

Provision as to thing found

(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.

97. (1) Whoever fraudulently obtains from any other person, by any false pretence, anything to the value of which does not exceed two thousand dollars, shall be liable to imprisonment for one year, or to a fine of two thousand dollars, or to both.

Fraud by false pretence (see s. 279)

(2) Whoever obtains credit, the value of which does not exceed two thousand dollars, by any fraud or false pretence, shall be liable to imprisonment for one year, or to a fine of three thousand dollars, or to both.

Obtaining credit by fraud or false pretence (see s. 283)

(3) Whoever fraudulently issues a cheque for the purpose of obtaining credit, or in purported satisfaction of a debt, or for the purpose of obtaining any other thing, where the credit, debt or other thing is of a value not exceeding two thousand dollars when he knows or ought to know that there are not sufficient funds in the account regarding which he issues the cheque, shall be liable to imprisonment for one year, or to a fine of three thousand dollars, or to both.

Obtaining credit by purportedly satisfying debt, or obtaining any other thing by fraudulently issuing cheque without sufficient funds (see s. 283(2))

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

- (a) 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;
- (b) 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;
- (c) defrauds any person by means of any false weight or measure, or by any false use of any weight or measure;
- (d) 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; or
- (e) knowingly makes any false return or statement of any matter as to which he is required by law to make a return or statement.

RECEIVING

99. Whoever dishonestly receives anything which he knows to have been obtained or appropriated by any crime and the value of which does not exceed two thousand dollars, shall be liable to imprisonment for one year, or to a fine of three thousand dollars, or to both.

UNLAWFUL POSSESSION

100. (1) 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 imprisonment for three months.

(2) Where any person is brought before the Court charged with having in his possession 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 for some other person, the Court 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 it, and shall examine witnesses upon oath touching the same; and if it appears to the Court that any person so brought before it has had possession of such thing and had reasonable cause to believe the same to have been stolen or unlawfully obtained, every such person shall be deemed to have had possession of such thing at the time and place when and where the same was found or seized, and shall be liable to imprisonment for three months.

(3) 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, and such person shall, if he had such reasonable cause for belief as aforesaid, be liable to the punishment hereinbefore mentioned.

101. If any cattle, or the carcass, head, skin, or any part thereof, is found in the possession or on the premises of any person, and if the person does not satisfy the Court that he came lawfully by the cattle, or carcass, head, skin, or other part thereof he shall be liable to a fine of ninety-six dollars.

Unlawful possession of cattle or part thereof

102. If the whole or any part of any tree, plant, root, or fruit, or any part of any live or dead fence, or any post, pale, rail, wire, stile, or gate or any part thereof respectively, 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 same, he shall be liable to a fine of twenty-four dollars, and, being convicted a second or any subsequent time of any such offence, shall be liable to imprisonment for three months.

Unlawful possession of tree, &c.

103. 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

Having possession of instrument for unlawfully obtaining wine, &c.

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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.

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g metal. **104.** Every shopkeeper or trader who purchases, or takes in exchange from any person, any brass, pewter, tin, copper, or other metal, not being of the current coin of the state shall make a true entry in some book kept by him for that purpose of the name and address of the person from whom he received the metal, the quantity, weight, and nature of the metal, the place whence it was procured or alleged to be procured by that person, the price or equivalent paid or given for it, and the date of purchase or exchange; which book shall be produced to the Permanent Secretary Finance before clearing any vessel having the metal on board for exportation and shall also be produced to the Chief of Police at all reasonable hours of the day when he requires it.

Whoever offends against any of the provisions of this section shall be liable to imprisonment for three months.

TITLE XII

FORGERY AND FALSE COIN

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definitions
Title XXIII **105.** The definitions and special provisions contained in Title XXIII. of this Code shall be deemed to apply to this Title so far as they are appropriate thereto.

ing false
gram, &c. **106.** Whoever commits either of the following acts, with intent to aggrieve or annoy any person, shall be liable to a fine of twenty-four dollars, that is to say—

- (i) knowingly sends any false telegram to any person; or
- (ii) signs the name of any other person to any petition, prospectus, or testimonial, knowing that he has no authority for so doing.

107. (1) Whoever forges or wilfully and without due authority alters a telegram, or utters a telegram knowing the same to be forged or wilfully and without due authority altered, or who transmits by telegraph as a telegram, or utters as a telegram, any message or communication which he knows to be not a telegram, shall, whether he had or had not an intent to defraud, be liable to a fine of ninety-six dollars.

Forging, &c.,
telegram
(see s. 305)

(2) If upon the hearing of any complaint for an offence under this section it appears to the Court that such offence cannot be sufficiently punished under the provisions of this section, all further proceedings thereon as for a summary offence shall be stayed, and depositions shall be taken, and the case shall in all other respects be dealt with as if the charge had been originally one for an indictable offence.

108. Whoever tenders, utters, or puts off any of the Queen's current gold, silver, or copper coin 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 fourteen dollars and forty cents;

Uttering
defaced coin

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

109. (1) Where any coin is tendered as the Queen's 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.

Mode of
dealing with
suspected
coin when
tendered in
payment

(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 a 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 arrive at the decision of such dispute.

110. (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 of the Queen's 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 of the Queen's 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.

111. 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 the Queen's 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 nine dollars and sixty cents for every such piece of false and counterfeit coin which is found in his custody or possession.

DRUMMING AND FIRING GUNS, &C

112. (1) Every occupier of any house, building, yard or other place situate in any town, who, without a licence in writing from the Chief of Police, Town Warden, or a Magistrate, permits any persons to assemble and beat or play or dance therein to any drum, gong, tom-tom, or other similar instrument of music, shall be liable to a fine of nine dollars and sixty cents.

Allowing house, &c., in town to be used for drumming

(2) It shall be lawful for any constable upon the complaint of any person to enter any such house, building, yard, or other place where any persons may be so assembled, and to warn them to depart, and to seize and carry away all such drums, gongs, tom-toms or other instruments and the same shall be forfeited.

(3) Whoever, after being so warned, shall not depart forthwith (except the persons actually dwelling in such house or building), may be arrested, without warrant, by any constable or person acting in his aid, and shall be liable to a fine of two dollars and forty cents.

113. (1) (a) Whoever fires any cannon or other firearm on any vessel in the Carenage, or on any wharf adjoining it shall be liable to a fine of nine dollars and sixty cents.

Firing guns in the Carenage; keeping loaded guns or firing them at night on any vessel in port, &c.

(b) If any cannon or other firearm is fired on any vessel in the Carenage, and the person who fired it cannot be found, the master of the vessel shall be liable to a fine of nine dollars and sixty cents.

(c) It shall be the duty of the officer in charge of the harbour to give notice of the foregoing provisions of this section to the master of every vessel coming into the Carenage.

(2) Every master of any vessel, except Her Majesty's ships and vessels carrying Her Majesty's mails, who, while such vessel is lying at anchor or otherwise in any port, bay, creek, inlet,

of river in this state keeps on board the vessel any gun shotted or loaded with ball, or causes or permits to be fired any gun on board the vessel before sunrise, or after sunset, shall be liable to a fine of two dollars and forty cents for every gun kept so shot- ted or loaded, and to a fine of four dollars and eighty cents for every time any gun is so fired.

PIGS

114. Every person in whose possession a pig is found in any town except in going to or from or while at market, or in being taken through the town, shall be liable to a fine of two dollars and forty cents for every pig so found.

DISEASED AND STRAY CATTLE, MAD DOGS, &C

115. (1) Whoever rides, drives, or otherwise makes use of any horse, mule or ass affected with farcy or glanders, knowing the same to be so affected, in any public place, and every owner of any such horse, mule or ass who permits the same to be at large in any public place, shall be liable to a fine of forty-eight dollars.

(2) Any such horse, mule, or ass may be destroyed, and the carcass disposed of by order of the Magistrate.

116. The owner or possessor of any cattle which dies from any disease shall within twelve hours after the death or as soon afterwards as he has knowledge thereof cause the carcass of the animal to be buried at least four feet under ground, or to be destroyed by fire, or to be disposed of at sea, at a sufficient distance from the shore, and in default thereof shall be liable to a fine of forty-eight dollars.

117. (1) It shall be lawful for any constable to destroy any dog, or any other animal at large, and which he has reasonable cause to suspect to be in a rabid state, or which has been bitten by any dog or other animal which he has reasonable cause to suspect to be in a rabid state.

(2) If the owner or person in charge of any dog or other animal knowingly suffers it to be at large in a rabid state: or if any such dog or other animal is confined, and the owner or person

in charge of it does not destroy it, or cause it to be destroyed, after it has shown evident and distinct symptoms of being in a rabid state or of having been bitten by any dog or other animal in a rabid state; such owner or person shall be liable to a fine of forty-eight dollars.

118. Whoever after public notice given by authority of the Governor directing dogs to be confined on suspicion of madness, suffers any dog to be at large during the time specified in the notice shall be liable to a fine of forty-eight dollars.

Suffering dogs to be at large after notice to confine them

119. (1) If any entire horse, mule, or ass is at any time found straying or tied or at large, or depastured, in any public way, any constable or any other person may seize and impound it in the public pound, if any, of the district or place where it is found, or in such other place as the Magistrate of the district may provide for that purpose, or at any police station of the district, and the horse, mule, or ass shall be there detained until the owner shall for every such horse, mule, or ass pay such sum, not exceeding nine dollars and sixty cents, as the Magistrate may fix as a fine, together with one dollar and twenty cents for the expenses of taking up and impounding it, and twenty-four cents for every twenty-four hours, or fractional part of twenty-four hours, during which the horse, mule, or ass may be so impounded, for his keep; and no horse, mule, or ass so impounded shall be released without an order from the Magistrate, and on payment to him of the sums aforesaid:

Proceedings with respect to entire horse, mule, or ass straying, &c., in public way

Provided that it shall be lawful for any Justice of the Peace, on the application of the owner of any such horse, mule, or ass, to order the release thereof, on such owner entering into a recognizance in the subjoined form before him, with or without a surety or sureties in the discretion of such Justice of the Peace, conditioned personally to appear and answer any charge that may be preferred against him, and to pay such fine, charges, costs and other expenses, as shall be ordered by the Magistrate. No fee shall be taken for such recognizance.

RECOGNIZANCE

GRENADA

..... District.
Be it remembered that on the day of 19 A.B.
of C.D. of and E.F. of
all of the island of came before the undersigned Justice
of the Peace for the island of Grenada and acknowledged themselves
to owe to our Sovereign Lady the Queen the sums following, that is to
say, the said A.B. the sum of dollars and the said C.D.
and E.F. the sum of dollars each to be levied of their
lands and goods for the use of our Lady the Queen if the said A.B.
shall make default in the condition underwritten.

CONDITION

The condition of the above recognizance is, that if the above bounden
A.B. shall personally appear and answer any charge that may be preferred
against him under the provisions of subsection (1) of section 123 of the
Criminal Code and do pay such fines, charges, costs and other expenses as
shall be ordered by the Magistrate for any such offence and abide the judg-
ment of the Court thereupon, then this recognizance shall be void otherwise
to remain in full force.

..... G.H. J.p.

(2) The fine shall be paid into the Treasury for the use of the
Colony: the one dollar and twenty cents for taking up and
impounding shall be paid to the person who has taken up and
impounded the horse, mule, or ass; and the sum payable for
keep shall be paid to the keeper of the pound or other person
who has supplied the horse, mule, or ass, with food and water.

(3) In case the fine, charges, and expenses are not paid with-
in seven days after impounding (notice thereof having been first
given to the owner, if known, and if not known, by a notice
posted at any police station of the district), the Magistrate may
order the horse, mule, or ass to be sold, and the money arising
from the sale, after deducting the fine, charges and expenses
shall be paid to the owner; but in case the owner is not known,
and no application is made for the surplus money arising from
the sale within one month after it has taken place, it shall be
paid into the Treasury for the use of the state until a claimant
establishes his right to it before the Magistrate of the district,
and obtains a certificate to that effect which certificate shall be

sufficient to authorize the Permanent Secretary Finance, to pay
over the balance remaining in the Treasury.

Provided that if it appears to the satisfaction of the Magistrate
that any horse, mule, or ass so impounded escaped from any
enclosure by the gate or fence thereof having been wilfully or
negligently left open or destroyed by any person not being the
owner of the enclosure nor employed by the owner, the
Magistrate may remit the fine:

Provided also, that if any horse, mule, or ass is at any time
found at large or being depastured in any public way or on the
side thereof, and it cannot be seized or impounded as aforesaid,
any constable or any other person may prefer a complaint
against the owner thereof, if known, to the Magistrate of the
district in which the horse, mule, or ass was found, and the
owner shall be liable to the like fines, charges and expenses as
if the horse, mule or ass had been actually seized and dealt with
as hereinbefore provided.

120. Whoever unlawfully releases any cattle lawfully
impounded, or pulls down, damages or destroys the pound
wherein any cattle are lawfully impounded, shall be liable to a
fine of twenty-four dollars.

Pound breach

Selling unwholesome Meat.

121. (1) Whoever—

- (a) sells, or offers or exposes for sale, any unwholesome
meat, poultry, fish, provisions, or drink of any kind; or
(b) keeps the same in any market, store, shop, dwelling-
house, building, or place, with intent to sell the same,

Selling or
offering for
sale unwhole-
some meat,
&c.
(see s. 434)

shall be liable to imprisonment for three months.

(2) Any Justice of the Peace, Medical Practitioner, Town
Warden, Constable, or person appointed by any Health
Authority, on view of any unwholesome meat, poultry, fish,
provisions, or drink, may forthwith seize or cause the same to
be seized and brought before a Magistrate who shall thereupon,
if in his opinion it is unwholesome, cause it to be forthwith
destroyed, and may order the person so selling or exposing or

offering for sale or keeping it as aforesaid to pay the expenses of destroying it.

FOULING WATER

122. Whoever causes or suffers to be brought or to flow into any stream, well, tank, reservoir, or place used or intended for supplying water to man, 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 forty-eight dollars, and to a further fine of nine dollars and sixty cents for every day during which the offence is continued after conviction.

123. It shall not be lawful to inter the body of any dead person in any private lot or place (not being a public burial ground) within any of the towns of this state.

It shall not be lawful to inter any such body outside the limits of any town save at a depth of not less than five feet.

Any person offending against the provisions of this section shall be liable to a fine of ninety-six dollars.

DRUNKEN, RIOTOUS, AND DISORDERLY CONDUCT

124. 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 to a fine of four dollars and eighty cents.

125. 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.

126. Every owner or occupier, and every person in the employment of any owner or occupier, of any house, shop, room, or other place of public resort wherein provisions, liquors, or refreshments of any kind are sold or consumed (whether the same be kept or retailed therein or procured else-

where), who knowingly permits drunkenness, gambling, or any other disorderly conduct therein, or knowingly permits known prostitutes or convicted felons to meet together or remain therein, shall be liable to a fine of ninety-six dollars.

127. If two or more persons together in any public place openly carry, without lawful cause, any deadly or dangerous instruments, with intent to cause terror to any of the public, each of them shall be liable to imprisonment for one month.

128. 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.

129. (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 this 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.

(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.

130. 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-four dollars.

131. Whoever—

(a) in any public place is guilty of any riotous, indecent, disorderly, or insulting behaviour; or

(b) in any Court or police station, or in any place of public entertainment, is guilty of any riotous, indecent, disorderly, or insulting behaviour,

Unlawfully carrying arms

Threat of harm (see s. 350)

Causing public terror

(see s. 226)

Mischievously frightening animals

Riotous behaviour in a public place (see s. 373)

shall be liable to imprisonment for three months, or to a fine of one thousand dollars, or to both.

132. Whoever—

- (a) is guilty of any riotous, disorderly, or insulting behaviour in any place of divine worship, whether during divine service or at any other time;
- (b) disturbs or molests any person in any place of divine worship, whether during divine service or at any other time; or
- (c) 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 in any public place, or any other person aiding or attending at the celebration of such rite or office, shall be liable on summary conviction to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding nine months or to both such fine and imprisonment.

133. Whoever—

- (a) makes use of any threatening, abusive, insulting, violent, or 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;
- (b) 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;
- (c) in any public place, or within hearing of any person therein, sings any profane, indecent, or obscene song or ballad;
- (d) writes or draws any profane, indecent or obscene 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;

- (e) sells, or distributes, or offers for sale or distribution any profane, indecent, or obscene book, paper, print, or representation;
- (f) in any public place or within hearing of any person therein fights or disturbs the public peace; or
- (g) in any public place makes use of or concerning any other person any threatening or abusive language, shall be liable to imprisonment for three months, or to a fine of one thousand dollars, or to both.

134. Whoever directly or indirectly threatens unlawfully to destroy or injure any building or land or anything thereon, or uses any words which directly or indirectly are likely to cause others unlawfully to destroy or injure any such building or land or anything thereon shall be liable to a fine of ninety-six dollars or to imprisonment for three months or to both such fine and imprisonment.

Threatening injury to property, &c.

ILLEGAL FISHING-NETS

135. (1) For the purposes of this and the next succeeding section—

Interpretation

“fishing-net” shall mean any kind of fishing-net and shall, subject to the context, include seines, ballahoo nets or cast nets;

“seine” shall mean a seine net, constructed with arms;

“ballahoo net” shall mean a net constructed and used exclusively for the purpose of catching the fish commonly known as “ballahoo”;

“cast net” shall mean a circular net constructed of small mesh and used exclusively for catching bait.

(2) Whoever—

- (a) casts, draws or hauls or otherwise uses in any part of the sea around this state any fishing-net which in length or width is larger than, or the meshes of which are smaller than, the size from time to time prescribed therefore respectively by regulations issued by the Governor-General;

Prohibits the use of fishing nets of size and with meshes contrary to those prescribed by regulations

also nets to be in up to bore

bits the of false ms. &c. the ing of net upon hand her

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(b) whilst using a ballahoo net in the sea, draws or hauls the same from the water up to the shore or to any wharf or jetty or up into or on any vessel lying at the time within fifty feet of the shore; or

(c) makes use of any false-bottom cod or pouch or puts any fishing-net of any kind, even though of legal size or mesh, upon or behind another fishing net, in order to catch the small fry or breed of fish which would have passed through the meshes of any single fishing-net of legal size or mesh.

shall be liable to a fine not exceeding twenty-four dollars.

(3) The regulations which may be issued by the Governor-General under this section may distinguish between and have regard to the various kinds of fishing-nets and to the particular purposes or uses for or to which the same shall be respectively constructed or put; and pending the issue and subject to the terms of any such regulations, the following fishing-nets are hereby prescribed and declared to be illegal:—

- (i) any seine of which the meshes in the centre or bunt thereof shall be less than one inch square or the meshes in the arms thereof shall be less than two inches square;
- (ii) any ballahoo net which shall be more than eighteen feet in width, or which shall contain or consist of meshes of a smaller size than half-an-inch square;
- (iii) every and any other kind of fishing-net the mesh of which shall be less than one inch square; excepting cast nets, which may contain or consist of meshes of any size.

(4) In any proceedings brought against any person on a charge of having committed an offence against this section or brought for the purpose of securing the forfeiture of a net under the provisions of the next succeeding section, the burden of proving that such person should not be convicted of such offence or that such forfeiture should not be ordered shall be on the defendant or upon the owner or person entitled to the possession of the net.

136. (1) Every police constable or peace officer and every officer of any Town Authority or district board as shall be generally authorized by the Authority or Board in that behalf, may inspect and measure any fishing-net which he may see in any part of this State whether or not the same has been seen in actual use; and it shall be lawful for any such constable or officer, if upon inspection he is of opinion that the construction of such fishing-net contravenes the provisions of the law for the time being as set forth by or under the last preceding section, to cause such net to be conveyed to the nearest convenient place where the same may be measured; and, if on inspection or measurement it be found that the construction of such net contravenes the law as aforesaid, it shall be seized and taken before a Magistrate who, upon being satisfied of such contravention, shall declare the same to be forfeited; and it shall be lawful for the Magistrate to declare and order such forfeiture notwithstanding that no person shall have been charged, in relation to or in connection with such net, with having committed an offence against the last preceding section or against any regulation made thereunder:

Police or officer of any Town Authority or District Board to inspect and measure fishing-nets and to seize same where not in accordance with provisions hereof

Provided that where a net has been seized hereunder and no person, at the time of such seizure, is found in possession of the same, the order for its forfeiture shall not be declared by the Magistrate until the expiration of one calendar month after its seizure, or until, before the expiration of such month, the owner or other person entitled to the possession of such net shall come forward to claim the same and shall have been given an opportunity of proving why it should not be forfeited.

Proviso regulating procedure in cases where fishing-net seized and no person found in possession of same

(2) The Magistrate shall cause every fishing-net forfeited as aforesaid to be delivered to the police for the purpose of being destroyed, and it shall be the duty of the non-commissioned officer in charge of the police station where any such fishing-net is delivered forthwith to destroy the same.

Forfeited fishing-nets to be delivered to the police to be destroyed

NUISANCES AND OBSTRUCTIONS IN THE STREETS, AND THE LIKE

137. Every person who does any of the acts mentioned in—

- (a) paragraphs (1) to (9), inclusive (11) to (23), inclusive (28) to (30) inclusive and (32) shall be liable on summary conviction to a fine not exceeding twenty-four dollars,

- (b) paragraphs (10), (24) and (25) shall be liable on summary conviction to a fine not exceeding sixty dollars, and
- (c) paragraphs (26), (27), (31) and (33) shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars or to a term of imprisonment not exceeding six months or to both such fine and imprisonment, that is to say, every person who:

ringing bells of night

(1) during the night, wilfully and without lawful excuse disturbs any inhabitant by pulling or ringing any door bell, or by knocking at any door, or rolls any hogshead, puncheon, cask, barrel, tub, hoop, or other thing, or drags, pulls, pushes or otherwise moves any heavy substance or thing, by which any noise is wantonly made, to the annoyance or disturbance of any inhabitant of any town or of any passenger or neighbour; or

charging or firing within yards of dwelling-

(2) except when acting in obedience to lawful authority discharges any cannon or other firearm of greater calibre than a common fowling piece, within three hundred yards of any dwelling-house, to the annoyance or disturbance of any inhabitant thereof, after being warned of the annoyance or disturbance by any inhabitant of such house; or

charging between night on day and on day, &c.

(3) between twelve o'clock on Saturday night and six o'clock on the following Monday morning, except on some lawful and necessary occasion, fires any gun or other firearm, or beats any drum, or plays on any noisy instrument, or dances or joins in any noisy and disorderly diversion; or

charging in public place

(4) discharges any gun, pistol, or other firearm on any public way or within one hundred yards thereof, except on some lawful and necessary occasion:

Provided this subsection shall not apply to the members of a rifle club when engaged in target practice at any rifle range authorized by order of the Governor-General;

Provided also that any such order may at any time be revoked by the Governor-General; or

charging for public use in town.

(5) in any town, offers or exposes for show, hire, or sale any cattle, except in a market or marketplace or other convenient place lawfully appointed for that purpose; or, in any public place, to the annoyance of any person, feeds, foddery, farries,

shoes, or bleeds any cattle, except in case of accident; or cleans, dresses, exercises, trains, or breaks any cattle; or

(6) places or leaves any furniture, goods, wares, or merchandise, or any hogshead, cask, puncheon, barrel, basket, pail, or bucket, or places or uses any standing-place, stool, bench, stall, or showboard, on any footway in any town, or places any blind, shade, covering, awning, or other projection over or along any such footway, unless such blind, shade, covering, awning, or other projection is six feet six inches in height at least in every part thereof from the ground; or

Leaving goods on footway

(7) places, hangs up, or otherwise exposes for sale in any town any goods, or thing whatsoever, so that the same project into or over any footway, or beyond the line of any house or building at which the same are so exposed, so as to obstruct or incommode the passage of any person along any footway; or

Hanging up goods over footway

(8) rolls or carries any hogshead, puncheon, cask, barrel, tub, hoop, or wheel, or any ladder, plank, pole, timber, board, or placard, on any footway in any town, except in loading or unloading any cart or in crossing the footway; or

Rolling hogshead, &c. on footway

(9) hangs or places any clothes on any line or cord projecting over any part of any public place, or on any wall, fence, or paling abutting upon any public place; or

Hanging clothes on line project over public way, &c.

(10) in any public place, throws or lays any coals, stones, slates, shells, lime, bricks, timber, iron, or other materials, except building materials, or rubbish occasioned by building which shall be placed or enclosed so as to prevent any mischief happening to any inhabitant or passenger; or

Throwing coals, &c., in public way

(11) in any public place in any town, beats or shakes any mat between seven o'clock in the morning and six o'clock in the afternoon; or

Beating mat in public way in town

(12) being in charge of any cattle, drives or suffers the same to be driven on and along any public way in such numbers or in such manner as to endanger the safety of any passenger; or

Driving cattle in dangerous manner in public way

(13) having the care of any cart or carriage, rides on any part thereof, or on the shafts, or on any animal drawing the same, without having and holding the reins; or is, if on foot, at such distance from the cart or carriage as not to have the complete

Careless driving of cart or carriage

control over every animal drawing it; or does not, in meeting any other cart or carriage, keep his cart or carriage to the left or near side; or does not, in passing any other cart or carriage, keep his cart or carriage on the right or off side, except in case of actual necessity or some sufficient reason for deviation; or, by obstructing any public way, wilfully prevents any person, cart, or carriage from passing him or any cart or carriage under his care; or

(14) drives or leaves any cattle in any public place without proper and sufficient assistance; or

(15) 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; or

(16) wantonly discharges any firearm, or 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; or

(17) in any street in any town, flies any kite or plays at any game; or

(18) suffers to be at large unmuzzled any ferocious dog, or sets on or urges any dog or other animal to attack, worry, or put in fear any person or cattle; or

(19) in any part of any town 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; or

(20) in any part of any town 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; or

(21) wantonly extinguishes the light of, or destroys or damages, any street lamp; or

Extinguishing or damaging street lamp

(22) being the occupier of any house or other tenement situate in any town or in any place immediately adjacent thereto, does not keep sufficiently swept and cleaned all footways and water-courses belonging and adjoining to the premises occupied by him; and, if any such house or other tenement is empty or unoccupied, the owner thereof shall, for this purpose, be deemed the occupier; or

Not keeping footway and water-course clean

(23) in any public place in any town, cleanses, fires, washes, or scalds any cask or tub, or hews, saws, bores, or cuts any timber or stone, or slacks, sifts, or screens any lime; or

Washing cask, &c., in public way in town

(24) 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 of any person living near it, and does not move away when required by any peace officer; or

Assembling in public way for idle, &c., purpose, and not dispersing when required

(25) loiters, carouses, or the like in or about any shop, or in any public place, and does not quietly move away when desired so to do by any constable or by the owner of the shop or his agent; or

Loitering about shop, &c.

(26) 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; or

Behaving irreverently near church or burial ground

(27) having the custody of any child above the age of five years, permits it to go naked; or

Allowing child to go naked

(28) wilfully and indecently exposes his person in any public place or within view thereof, or in any public place with intent to insult any female; or

Indecent exposure of person (see s. 434)

(29) loiters about or importunes any passenger for the purposes of prostitution; or

Acting as common prostitute

(30) 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,

Posting bill on building, &c., without consent of owner or occupier

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:

(31) in any place open to public view or within public hearing behaves in a riotous, indecent or disorderly manner.

TRADING ON SUNDAY, &C

138. Whoever sells or causes or procures to be sold, or exposes 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 nine dollars and sixty cents.

139. There shall be excepted from the operation of the last preceding section—

- (a) the sale of any drugs or medicines;
- (b) the sale of ice;
- (c) the sale of fresh fish, butchers' meat or fresh fruit, not later than noon;
- (d) the sale of bread or milk;
- (e) the sale of cooked food in hotels, inn or taverns; and
- (f) 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.

IDLE AND DISORDERLY PERSONS

140. 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;

(b) wanders abroad, or places himself in any public place, to gather alms, or causes, procures or encourages any child so to do;

(c) sleeps, wanders or loiters in or under any veranda, gallery, outhouse, passage, gateway or building wholly or in part unoccupied, or is found in or under any cart, vehicle, motor vehicle, carriage, 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 constable or 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;

(d) pretends or professes to tell fortunes; shall be liable to a fine not exceeding one hundred dollars and on a second or subsequent conviction to not less than one month nor more than six months imprisonment.

141. 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.

Possession of house-breaking instruments in day-time with intent to commit indictable offence

TITLE XIV

PERJURY

142. (1) Whoever commits perjury shall be liable to imprisonment for six months.

Summary trial for perjury

(2) The provisions of sections 389 and 390 of this Code (which relate to the definition of perjury) shall apply to proceedings under this section.

(3) If, upon the hearing of any complaint for an offence under this section, it appears to the Court that such offence cannot be sufficiently punished under the provisions of this section, all further proceedings thereon as for a summary offence shall be stayed, and depositions shall be taken, and the case shall in

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all other respects be dealt with as if the charge had been originally one for an indictable offence.

TITLE XV

MISCELLANEOUS OFFENCES AND MATTERS

PRACTISING OBEAH, &C

143. (1) Whoever practices obeah, or by any occult means or by 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.

(2) Whoever imports, prints, publishes, sells or offers or keeps for sale any book, paper, writing or print, which in the opinion of the Court has a tendency to propagate or encourage a belief in the efficacy of the practice of obeah, shall be liable to imprisonment for three months.

144. (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 the last preceding section, 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 preceding section, at the time at which the article or thing was so found.

145. If, on 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-four dollars.

Searching of person suspected of having instrument of obeah in Court

USE OF FIRE

146. Whoever shall take, carry or have any fire, lighted torch, or candle, unless enclosed in a lantern, lighted pipe, cigar or cigarette, into or in any piece of canes, whether standing or cut down, or into or in any distillery, megasshouse, or upon any heap of megass, or sufficiently near to endanger any distillery, megass-house or heap of megass, shall be liable to a penalty of nine dollars and sixty cents

Smoking pipe, &c., about sugar-works, &c.

147. (1) For the purpose of preventing loss, damage and injury, every person who intends to set fire, or to cause fire to be set, to any tree, bush, brushwood, underwood, rubbish, guinea or other grass, trash, or cane-piece, shall give notice to all neighbours possessing or in charge of property which might be damaged or destroyed by the fire, if carelessly or improperly used, and take proper precautions to prevent any damage or destruction to the property of his neighbours.

Precautions required of person about to set fire to tree, &c.

(2) Whoever sets fire, or causes fire to be set, to any tree, bush, brushwood, underwood, rubbish, guinea or other grass, trash, or cane-piece, for any purpose, whether any damage or injury is occasioned to any property of any other person, without notice given and proper precautions taken as in this section provided, shall be liable to a fine of forty-eight dollars.

TRESPASSING AND DETENTION OF GOODS

148. In the following provisions relating to the prevention of squatting and trespassing, unless the context otherwise requires, the words "owner" and "occupier" respectively include any tenant or lessee, and the attorney or agent of any owner or occupier.

Definition of owner and occupier

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149. (1) If any person enters upon and uses or occupies any land, not exceeding ninety-six dollars in annual value, belonging to or in the possession of any other person, without leave of the owner or occupier thereof or without lawful authority for so doing, it shall be lawful for the Magistrate of the district in which the land is situate, on the complaint of the owner or occupier, to summon before him the person using or occupying the land to show cause why an order should not be made for his removal therefrom.

(2) If, on the hearing of such complaint, it is proved to the satisfaction of the Magistrate, that the defendant has entered upon and used or occupied the land without such leave or authority, the Magistrate may make an order for the removal of the defendant by force if necessary, from the land, and also of any erection, animal or thing whatsoever which he may have placed or have thereon.

(3) The Magistrate may also in addition, if he thinks fit, impose on the defendant a fine of twenty-four dollars, and may order that the whole, or any portion of the fine, if paid or recovered, shall be paid to the owner or occupier of the land.

150. Whoever—

- (a) unlawfully enters in an insulting, annoying or threatening manner upon any land belonging to or in the possession of any other person;
- (b) unlawfully enters upon any such land after having been forbidden so to do;
- (c) unlawfully enters and remains on any such land after having been required to depart therefrom;
- (d) having lawfully entered upon any such land, misconducts himself by behaving thereon in an insulting, annoying or threatening manner; or
- (e) having lawfully entered on any such land, remains thereon after having been lawfully required to depart: therefrom,

shall, on the complaint of the owner or occupier of such land, be liable to a fine of nine dollars and sixty cents.

151. Any person found trespassing on any land where any cultivated plant, root, or fruit is growing, and failing to give an account to the satisfaction of the Court as to how or why he came to be on the said land shall be liable to a fine of nine dollars and sixty cents.

Person
trespassing
to give an
account to the
satisfaction of
Court as to
how he came
to be on land

152. Any artificer, workman, journeyman, apprentice, servant, labourer or other person who unlawfully disposes of or retains in his possession, without the consent of the person by whom he may be hired, retained or employed, any goods or chattels, not exceeding twenty-four dollars in value, committed to his care or charge, shall be liable to a fine of nine dollars and sixty cents, and shall also be liable to pay as amends to the person aggrieved the value of that which has been so disposed of or not returned uninjured.

Punishment
of artificer,
&c., for
disposing of
or retaining
goods
committed to
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MISCELLANEOUS

153. (1) Whoever brings on board any of Her Majesty's vessels any spirituous or fermented liquor without the previous consent of the officer commanding the vessel, or approaches or hovers about any such vessel for the purpose of bringing any such liquor on board without such consent, or of giving or selling any such liquor to any officer, seaman or marine in Her Majesty's service without such consent, or of assisting any such officer, seaman or marine to improperly absent himself from his vessel, shall be liable to a fine of forty-eight dollars.

Taking spirits
on Board Her
majesty's
ships, &c.

(2) Any officer in Her Majesty's service, or any warrant or petty officer of the navy, or non-commissioned officer of marines may, with or without seamen or persons under his command, search any boat or other vessel hovering about or approaching, or which may have hovered about or approached, any of Her Majesty's vessels, and may seize any such liquor found thereon, and such liquor shall be forfeited to Her Majesty.

(3) Any such officer or warrant or petty or non-commissioned officer, or any constable, may without warrant, arrest and detain any person found committing an offence under this section, and take him before a Magistrate, to be dealt with according to law.

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154. 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.

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155. If a public officer is summarily adjudged to be imprisoned under the provisions of the last preceding 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.

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156. 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 with regard to which he knows that he is not entitled so to vote, shall be liable to imprisonment for three months.

obedience
summons
itness
s. 370)

157. Whoever without reasonable excuse makes default in obeying any summons, process or order lawfully issued or made by any Court for his attendance 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 three months.

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s. 286)

158. 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.

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lic officer
s. 366)

159. 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.

160. Whoever gives to any person employed in the public service any information which he knows or believes to be false intending thereby to cause, or knowing it to be likely that he will thereby cause such person—

False information to person employed in the public service

- (a) to do or omit anything which such person ought not to do or omit if the true state of facts respecting which such information is given were known to him; or
- (b) to use the lawful power of such person to the injury or annoyance of any person,

shall be guilty of an offence, and shall be liable to imprisonment for three months.

161. Whoever pretends to be or acts as a public officer or juror, not being lawfully authorized 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—

Falsely pretending to be public officer, &c. (see s. 390)

- (a) that he so pretended or acted under a mistake of law or of fact; or
- (b) in the case of a person acting as a public officer, that he so acted in good faith for the public benefit.

162. 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.

Taking prohibited things into or out of prison, &c.

163. Whoever in any manner interferes with any convicted prisoner without the precincts of the prison, or delivers to or receives from him anything whatsoever, 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

Interference with prisoners outside prison

absent himself or to neglect his work, shall be liable to imprisonment for three months.

164. 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.

165. Any prison officer who, whilst in charge of prisoners at work outside a prison, leaves them under any pretext whatsoever from the time of their departure from the prison till their return, or who for any purpose whatsoever enters any premises, not being the place appointed for the labour of the prisoners, during the time that he is in charge of them, shall be liable to a fine of forty-eight dollars.

166. 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 forty-eight dollars.

167. Whoever—

(a) assaults, molests, obstructs or resists, or 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; or

(b) uses any threatening, abusive or insulting language or sends any threatening or insulting message, or letter, to any Magistrate in respect of his duties, shall be liable to imprisonment for one year or to a fine of three thousand dollars, or to both.

168. Whoever, for the purpose of compelling any other person to conduct himself in a particular manner in respect of his business or employment, or to do any act, or to abstain from doing any lawful act of any kind, injures, removes or conceals any tools, materials or other things used by him in his business or employment, or uses any violence to him or to any other person, shall be liable to imprisonment for three months.

Obstructing lawful act by violence, &c.

169. Whoever wilfully secretes, detains or destroys any postal matter or telegram which ought to have been delivered to any other person shall be liable to imprisonment for three months.

Wrongfully detaining or destroying letter or telegram

170. If any person makes any complaint for any summary offence alleged to have been committed by some other person, and afterwards, directly or indirectly, receives, without the permission of the Court by which the complaint was to be heard and determined, any sum of money or other reward for compounding, delaying or withdrawing the complaint, he shall be liable to a fine of ninety-six dollars.

Compounding offence (see s. 384)

171. 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 three months.

Obtaining money by threat of making complaint for summary offence (see s. 277)

172. 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 crime punishable under Title XI. or Title XXI. of this Code, upon the terms or with the understanding that the crime shall be compounded, shall be liable to imprisonment for three months.

Corruptly accepting reward for restoring property, &c.

173. The Governor-General may award a portion of any fine imposed under this Book to any person through whose instrumentality a conviction may have been obtained.

Awarding of portion of fine to informer

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174. 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 statute and not specified in this Book.

BOOK III

INDICATEABLE OFFENCES

PART VII

OFFENCES AGAINST THE PERSON AND REPUTATION

TITLE XVI

ASSAULT AND SIMILAR OFFENCES

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175. Whoever unlawfully assaults any person shall be liable to imprisonment for two years.

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176. Whoever is convicted of an unlawful assault of any of the following kinds, namely -

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- (a) assault upon a person acting as a judicial officer or as a peace officer;
- (b) assault upon a minister of religion acting in the execution of the duties of his office;
- (c) 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;
- (d) assault with a purpose to commit, or in committing or attempting to commit, any other crime;
- (e) assault with any deadly or dangerous instrument or means; or

(f) indecent assault upon any person, whether male or female,

shall be liable to imprisonment for five years.

RAPE AND SIMILAR OFFENCES

177. Whoever commits rape shall be liable to imprisonment for fifteen years. Rape

178. Whoever unlawfully and carnally knows any female under thirteen years of age, whether with or without her consent, shall be liable to imprisonment for fifteen years; and whoever attempts to have unlawful carnal knowledge of any female under thirteen years of age, whether with or without her consent, shall be liable to imprisonment for seven years. Defilement of female under thirteen years of age

179. Whoever unlawfully and carnally knows any female, being of or above thirteen years and under sixteen years of age, whether with or without her consent, shall be liable to imprisonment for five years: Defilement of female between thirteen and sixteen years of age

Provided that it shall be a sufficient defence to any charge under this section if it is made to appear to the Court or jury that the accused person had reasonable cause to believe that the female was of or above sixteen years of age:

Provided also, that no prosecution shall be commenced for an offence under this section more than three months after the commission of the offence.

180. Whoever by threats, deceit or duress, or by administration of any intoxicating or other matter, procures any female to permit carnal knowledge otherwise than in marriage, shall be liable to imprisonment for two years. Corruption of female

181. Whoever unlawfully and carnally knows any idiotic or imbecile female, whether with or without her consent, under circumstances which do not amount to rape, but which prove that the accused person knew, at the time of the commission of the offence, that the female was an idiot or imbecile, shall be liable to imprisonment for two years. Carnal knowledge of idiotic or imbecile female

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182. Nothing in any of the four last preceding sections shall exempt a person from any liability to punishment for rape or for an attempt to commit rape.

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183. Whoever is convicted of unnatural carnal knowledge of any person, with force or without the consent of the person, shall be liable to imprisonment for fifteen years.

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183A. (1) If a male person has carnal knowledge of a female person under thirteen years of age whom he knows to be his daughter, granddaughter, sister, aunt or niece, he commits an offence, namely incest, and shall be liable to imprisonment for fifteen years.

(2) If a male person has carnal knowledge of a female person above thirteen years of age whom he knows to be his daughter, granddaughter, mother, sister, aunt or niece, he commits an offence, namely incest, and shall be liable to imprisonment for five years.

(3) It is no defence to a charge of incest under this section that the female consented to the act of carnal knowledge.

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183B. (1) If a female person of the age of sixteen years or over consensually permits a male person whom she knows to be her father, grandfather, son, brother uncle or nephew to have carnal knowledge of her, she commits an offence, namely incest, and shall be liable to imprisonment for five years.

(2) It is no defence to a charge of incest under this section that the male consented to the act of carnal knowledge.

(3) No prosecution for an offence under this section shall be instituted except with the prior written consent of the Director of Public Prosecutions.

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183C. (1) Any person of the age of twenty-one years or over who has carnal knowledge of another person under thirteen years of age when this other person is the step-child, foster-child, ward or dependant in the custody of the person having such carnal knowledge, shall be liable to imprisonment for fifteen years.

(2) Any person of the age of twenty-one years or over who has carnal knowledge of another person above thirteen years of age when this other person is the step-child, foster-child, ward or dependant in the custody of the person having such carnal knowledge, shall be liable to imprisonment for five years.

(3) A person shall not be guilty of an offence under this section if that person is the lawful spouse of the person of whom he has had carnal knowledge.

(4) No prosecution for an offence under this section shall be instituted except with the prior written consent of the Director of Public Prosecutions."

KIDNAPPING, ABDUCTION AND SIMILAR OFFENCES

184. Whoever kidnaps any person shall be liable to imprisonment for ten years. Kidnapping

185. Whoever steals any person under twelve years of age whether with or without his consent, shall be liable to imprisonment for ten years. Child-stealing

186. Whoever is guilty of an abduction of any unmarried female under eighteen years of age shall be liable to imprisonment for two years. Abduction of unmarried female under eighteen

187. Whoever, being the owner or occupier of any premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any female of such age as is in this section mentioned to resort to, or be in or upon the premises for the purpose of being unlawfully and carnally known by any person, whether the carnal knowledge is intended to be with any particular person or generally, shall— Householder, &c., permitting defilement of young female on his premises

(a) if the female is under thirteen years of age, be liable to imprisonment for fifteen years; and

(b) if the female is of or above thirteen and under sixteen years of age, be liable to imprisonment for two years:

Provided that it shall be a sufficient defence to any charge under this section if it is made to appear to the Court or jury that

the accused person had reasonable cause to believe that the female was of or above sixteen years of age.

188. Whoever—

- (a) procures any female under twenty-one years of age to have unlawful carnal connection, either within or without Her Majesty's Dominions, with any other person;
- (b) procures any female to become, either within or without Her Majesty's Dominions, a common prostitute;
- (c) procures any female to leave this State, with intent that she may become an inmate of a brothel elsewhere;
- (d) procures any female to leave her usual place of abode in this State with intent that she may, for the purposes of prostitution, become an inmate of a brothel, either within or without Her Majesty's Dominions.

shall be liable to imprisonment for two years:

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness, unless the witness is corroborated in some material particular by evidence implicating the accused person.

189. Whoever by force takes away or detains against her will any female of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, shall be liable to imprisonment for ten years.

190. Whoever detains any female against her will—

- (a) in or upon premises with intent that she may be unlawfully and carnally known by any man whether any particular man or generally; or
- (b) in a brothel.

shall be liable to imprisonment for two years.

Where a female is in or upon any premises for the purpose of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain her in or upon the premises or in the brothel, if with intent to compel or induce her to remain therein the person withholds from her any wearing apparel or

other property belonging to her or, where wearing apparel has been lent or otherwise supplied to her by or by the direction of such person, the person threatens her with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings whether civil or criminal shall be taken against any such female for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave the premises or brothel.

191. Whoever by duress causes any person to marry against his or her will, shall be liable to imprisonment for two years.

Compulsion of marriage

192. Whoever, knowing that any of the offences mentioned in the eight last preceding sections has been committed in the case of any person abets the unlawful detention of the person, or otherwise abets the execution of the intent with which that offence was committed, shall be deemed guilty of that offence.

Special provisions as to abetment

193. Whoever, being bound by law or by virtue of any agreement or employment, to keep charge of or to maintain any child under five years of age, or being unlawfully in possession of any such child, abandons the child by leaving it at a hospital, or at the house of any person, or in any other manner, shall be liable to imprisonment for two years.

Abandonment of infant

DEFINITIONS AND SPECIAL PROVISIONS

194. Rape is the carnal knowledge of a female of any age without her consent.

Definition of rape

195. Whenever, upon the trial of any person for an offence punishable under this Book, it is necessary to prove carnal knowledge, the carnal knowledge shall be deemed complete upon proof of any the least degree of penetration only.

Evidence of rape &c.

196. 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

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197. It is no defence to a charge of an indecent assault on a person under the age of thirteen years, to prove that he or she consented to the act of indecency.

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napping

198. A person is guilty of kidnapping—

- (a) who unlawfully imprisons any person, and takes him out of the jurisdiction of the Court, without his consent; or
- (b) 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.

function of
abduction

199. (1) A person is guilty of abduction of a female who, with intent to deprive of the possession or control of the female any person entitled thereto, or with intent to cause her to be married to, or carnally known by, any person—

- (a) unlawfully takes her from the lawful possession, care or charge of any person; or
- (b) detains her from returning to the lawful possession, care or charge of any person.

(2) The possession, control, care or charge of a female by a parent, guardian or other person shall be held to continue, notwithstanding that the female is absent from his actual possession, control, care or charge, if the absence is for a special purpose only, and is not intended by the parent, guardian or other person to exclude or determine such possession, control, care or charge for the time being; but a person is not guilty of abduction by taking or detaining a female unless he knew, or had grounds for believing that she was in the possession, control, care or charge of some other person.

function of
stealing

200. (1) A person is guilty of stealing another person—

- (a) who kidnaps him; or
- (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.

201. For the purposes of the sections of this Title relating to child-stealing and abduction—

Special
provisions as
to child-
stealing and
abduction

- (a) 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;
- (b) 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;
- (c) 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;
- (d) a person having the temporary possession, care, or charge of another person for a special purpose, as his attendant, employer, or schoolmaster, or in any other capacity, can be guilty of stealing or abduction of that person by acts which he is not authorized 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
- (e) notwithstanding the general provisions of Book 1. of this Code with respect to mistake of law, a person is not guilty of stealing or of abduction of 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 age of the other person was under twelve or sixteen years, as the case may be; nor to exempt a person from liability to punishment as for stealing or abduction if he took or detained the other person for any immoral purpose.

Child of tender years

202. Where, on the trial of any offence under this Title, it is proved, to the satisfaction of the Court, that the seduction or prostitution of any female under sixteen years of age has been caused, encouraged, or favoured by her parent, guardian, master, or mistress, it shall be in the power of the Court to divest the parent, guardian, master or mistress of all authority over her, and to appoint any person or persons willing to take charge of her to be her guardian until she has attained twenty-one years of age, or any age below this, as the Court may direct, and the Court shall have the power from time to time to rescind or vary the order by the appointment of any other person or persons as guardian, or in any other respect.

Child of tender years

203. (1) Where, on the hearing or trial of any charge for an offence under this Title, the female in respect of whom the crime is charged to have been committed, or any 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 female or child may be received, though not given upon oath, if, in the opinion of the Magistrate or of the Court, as the case may be, such female or child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth:

Provided that no person shall 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 person:

Provided also, that any witness whose evidence has been admitted under this section shall be liable to indictment and punishment for perjury in all respects as if she or he had been sworn.

(2) Where the victim of a crime referred to in subsection (1) is a child of tender years, the corroboration that is needed under the first Proviso to subsection (1) shall not be confined to oral evidence given by a witness other than that child but shall include circumstantial evidence or any such other evidence as the Magistrate or the Court may find to be supportive of the testimony of that child.

203A. Where the imprisonment for any crime under this Part involving indecency or carnal knowledge is less than ten years, if that crime has been committed against a person who is a child of tender years, the penalty shall be not less than ten years.

Special punishment regarding certain crimes committed against child of tender years

204. (1) If it appears to any Magistrate, on information 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 interest, that there is reasonable cause to suspect that she is unlawfully detained for immoral purposes by any person in any place within his jurisdiction, he may issue a warrant authorizing 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.

Power of search for female detained for immoral purposes

(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 about sixteen years and under eighteen years of age, is so detained against her will, or against the will of

her parent or of any other person having the lawful care or charge of her; or

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

(4) Any person who is authorized 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 Chief of Police or some officer of police not lower in rank than sergeant, who shall be accompanied by the parent, guardian, or relative of the female, or other person laying the information, if that person so desires, unless the Magistrate otherwise directs.

TITLE XVII

CRIMINAL HARM TO THE PERSON

205. Whoever intentionally and unlawfully causes harm to any person shall be liable to imprisonment for three years.

206. Whoever intentionally and unlawfully causes a wound to any person shall be liable to imprisonment for four years.

207. Whoever intentionally and unlawfully causes grievous harm to any person shall be liable to imprisonment for five years.

208. Whoever intentionally and unlawfully causes a maim or any dangerous harm to any person shall be liable to imprisonment for fifteen years.

209. Whoever uses any explosive, corrosive, deadly, or destructive means or instrument, shall—

(a) if he does so with intent unlawfully to cause harm to any person, be liable to imprisonment for five years;

(b) if he does so with intent unlawfully to wound or to cause grievous harm to any person, be liable to imprisonment for ten years; or

(c) if he does so with intent unlawfully to maim or to cause dangerous harm to any person, be liable to imprisonment for fifteen years.

210. Whoever unlawfully and knowingly administers any noxious matter to any person shall be liable to imprisonment for two years.

Administering noxious matter

211. Whoever commits any of the offences mentioned in the preceding sections of this Title, with intent to facilitate the commission of any crime 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 crime, or with intent to hinder the discovery of any crime, 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—

Committing certain offences with matter of aggravation

(a) if the crime 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; or

(b) in any other case, be liable to imprisonment for five years.

212. Whoever, with any of the intents mentioned in the last preceding section, 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 fifteen years, and, in the discretion of the Court, to flogging.

Garroting, &c.

213. 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 fifteen years.

Intentionally endangering vessel

214. 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

Interference with signal, &c.

safety of navigation, whether on the sea or on a river or other water, shall, although he does not intend to cause harm or danger of harm to any person, be liable to imprisonment for two years.

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215. (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.

(2) Whoever supplies for use on board any vessel any medical or surgical stores or instruments, or any life-belt 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 five years or shall, if he does so negligently, be liable to imprisonment for two years.

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216. 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 five years.

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217. Whoever negligently and unlawfully causes harm to any person shall be liable to imprisonment for one year.

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218. Whoever negligently and unlawfully causes grievous harm to any person shall be liable to imprisonment for eighteen months.

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219. Whoever—

(a) being solely or partly in charge of any steam-engine, machinery, ship, boat, or dangerous thing or matter of any kind;

(b) having undertaken or being engaged in medical or surgical treatment of any person; or

(c) having undertaken or being engaged in the dispensing, supplying, 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.

220. Definitions and Special Provisions.

Definition of
different
kinds of harm

In this Code—

“dangerous harm” means harm endangering life;

“grievous harm” means any harm which amounts to a maim or dangerous harm as herein 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 permanent or serious injury to any external or internal organ, member, or sense;

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

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

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

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

Definition of
unlawful
harm

222. 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 the next succeeding section is mentioned, and in no other case.

Explanation
as to causing
harm by
omission

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223. A person is under a duty to prevent harm to another person—

- (a) if he is under a duty, as mentioned in the next succeeding section, to supply a person with the necessaries of health and life; or
- (b) 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.

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224. (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 to his ward, being actually under his control.

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

225. (1) Where, under the provisions of either of the two last preceding sections, 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.

Explanations
as to office,
&c.

(2) No person is excused from liability for failure to perform a duty within the meaning of either of the two last preceding sections, 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 a different ground.

226. The general provisions in Book I. of this Code with respect to causing an event are, in their application to the matters of this Title, subject to the following explanations and modifications, namely—

Exceptions
from general
provisions as
to causing an
event
(see s. 129)

- (a) 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 per-

son. could not by reasonable exertion have avoided the harm:

- (b) 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;
- (c) 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
- (d) 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.

227. 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.

228. 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.

229. 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.

TITLE XVIII

CRIMINAL HOMICIDE AND SIMILAR OFFENCES

230. Whoever commits murder shall be liable to suffer death: Murder. Proviso

Provided that sentence of death shall not be pronounced on or recorded against a person convicted of murder if it appears to the Court that at the time when the offence was committed he was under the age of eighteen years; but, in lieu of such punishment, the Court shall sentence the juvenile offender to be detained during Her Majesty's pleasure, and, if so sentenced, he shall, notwithstanding anything in the other provisions of this Code or the provisions of any other Law or Act, be liable to be detained in such place and under such conditions as the Governor-General may direct, and whilst so detained shall be deemed to be in legal custody.

231. Whoever attempts to commit murder shall be liable to imprisonment for fifteen years. Attempt to commit murder

232. 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 fifteen years. Manslaughter

233. 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 fifteen years. Attempt to commit and abetment of suicide

234. Whoever intentionally and unlawfully causes abortion or miscarriage shall be liable to imprisonment for ten years. Abortion

235. (1) Where a woman by any wilful act or omission causes the death of her newly-born child, but at the time of the act or omission she had not fully recovered from the effect of giving birth to such child, and by reason thereof the balance of her mind was then disturbed, she shall, notwithstanding that the circumstances were such that but for this Act the offence would have amounted to murder, be guilty of felony, to wit of infanti- Causing harm to child at birth

cide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of such child.

(2) Where upon the trial of a woman for the murder of her newly-born child, 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 she had not fully recovered from the effect of giving birth to such child, and that by reason thereof the balance of her mind was then disturbed, the jury may, notwithstanding that the circumstances were such that but for the provisions of this Act they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this Act shall affect the power of the jury upon an indictment for the murder of a newly-born child to return a verdict of manslaughter or a verdict of guilty but insane, or a verdict of concealment of the body of a child, in pursuance of section 240 of this Code.

(4) The said section 240 shall apply in the case of the acquittal of a woman upon indictment for infanticide as it applies upon the acquittal of a woman for murder.

236. 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:

Provided that if any person tried for the murder of a 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 such person did endeavour to conceal the body of such child, with intent to conceal the fact of its birth, existence, or death or the manner or cause of its death, and thereupon the Court may pass such sentence as if such person had been convicted upon an indictment for the concealment of the body of such child:

Provided further that the provision of section 30 of the Jury Act with regard to a majority verdict shall apply, to a verdict of concealment of the body of a child.

DEFINITIONS AND SPECIAL PROVISIONS

237. 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

238. 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 the next succeeding section is mentioned.

Definition of murder

239. 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—

Cases in which intentional homicide is reduced to manslaughter

- (a) that he was deprived of the power of self-control by such extreme provocation given by the other person as is mentioned in the next succeeding section; or
- (b) 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
- (c) 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
- (d) 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-control by a disease or disorder of mind produced by childbearing.

240. The following matters may amount to extreme provocation to one person to cause the death of another person, namely—

Matters which amount to provocation

- (a) 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;

- (b) 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;
- (c) 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
- (d) 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.

241. (1) Notwithstanding proof on behalf of the accused person of such matter of extreme provocation as in the last preceding section 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; or
- (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; or
- (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.

242. 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 grounds for supposing, that it was lawful.

Mistake as to matter of provocation

243. 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.

Mistake as to person giving provocation

244. The general provisions in 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—

Special provisions as to causing death (see s. 45)

- (a) 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;

- (b) 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;
- (c) 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;
- (d) 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
- (e) 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.

245. The general provisions in 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.

246. (1) In order that a 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.

(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.

247. (1) The offence of causing abortion or miscarriage of a woman can be committed either by that woman or by 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.

Explanation
as to causing
abortion

(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.

248. (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; and

Explanation
as to causing
harm to child
at birth

(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.

249. (1) Any secret disposition of the body of a child whether it be intended to be permanent or not, may be a concealment.

Explanation
as to
concealment
of body of
child

(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 240 shall not apply to the case of a child of less than six months' growth before its birth.

(4) Section 240 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 240 apply as well to the mother of the child as to any other person.

250. (1) Where any person does an act in good faith, for the purpose 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.

(2) Any act which is done, in good faith and without negligence, for the purpose 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.

251. 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.

TITLE XIX

LIBEL

252. (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.

DEFINITIONS AND SPECIAL PROVISIONS

253. 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.

254. (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" means any offence punishable on indictment under this Code, and any act punishable on indictment under any law in force within the jurisdiction of the Court, and also any act, wheresoever committed, which if committed by a person within the jurisdiction of the Court, would be punishable on indictment under any law.

255. (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.

Definition of publication

(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.

256. 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.

Definition of unlawful publication

257. (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—

Cases in which publication of defamatory matter is absolutely privileged

- (a) if the matter is published by the Governor-General or by the Senate or the House of Representatives in any official document or proceeding;
- (b) if the matter is published in the Senate or the House of Representatives by the Governor-General or by any 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 as a Judge or Magistrate, or as Attorney General or other public prosecutor, or as a juror or 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 Representatives;
- (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.

(2) Where a publication is absolutely privileged, it is immaterial for the purposes of this Title (notwithstanding any of the general provisions of Book 1. of this Code with respect to justifications or excuses) whether (except as in the last paragraph of the preceding subsection 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.

258. A publication of defamatory matter is privileged, on condition that it was published in good faith, in any of the following cases, namely—

- (a) 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;

Provided that if the Court prohibits 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;

- (b) 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 the last preceding section;
- (c) if the matter is published by a person acting as counsel or advocate in the course of or in preparation for any legal proceeding;
- (d) 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;
- (e) 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;
- (f) 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;
- (g) 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 other person so far as it appears therein;
- (h) 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;

- (i) if the matter is a complaint or accusation made by a person in good faith against another person in respect of 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
- (j) 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.

259. (1) A publication of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of the last preceding section, if it is made to appear either—

- (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.

PART VIII

OFFENCES AGAINST RIGHTS OF PROPERTY

TITLE XX

MISCHIEF TO PROPERTY

ARSON

260. Whoever intentionally and unlawfully causes any dwelling-house or vessel to be set on fire shall be liable to imprisonment for life.

Arson of dwelling-house or vessel

261. Whoever intentionally and unlawfully causes any building, whether it be completed or in an unfinished state, vessel, or anything in or near to any building, to be set on fire, with intent to destroy or materially damage that or any other building, shall be liable to imprisonment for life.

Arson of building, &c.

262. Whoever intentionally and unlawfully causes any machine, crop, or other thing, exceeding forty-eight dollars in value, or any forest or plantation of trees, to be set on fire shall be liable to imprisonment for life.

Arson of machine, crop, &c.

263. 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 forty-eight dollars in value, shall be liable to imprisonment for life.

Use of explosive matter with intent to cause damage

264. Whoever intentionally and unlawfully, in any case not otherwise in this Title expressly provided for, causes damage by fire or explosion to any property, shall, if the damage so caused exceeds twenty five dollars, be liable to imprisonment for fifteen years and if harm is caused to any person, be liable to imprisonment for twenty years.

Causing damage by fire or explosion generally

OTHER CRIMINAL MISCHIEF

265. Whoever in any manner intentionally and unlawfully causes material damage to any building, or vessel, or to any bridge, or to any machinery or tools exceeding twenty-four dollars in value, or to any building, structure, work, or apparatus constructed, used, or maintained for the purposes of any port, harbour, dock, canal, 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 for the purpose of irrigation, shall be liable to imprisonment for ten years.

266. 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.

267. Whoever intentionally or unlawfully causes damage to, or obstructs the working of, any pole, wire or apparatus used for the purposes of any telegraph or telephone, shall be liable to imprisonment for two years.

268. Whoever intentionally and unlawfully causes damage to anything in the course of manufacture or of preparation for sale or to anything manufactured or prepared for sale, or to any vegetable produce, whether growing or severed from the soil, and whether in any building, yard, stack or wheresoever situate, shall, if the damage caused exceeds forty-eight dollars, be liable to imprisonment for five years, or shall, if the damage caused is to the amount of or is less than forty-eight dollars, but exceeds four dollars and eighty cents, be liable to imprisonment for one year.

269. Whoever intentionally and unlawfully kills, maims or wounds any cattle, or causes any damage to the amount of or exceeding twenty-four 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.

270. 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 ten years.

Damage to document

271. Whoever intentionally and unlawfully causes damage exceeding twenty-four dollars to any land or to any animal or thing in any case not specially provided for in this Title, shall be liable to imprisonment for six months.

Damage in cases not provided for (see s. 94)

DEFINITIONS AND SPECIAL PROVISIONS

272. In this Code, the word "arson" means any offence punishable under any of the first five sections of this Title.

Definition of arson

273. In this Title—

Definition of building, &c.

"building" means any structure, booth, tent, excavation, cave or other 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 any 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;

"dwelling-house" means any building or vessel which, or any part of which, is ordinarily or at the time of the alleged crime 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.

TITLE XXI

MISAPPROPRIATION AND FRAUD

STEALING, ROBBERY AND EXTORTION

274. (1) 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.

(2) Whoever is convicted of being a common thief shall be liable to imprisonment for ten years.

275. Whoever is convicted—

(a) of 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;

(b) of stealing from or in any dwelling-house, shop, garage, manufactory, warehouse, or vessel;

(c) of stealing from or in any place of worship;

(d) of stealing from the person;

(e) of stealing any cattle, not being goat or swine, the value of which cattle does not exceed two hundred dollars; or

(f) of stealing any pole, wire or apparatus used for the purposes of any telegraph or telephone,

shall be liable to imprisonment for seven years.

275A. (1) Whoever being a clerk, officer or servant, or a person employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud—

(a) removes, conceals, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for and on account of his employer; or

(b) makes, or concurs in making any false entry in, or omits or alters or concurs in omitting or altering any material particular from or in any book, document or account

which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, shall be liable to imprisonment for seven years.

(2) Whoever being an officer of a partnership, company or corporation wilfully, and with intent to defraud, 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.

276. (1) Whoever commits robbery shall be liable to imprisonment for ten 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 for fifteen years, and, in the discretion of the Court, to flogging.

277. (1) Whoever extorts any property from any person by means of threats shall be liable to imprisonment for five years.

Extortion (see s. 174)

(2) Whoever, for purposes of extortion, accuses or threatens to accuse any other person of an infamous offence, shall be liable to imprisonment for fifteen years.

FRAUDULENT BREACH OF TRUST

278. Whoever is convicted of fraudulent breach of trust shall be liable to imprisonment for five years.

Fraudulent breach of trust (see s. 95 (2) (a) (iv))

FALSE PRETENCES AND OTHER FRAUDS

279. Whoever defrauds any person by any false pretence shall be liable to imprisonment for five years.

Fraud by false pretence (see s. 97)

280. 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.

Fraud as to insurance

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281. Whoever, being a clerk, servant or public officer, and whoever, being an officer of any partnership, company or corporation, does 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 crime, that is to say—

- (a) conceals, injures, 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
- (b) 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.

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282. 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 two years.

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283. (1) Whoever—

- (a) obtains credit by any fraud or false pretence; or
- (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; or
- (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 five years.

(2) Whoever fraudulently issues a cheque for the purpose of obtaining credit, or in purported satisfaction of a debt, or for the purpose of obtaining any other thing, where the credit, debt or other thing is of a value exceeding two thousand dollars when

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he knows or ought to know that there are not sufficient funds in the account regarding which he issues the cheque, shall be liable to imprisonment for five years.

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funds
(see s. 97 (3))

(3) 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.

284. Whoever with intent to defraud—

Fraud as to
boundaries or
documents

- (a) 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
- (b) conceals, injures, alters or falsifies any bill of lading, invoice, manifest, receipt or other document evidencing the quantity, character or condition 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.

285. 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 as to
thing pledged
or taken in
execution

286. 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.

Fraud in
removing
goods to
evade legal
process
(see s. 158)

RECEIVING

287. (1) 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

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liable to the same punishment as if he had committed the offence.

(2) Whoever is convicted of being a common receiver shall be liable to imprisonment for fourteen years.

DEFINITIONS AND SPECIAL PROVISIONS

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288. A person who steals a thing is guilty of robbery if, in and for the purpose of stealing the thing, he uses any force or causes any harm to any person, or if he uses any threat of criminal assault or harm to any person, with intent thereby to prevent or overcome the resistance of that or of any other person to the stealing of the thing.

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289. "Threat", when used with reference to extortion, does not include a threat of criminal assault or harm to the person threatened.

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290. "Infamous offence" means any felony punishable by imprisonment for seven years or more, or an indecent assault or unnatural connexion with a person or animal, or an attempt to commit, or an abetment of or conspiracy for, any such offence as aforesaid.

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291. 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 or the next succeeding Title, 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.

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292. 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 this Title 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.

TITLE XXII

HOUSEBREAKING AND BURGLARY

293. Whoever commits housebreaking shall be liable to imprisonment for ten years.

House-
breaking

294. Whoever commits housebreaking by night in the case of a dwelling-house is guilty of burglary, and shall be liable to imprisonment for fifteen years.

Burglary

295. 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 five years.

Entry into
building by
night, &c.

296. 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 five years.

Possession of
instrument
for burglary,
&c.

DEFINITIONS

297. A person commits housebreaking if he unlawfully, breaks any building for the purpose of executing or of facilitating or abetting the execution of, any felony therein, by himself or by any other person, or 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 any felony therein.

Definition of
house-
breaking

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298. A person breaks a building if for any of the purposes mentioned in the last preceding 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 any felony therein by him or by any other person.

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299. 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 purpose for which he enters or is therein.

TITLE XXIII

FORGERY AND FALSE COIN

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&c.

300. Whoever—

- (a) with intent to defraud, or with intent to defeat, obstruct, or pervert the course of justice, forges any document of any of the following kinds, namely, any will, any document of title to land, any judicial record, any power of attorney, any bank note, bill of exchange, promissory note, or other negotiable instrument, any policy of insurance, or any cheque or other authority for the payment of money by a person carrying on business as a banker;
- (b) with intent to defraud any person to the amount of ninety-six dollars or upwards, forges any document whatever; or
- (c) is convicted of being a common forger,

shall be liable to imprisonment for fifteen years.

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301. Whoever—

- (a) forges any stamp, whether impressed or adhesive, used for the purposes of revenue by the Government of

Grenada, or by the Government of the United Kingdom, or of any Possession or Colony of Her Majesty, or by any foreign Prince or state;

- (b) 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;
- (c) fraudulently cuts, tears, or in any way removes from any material any stamp used for purposes of revenue by the Government of Grenada with intent that any use should be made of the stamp, or of any part thereof;
- (d) fraudulently mutilates any such stamp as last aforesaid with intent that any use should be made of any part of it;
- (e) 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;
- (f) fraudulently erases or otherwise either really or apparently removes from any stamped material any name, sum, date, or other matter or thing whatsoever written thereon, with the intent that any use should be made of the stamp; or
- (g) 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 seven years.

302. 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 judicial or official document shall be liable to imprisonment for ten years.

Forgery of
judicial or
official
document

303. Whoever with intent to defraud any person to the amount or value of twenty-four dollars or upwards forges any document whatsoever shall be liable to imprisonment for five years.

304. 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 crime, shall be liable to imprisonment for two years.

305. (1) Whoever forges or wilfully and without due authority alters a telegram, or utters a telegram knowing the same to be forged or wilfully and without due authority altered, or who transmits by telegraph as a telegram, or utters as a telegram, any message or communication which he knows to be not a telegram, shall, whether he had or had not an intent to defraud, be liable to imprisonment for one year.

(2) For the purposes of this section the expression "telegram" means a written or printed message or communication sent to or delivered at the office of a telegraph company, for transmission by telegraph, or delivered by a telegraph company as a message or communication transmitted by telegraph, and the expression "telegraph company" means any company, corporation, or persons carrying on the business of sending telegrams for the public under whatever authority or in whatever manner such company or corporation or persons may act or be constituted.

306. (1) 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.

(2) Whoever is convicted of being a common coiner shall be liable to imprisonment for fifteen years.

307. (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.

(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 of the Queen's current gold or silver coin, knowing it to have been so produced or obtained, shall be liable to imprisonment for seven years.

308. 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.

309. 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.

310. 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.

311. 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.

311A. In this Title—
"building" means any structure, booth, tent or other place covered or uncovered whether fixed or moveable

(see s. 110)

Being in possession of means of forging or coining (see s. 44)

Uttering forged documents, &c.

Claiming upon forged document

Possessing forged document, &c.

Definition of building and dwelling house

which is constructed used or adapted, for the habitation or meeting or shelter of human beings, or for the keeping or shelter of any cattle or goods, or for the manufacture, keeping or sale of goods;

“dwelling-house” means any building which, or any part of which is ordinarily, or at the time of the alleged crime, occupied by any person as a sleeping place during the night or any part of the night: and for the purposes of this definition, every outhouse of covered place which communicates, by any interior or covered doorway, window, passage or other opening, with a building shall be deemed to be 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.

312. 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.

313. Whoever with intent to defraud forges or counterfeits any hall-mark 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.

DEFINITIONS AND SPECIAL PROVISIONS

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

(a) 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—

- (i) 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
 - (ii) 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
 - (iii) 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;
- (b) 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;
- (c) 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;
- (d) 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;
- (e) 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;
- (f) 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;

- (g) "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
- (h) 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.

315. In this Title —

"coin" means any metal or paper used for the time being as money, either in this State or in any other place or country, and issued by authority of any Government in order to be so used;

"official document" means any document purporting to be made, used, or issued by any Public Officer for any purpose relating to his office.

316. A person "counterfeits" a stamp, die, coin, or mark if he makes any imitation thereof, or anything which is intended to pass or which may pass as such stamp, die, 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, die, coin, or mark, he shall be deemed to be guilty of counterfeiting, within the meaning of this Title, 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.

317. 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.

318. (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

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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.

document,
stamp or coin

(2) In like manner, a person possesses or does any act with respect to a stamp, die, 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.

319. 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, die or coin, it is not necessary that the document, stamp, die 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.

Imitation of
forged
document,
&c., need not
be perfect

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

Special
provision as
to jurisdiction

321. (1) A person shall be deemed to be a 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; or
- (b) if he is convicted of any forgery punishable under this Title, after having been convicted of any offence punishable under this Title; or
- (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

Definition of
a common
forger and of
a common
coiner

means of which he purposed to commit any offence punishable under this Title.

- (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; or
- (b) if he is convicted of any crime with respect to coin, after having been convicted of any offence punishable under this Title; or
- (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 Title.

PART IX

OFFENCES AGAINST PUBLIC ORDER, HEALTH AND MORALITY

TITLE XXIV

OFFENCES AGAINST THE SAFETY OF THE STATE

322. 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:

Provided that sentence of death shall not be pronounced on or recorded against a person convicted of treason if it appears to the Court that at the time when the offence was committed he was under the age of eighteen years; but in lieu thereof the

Court shall sentence him to be detained during Her Majesty's pleasure; and if so sentenced he shall, notwithstanding anything in the other provisions of this Code or the provisions of any other Law or Act, be liable to be detained in such place and under such conditions as the Governor-General may direct; and whilst so detained shall be deemed to be in legal custody.

323. 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 five years.

Misprision of treason

324. 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 fifteen years.

Treason felony

325. 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 the enactments, provisos, requirements and limitations of the law of this State.

Application of English law of treason, &c.

326. 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 House of Representatives or any person in command of any Naval, Military or Air 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 fifteen years.

Use of armed force against the Government, &c.

327. Whoever is guilty of seditious libel, or of having been a party to a seditious assembly, shall be liable to imprisonment for two years.

Seditious libel and assembly

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r Majesty

328. Whoever with intent to bring Her Majesty into hatred, contempt, or ridicule, publishes any defamatory or insulting matter, whether by writing, print, word of mouth, or in any other manner, concerning Her Majesty, is guilty of a misdemeanour.

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329. (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.

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330. 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.

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331. Whoever, not being subject to any Articles of War or Articles of the Navy, abets the desertion of any person subject to such Articles, or 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.

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332. Whoever, not being subject to any Articles of War or Articles of the Navy, abets any act of insubordination by any person subject to such Articles, is guilty of a misdemeanour.

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333. 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 authorized by law to give such permission, each of them is guilty of a misdemeanour.

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334. Whoever causes harm to himself, or procures any other person to cause harm to him, for the purpose of evading any liability to perform Naval, Military or Air Service or duty, shall be liable to imprisonment for two years.

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335. 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.

336. 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.

Taking or
administering
unlawful oath

337. (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—

Breaches of
official trust

(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 of Grenada 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, unless the context otherwise requires—

“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;

“document” includes part of a document, despatch, letter, telegram, and telegraphic code or cypher;

"model" includes design, pattern, and specimen;

"office under the Queen" includes any office or employment in or under any department of the Government of Grenada and, so far as regards any document, sketch, plan, model, or information relating to the Naval, Military or Air Service 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 of representation of a place or thing.

DEFINITIONS AND SPECIAL PROVISIONS

338. For the purposes of this Title—

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

A "seditious assembly" is an assembly of five or more persons with a seditious purpose, or at which any seditious libel is published, or at which any speeches are made with a seditious purpose;

"seditious libel" is the publication, by any such act as is specified in Title XIX. of this Code as amounting to publication of a libel, of any matter with a seditious purpose. A seditious libel cannot be justified on any ground of absolute or conditional privilege;

A "seditious purpose" means a purpose to excite any of Her Majesty's subjects to the obtaining by force or other unlawful means of an alteration in the laws or in the form of government, or to the commission of any offence punishable under the first five sections of this Title;

"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 per-

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seditious
assemblies in the

sons associated for any treasonable or seditious purpose.

In this section, "crime" includes any crime punishable on indictment, whether under this Code or under any other law.

TITLE XXV

OFFENCES AGAINST THE PUBLIC PEACE

339. Whoever takes part in a riot is guilty of a misdemeanour.

Riot

340. Whoever takes part in a riot, being armed with any offensive instrument, shall be liable to imprisonment for two years.

Rioting with
weapons

341. Whoever in rioting is guilty of any felony punishable under any of the Titles XVI. to XVIII. (both inclusive) or XX. to XXII. (both inclusive) 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 that Title.

Riot and
felony

342. If any persons assemble or are together with a purpose of committing a riot each of them is guilty of a misdemeanour.

Unlawful
assembly

343. Whoever does any act with intent to provoke a riot is guilty of a misdemeanour.

Provocation
or riot

344. If, as is hereafter in this Title provided, proclamation is made commanding the persons engaged in a riot, or assembled with the purpose of committing a riot, 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

345. If any person forcibly prevents or obstructs the making of such proclamation as is in the last section mentioned, he shall be liable to imprisonment for ten years; and if the making of the proclamation is so prevented, every person who, knowing that it

Preventing or
obstructing
the making of
proclamation

has been so prevented, takes or continues to take part in the riot or assembly, shall be liable to imprisonment for five years.

346. Whoever assaults any 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 assembled with the purpose of committing a riot, shall be liable to imprisonment for five years.

347. Whoever with violence makes an 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.

348. 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, guilty of a misdemeanour.

349. 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 to agree so to fight, shall be liable to imprisonment for two years.

350. Whoever 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.

351. 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 XX. of this Code, shall be liable to imprisonment for five years.

352. 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 inquiry, 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 to imprisonment for ten years.

353. 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.

Disturbance of lawful assembly

354. 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 shall be liable to imprisonment for ten years.

Obstructing public or peace officer (see ss. 167 and 176)

DEFINITIONS AND SPECIAL PROVISIONS

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

Definition of riot

- (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; or
- (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 five or more, suddenly engage in an unlawful fight, unless five or more of them fight with a common purpose against some other person or persons.

356. Any Magistrate or, in the absence of any Magistrate any Justice of the Peace or any commissioned officer in Her Majesty's Naval, Military or Air 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, in such form as he thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

Making proclamation for rioters to disperse

Dispersion of
persons after
proclamation
of s. 62 (5)

357. 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 authorized 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.

Definition of
violence

358. For the purposes of this Title, "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 persons, or such conduct as is likely to cause in any persons a reasonable apprehension of criminal force, harm or mischief to them or to their property.

TITLE XXVI

PERJURY AND OBSTRUCTIONS OF PUBLIC JUSTICE

PERJURY AND SIMILAR OFFENCES

Perjury

359. Whoever commits perjury shall be liable to imprisonment for ten years.

Injury on
trial for
capital crime

360. Whoever commits perjury with intent to cause the conviction of any person for any crime punishable with death, shall be liable to imprisonment for fifteen years.

Fabrication of
evidence

361. 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.

362. 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 ten years.

Destruction,
&c., of public
register, &c.
(see s. 394)

363. 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.

Removal,
&c., of
document
used in
judicial
proceeding

364. 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 recognizance or bail (whether the same to be filed or not), in the name of any other person without his consent, is guilty of felony.

Fraudulent
acknowledg-
ment of
judgment.
&c.

365. 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 two years.

Deceiving
Court by
personation,
&c.

366. 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.

Deceiving
public officer
(see s. 159)

367. 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.

Bringing
fictitious
action

368. Whoever in any manner wilfully causes any person to disobey any summons, process or order lawfully issued or made for his attendance as a witness in any judicial proceeding, or for

Causing
witness to
disobey
summons

the production by him of any written or other evidence in any judicial proceeding is guilty of a misdemeanour.

369. Whoever with intent to defeat, obstruct or pervert the course of justice at the trial of any person for any crime, in any manner causes any person to refrain from giving evidence at the trial, is guilty of a misdemeanour.

370. Whoever without reasonable excuse makes default in obeying any summons, process or order lawfully issued or made for his attendance 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.

371. 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.

372. (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 requisite for 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.

(2) A prosecution for an offence under this section shall not be instituted except by the Attorney General or with his consent.

373. Whoever with force, threats or tumult, hinders, interrupts or disturbs the proceeding of any Court, or wilfully and 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.

374. 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.

375. 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, &C.

376. Whoever endeavours to resist or prevent the execution of the law—

Rescue of criminal

- (a) by resisting the lawful arrest of himself or of any other person for crime; or
- (b) 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 seven 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.

377. Whoever endeavours to resist or prevent the execution of the law—

Rescue in other cases

- (a) by resisting the lawful arrest of himself or of any other person for any cause other than crime; or
- (b) by rescuing any other person from lawful custody for any cause other than crime; or
- (c) 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.

378. (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.

Escape

(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.

379. 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 six months.

380. Whoever having the custody of a prisoner knowingly and wilfully allows him to escape, shall be liable to imprisonment for two years; and whoever having the custody of a prisoner through negligence allows him to escape, is guilty of a misdemeanour.

381. Whoever endeavours by force to prevent the execution of any person sentenced to death shall be liable to imprisonment for fifteen years.

382. 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 persons, 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 imprisonment for one year.

383. 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.

384. Whoever without leave of a Court, 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.

DEFINITIONS AND SPECIAL PROVISIONS

385. A person is guilty of perjury if, in any written or verbal statement made or verified by him upon oath before any Court or public officer, he states anything which he knows to be false, or which he has not reason to believe to be true.

Definition of perjury

386. A person can be guilty of perjury by swearing that he believes a thing which he does not in fact believe.

Special explanation as to perjury

387. 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 or juror acting in any judicial proceeding.

Definition of fabrication

388. 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 XXVII

OFFENCES REALTING TO PUBLIC OFFICES AND TO PUBLIC ELECTIONS

389. 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

390. Whoever pretends to be or acts as a public officer or juror, not being lawfully authorized 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, &c. (see s. 161)

- (a) that he so pretended or acted under a mistake of law or of fact; or
- (b) in the case of a person acting as a public officer, that he so acted in good faith for the public benefit.

391. 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.

392. 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, shall be liable to imprisonment for two years.

393. Every public officer who, being bound or authorized 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, shall be liable to imprisonment for two years.

394. 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, shall be liable to imprisonment for two years.

395. 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, shall be liable to imprisonment for two years.

396. Whoever corrupts or attempts to corrupt any person in respect of any duties as a public officer or juror shall be liable to imprisonment for two years.

Corrupting public officer or juror

397. 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.

Accepting bribe to influence public officer or juror

398. 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.

Corrupt promise by judicial officer or juror

399. 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, impanelled, or sworn as a juror in the proceeding, or endeavours to prevent any other person from being summoned, impanelled, or sworn as a juror in the proceeding, is guilty of a misdemeanour.

Corrupt selection of juror

400. 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, shall be liable to imprisonment for two years.

Unlawful sale or purchase of office

401. 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, shall be liable to imprisonment for two years.

Prevention, &c., of election by force, &c.

402. Whoever is guilty of corruption, intimidation or personation in respect of a public election, shall be liable to imprisonment for six 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.

Corruption, intimidation, and personation in respect of election

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403. Whoever forges or falsifies, or intentionally and awfully 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, shall be liable to imprisonment for two years.

situation
return at
ction

404. 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.

blic bodies,
rupt
offices

405. Any person who, by himself or in conjunction with any other person—

- (a) corruptly solicits or receives or agrees to receive for himself or any other person any gift, loan, fee, reward, or advantage as an inducement to any member or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such body is concerned; or
- (b) corruptly gives, promises, or offers to any person, whether for the benefit of that person or any other person, any gift, loan, fee, reward or advantage as an inducement to or reward for or otherwise on account of any member, officer, or servant of a public body doing or forbearing to do anything in respect of any matter in which the public body is concerned shall be liable to imprisonment for two years or to a fine not exceeding two thousand four hundred dollars, or both. Where the matter or transaction in relation to which the offence is committed is a contract or proposal for a contract with Her Majesty or any Government department or any public body, or is a subcontract to execute any work comprised in such a contract the offender shall be liable to imprisonment for a term not exceeding seven nor less than three years.

In this section the expression "public body" includes the Senate and House of Representatives, District Boards, and in addition, local and public boards and authorities of all descriptions.

A person acts corruptly within the meaning of this section if he directly or indirectly agrees or offers to permit his conduct with respect to the matter or transaction to be influenced by the gift, loan, fee, reward or other advantage to be received by him or by any other person from any person whomsoever, or if he endeavours directly or indirectly to influence the conduct of any other person with respect to the matter or transaction by any gift, loan, fee, reward or other advantage.

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 who is a member of a public body or in the employment of Her Majesty or any Government department or a public body by or from a person or his agent holding or seeking to obtain a contract or other benefit the money, gift, or other consideration shall be deemed to have been paid or given and received corruptly unless the contrary is proved.

406. Any person who bribes a Minister, or being a Minister, accepts a bribe, where the object of the bribe is to induce such Minister to do, or to omit to do, any act contrary to his official duty, or to show favour or partiality in the discharge of his duty, shall be liable to imprisonment for a term not exceeding seven years or to a fine not exceeding three thousand dollars, or both.

Bribery of, or
by, Minister

DEFINITIONS AND SPECIAL PROVISIONS

407. (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 authorized by any statute, or by any order or regulations lawfully made respecting such office by some person having authority to make the same:

Special
provision as
to sale and
purchase of
office

Provided that no person shall be liable to punishment under the said section in respect of any sale, purchase, bargain, or transaction which is made by him with the sanction of the Governor-General, in case the person is the Governor-General, or the sale, purchase, bargain, or transaction is made by the person from, to, with, or on behalf of the Governor-General, which

is made with the sanction of Her Majesty or the Secretary of State.

(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.

Explanation
of section
408.

408. 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 voter, or by any other person, from any person whomsoever.

Explanation
of section
409.

409. 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.

Explanation
of section
410.

410. It is immaterial, for the purposes of either of the two last preceding sections, 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.

411. It is immaterial, for the purposes of any of the three last preceding sections, 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.

Corrupt
agreement for
lawful act

412. 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.

Acceptance
of bribe by
public officer
&c., after
doing act

413. 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.

Promise of
bribe to
public officer,
&c., after act
done

414. In this Title "valuable consideration" includes any money, money's worth, or valuable thing, and 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.

Definition of
valuable
consideration

415. 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.

Definition of
intimidation

416. 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
as to
oppression

417. 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 authorized to demand or obtain, or at a time at which he knows that he is not lawfully authorized to demand the same.

418. 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.

TITLE XXVIII

BIGAMY AND SIMILAR OFFENCES

419. Whoever is guilty of bigamy shall be liable to imprisonment for seven years.

420. 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.

421. 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.

422. 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.

423. Whoever performs or witnesses as a marriage officer the ceremony of marriage, knowing that he is not duly qualified so to do, 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.

424. 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.

Making false declaration, &c., for marriage

425. 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.

False pretence of impediment to marriage

426. 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

DEFINITIONS AND SPECIAL PROVISIONS

427. (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 her 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.

428. (1) 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.

(2) 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.

TITLE XXIX

PUBLIC NUISANCES

429. Whoever publishes, sells, or offers for sale any blasphemous or obscene book, writing or representation, shall be liable to imprisonment for two years.

430. Whoever publicly and wilfully commits any grossly indecent act is guilty of a misdemeanour.

431. If any two persons are guilty of unnatural connexion, or if any person is guilty of unnatural connexion with any animal, every such person shall be liable to imprisonment for ten years.

432. 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.

433. 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.

Publishing false news

434. 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.

Selling, &c., unwholesome food (see s. 121)

435. Whoever, without lawful authority or excuse (the proof whereof shall lie on him), commits any of the following nuisances, namely—

Carrying on of noxious trade, and other interferences with public rights (see s. 122)

(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 continue 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 to materially affect the value of their property; or

(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; or

(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.

shall be liable to a fine, and shall, upon conviction for a continuance or repetition of any such offence, be liable to imprisonment for six months.

SPECIAL PROVISIONS

436. 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 continue at any place, or of keeping animals at any place as mentioned in this Title, namely—

- (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.

437. A person shall not be deemed to be guilty, within the meaning of this Title, 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.

438. No one shall be convicted under the first section of this Title for merely expressing in good faith and in decent language, or attempting to establish by arguments used in good faith and conveyed in decent language, any opinion on religious subjects.

PART X

OFFENCES AGAINST NATIONAL FINANCIAL INTEGRITY

TITLE XXX

MAIL, WIRE AND ELECTRONIC FRAUDS

439. (1) 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 or 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 executing such scheme or artifice or attempting so to do, places in any post office or authorised depository for mail matter, or delivers to any courier, any matter or thing whatever to be sent or delivered by the Post Office or such courier, or takes or receives from the Post Office or such courier, any such matter or thing, or knowingly causes to be delivered by mail or courier 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 guilty of an offence, and shall be liable to a fine of fifty thousand dollars or to imprisonment for ten years, or to both.

Mail Fraud

(2) If the offence referred to in subsection (1) is committed on, in relation to, or on behalf of a company, partnership, other corporate entity, bank, or other financial institution, the person committing such offence shall be liable to a fine of seventy-five thousand dollars, or to imprisonment for twenty years, or to both.

440. Whoever, for the purpose of conducting, promoting, or carrying on by means of the Post Office or by courier any scheme or device rendered unlawful by section 439 of this Code or by any other provision of any other law, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name,

Using fictitious or false name to conduct mail fraud

or takes or receives from the Post Office or any authorised depository of mail matter, or from any courier, any letter, post card, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his own proper name, shall be guilty of an offence, and shall be liable to a fine of fifty thousand dollars, or to imprisonment for ten years, or to both.

441. (1) 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, transmits or causes to be transmitted by means of wire, radio, television communication, or other electronic communication, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be guilty of an offence, and shall be liable to a fine of fifty thousand dollars, or to imprisonment for ten years, or to both.

(2) If the offence referred to in subsection (1) is committed on, in relation to, or on behalf of a company, partnership, other corporate entity, bank, or other financial institution, the person committing such offence shall be liable to a fine of seventy-five thousand dollars, or to imprisonment for twenty years, or to both.

442. Whoever knowingly executes, or attempts to execute, a scheme or artifice to defraud a bank or other financial institution; or to obtain by means of false or fraudulent pretences, representations or promises any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a bank or other financial institution, shall be guilty of an offence, and shall be liable to a fine of seventy-five thousand dollars, or to imprisonment for twenty years, or to both.

443. The Court before which a person is being tried on a charge of violating any provision of this Title may on its own motion, or on application by the prosecution or the accused, issue an order commanding the person to whom it is directed to produce the books, papers, other documents or other objects designated in that order. The Court may direct that the books, papers, other documents or other objects designated in that

order be produced before the Court at a time prior to the trial or prior to the time when they are to be offered in evidence, and may upon their production permit the books, papers, other documents or other objects or portions thereof to be inspected by the parties and their attorneys.

444. (1) If a person is charged before the Court with violating or being about to violate any provision of this Title, if that person is alienating or disposing of, or seems intending to alienate or dispose of property obtained as a result of such alleged violation or property which is traceable to such alleged violation, the Director of Public Prosecutions may, pending the determination of that charge, apply to that court for an order—

Enjoining orders and restraining orders regarding property obtained from or traceable to violations of this Title

- (i) enjoining such alienation or disposition of the property; or
- (ii) restraining any person from withdrawing, transferring, removing, dissipating, or disposing of any such property; and appointing a temporary receiver to administer such restraining order.

(2) A permanent or temporary enjoining order or restraining order made under subsection (1) shall be granted without bond.

(3) In determining an application for an enjoining order or restraining order under subsection (1), the Court before which the application is made shall take care to prevent a continuing and substantial injury to the State or to any person or class of person for whose protection the application is made.

445. All the provisions of Book I of this Code shall be applied to and be deemed to form part of every provision of this Title, 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.

Application of Book I

446. For the purposes of this Title, unless the context otherwise requires:

Interpretation

“courier” includes a person or company operating a courier service and utilising any airline for such purpose;

“Court” means the High Court in the exercise of its criminal jurisdiction;

14/1988
19/1990
24/1992

“financial institution” has the same meaning as it has under the Banking Act 1988, and includes the term “foreign financial institution” as this latter term is defined by the Banking Act 1988;

Cap. 248

“Post Office” includes the General Post Office and any inland post office established by or under the Post Office Act;

“scheme or artifice to defraud” includes a scheme or artifice by one person to deprive another of the intangible right of honest services.”
