Page 1:  
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LAW COMMISSION  
OF INDIA  
  
FORTY-THIRD REPORT  
ON  
  
OFFENCES AGAINST THE NATIONAL SECURITY  
  
  
Page 2:  
KV. K, Sundaram ‘New Delhi  
aap 31, 197.  
ear Law Minister,  
  
1 have pleasure in sending herewith the Forgthid Re  
pott of the Law Comminion on ofences agaist the ational  
Security. The Repory a wl be event from ir subject ater,  
‘Supplements the Commission's recommendation for revision. of  
‘beTindlan Penal Code, 3 embodied in fs 4200 Report  
  
2. As we have done in our Report on the Code of Cx-  
tinal Procedure and on the Indlan Penel Code we bave fa ths  
Report added a draft Bil, together wit draft of te conse:  
ental amendments which wl be found nena in he Peoel  
Gogo nd the Code of Criminal Procedure  
  
‘Youre sincerely,  
K.V-K. Sunderam  
  
Shri H. R, Gokhale,  
  
Miniter of Law foster,  
  
Stasi Biavan,  
  
New Deli,  
  
  
Page 3:  
CHAPTER 1  
rnooucroRY  
REPORT ON THE OFFENCES AGAINST THE NATIONAL  
‘ SECURITY  
1.1, Treason isthe gravest crime known to society and by the  
Jaw of every county ator are table To the secret pose  
seni. tis a come directed agains the very existence’ of the  
State ise? and is therefore pectary odious, “"yeason i the  
trie of betraying w nation or sovereign by acts considered dan  
ferous tos acarty Soiton though i might have the we,  
‘itmate objective as ueason refers generally 10 the offence of  
‘ceganising oF encouraging opposition to Government ina mae  
net (suchas by speech of writing) that falls short of the more  
dangerous acto consitting treason”  
  
1.2, While revising the Indian Penal Code, we considered  
the question ofthe adequacy ofthe lay of ueason with reference  
{0 the consolidation ofthe law which at ‘eattered in  
Several specul Act: We observed in our Report? onthe Indian  
Penal Code  
  
"64 We, notice that treason, sedition and cognate  
‘offences which may be clasied as offences against the sec.  
ity the sate. ae. dealt with in foreign codes sa: much  
[cater deta than in our Penal Coder tn partial, iti  
‘oticeable that treason and treasonable activities are epet  
‘at elaborately, and not limited to waging war against the  
Government and assaulting the Head of State. On a pre  
luminary study of the problem, we have come to the con.  
lsion that the strengthening. consolidation and revision  
‘of this irsportant branch ofthe criminal law should be taken  
Up as-a separate project and studied in depth"  
  
Dntained law on teason relating to substantive as Well a8 ro-  
edural matters and the preparation of a seifcontained ls  
  
{his subject" AMtersubmiting the Report on the Penal Code  
the Commision therefore made a detaled study of the variout  
‘enactments in force relating to teason and alied acts and  
‘io the corresponding law ig various other counties available  
bere. This Report contains the recommendstions of the Com-  
mission on the subject  
  
=  
ac  
  
1, Bocylpaatia Britannia, Val Zp. 19  
  
2. Vie Law Serta eter No, Law Sey 987, ate 202.97.  
  
Report, para 4 "The Report was sented to the Gove! in Jue,  
  
  
Page 4:  
2  
  
Sopeof 14, The on ‘reason’ in i  
  
‘wetoam senac is generally applied to those very serious offences which  
‘irecty dnd dangerously allect the security and integrity ofthe  
Site.” Thus, waping. war agamt the Slate, adhering (0 1  
‘oemies, compacting the death of the Head of State and such  
‘ther fences uaualy doteribed as “high treason’ will come  
rile th srw smu the ome a a en eed  
Inia widest aspect as not only high treason but  
See ea aya wht have the ee of cety oF te  
  
ira the ery pd nei of the a We  
‘ote that wile i Britain and U'S.A. ean is generally =  
‘Sci to what may be convenienly decribed as high treason,  
  
{nother foreign countries  
various other cts of disloyal  
Included under this class  
  
Bia! 18, We emer thatthe een “se eine ana  
Baton ecu Sot te compre ‘ren  
SES [SY ehce“cnes and ence eeommend that the comalted  
SEG [ore Satjeerimay be ened "The Nation! Sony Ac  
  
ing  
=  
  
1.6, The various enactments in force in India dealing with  
offenes against the national. security ate:—  
Set @ chaptees 6 and 7 of the Hadian Penal Code;  
(i) the Foreign Recruiting Act, 1874;  
(il) the Official Scores Act, 19235  
Go) the Criminal Law Amendment Act, 1938;  
(@) the Criminal Law Amendment Act, 1961; and  
(i) the Unlawful Activites (Prevention) Act, 1967,  
Of thee chapters 6 and 7of the Indian Penal Code have been  
fatty consgcred by us in our Report on that Code. We have  
fecommended' theela that the Criminal Law Amendment Act,  
  
{9ae, showld be included in chapter 7 of the Code. A trict  
Smnary of the other sarutes on the subject willbe useful  
  
ain \_ 1.7. The Foreign Reccuiing Act, 1874 deals mainly with re-  
RESAT.\_cruitmont in nia for service in a forcign sate. The etintion  
ee. Spit ate ay wie ad wil ne cous  
‘eyond the limits of India, including Not only de jre Govern  
Incnts but also de facto Governments, Recruitment for service  
Inch force states has  
sity and hence should Bnd a place in the: proposed law.  
  
1.8; Reference should also be made tothe foreign Enlistment  
‘Act 1870, an Act ofthe British Pariamént whieh, though not  
Portully repealed, 1s of doubefal application to nde since the  
  
  
  
Page 5:  
3  
  
Constitution. This Act regulates the conduct of British sub-  
Jest throughout Her Majesty's dominions during the existence  
‘St hostties between foreign Sates with which the Boch Crown  
{2 at peace, Tels obvious that similar legislation should. Gad  
lace frour statute book Like recruitment fora foreign State,  
Enlistment for service in a foreign State has also an indirect  
‘but close bearing on national security.  
  
1.9, Toe Oficial Secrets Act, 1923s the main statute for gh oft  
ing espionage sctvities which vitally affect the national secanty. Se  
ethan eens created 8y this Act ae a0 follows: 3  
() “spying, o ety into a pobibied place ee, tan  
ssindOn oF salacion of sre ifomaton, sd he likes  
  
i) wrong communication of, or receiving set  
intoltadon @t We pb ope a  
  
‘id harbouring spies:  
  
{i sonore ef union of te  
port tes orer fo cme. probed pla for & pur  
Bose prea to the safety of the State: =  
  
(0) itereeace with the police oF miliary, neat a pro-  
sui “piace  
  
1, Te pay oe of he ial Law Ament  
St ein, st ts Cini as Amend Cie,  
8 fs ro ns wh going eerie  
and security of the country. Though there is undoubtedly neces-“\*""  
Epo hoary Rg Leck ryt  
Saeed Guibert cis  
Sere ee coe a oe  
Sone as  
  
LIL, The Unlawful Activites (Prevention) Act, 1967 was Ustwfa  
pase forthe edective provntion of disrupuveactivics, wheiber ACI  
they are in support of eesion of 4 part ofthe tetory of India, fy  
for ta support of the scestion of a part of the teritory of Tadia  
from the Union, or otherwise disclaim, question or dept the  
  
Sod testo integrity of toda It deals with ach  
{etnies of individuals and alto of asecations ls provisions  
(to untuwf associations ate detailed and elaborate  
  
1.12, That this Act coostttes a vita link inthe chain of i ior  
‘aaciments of mportanes to national sezarty eannet be doubted.  
‘Retvises intended to “detach a prt of the terttory of a cour.  
  
iy" (as described in some of the foreign Penal Codes?) stand  
  
1, Of 5h Report of te Law Cosine, rita Sues Apolo Tol pass  
so hese Ac  
  
seven orc “undetaes lo detach a pro te ory th al 32 pal ot  
‘veason— Arie 1 ofthe Yopadny Peoal Code ponishew wes ined at dain  
‘ct reput aon ray pt fe ee) To Capos Tore  
  
  
Page 6:  
the apex of reasonable actives. They go much beyond  
ibe formation of «paral Governncat or nat oF orenteeeane  
ihe Government, vaich are the wubect mate of Sone of  
‘Bronion in ChaPter 6 of he Indice Penal Cove.“ Secs ase  
‘is ut wot ng nt execs prt eon  
witha own “sovereignty ad’ ertoial Integr" which wh  
Bera eval to he county fom which he terns Seached™  
  
Ter is, therfore, eno for bringing the  
‘offences covered by thi het im the fold of legislation on  
sitoaa ean.”  
  
1.13, Apart tom the aforesaid statues, there are provisions  
in otber Acs mainly ofa procedural nature whick ave ea  
‘on atonal security and aterty! buts they form par of  
statues, dealing with other subjects also, we moult not Recor  
‘mend’ their incorporation in the aew law.  
  
‘Advan 1.14, The first question we have to consider is whether there  
  
is really necesity for a separate consolidated law on the sabe  
‘et, ele whather the aforeraid statuter? may be allowed to  
femain ‘befor: "The main advantages of conciaton of  
  
() Consstidaion diminses the bulk of the statute  
154 aod ise insitoes hs Br ae  
went iro, me  
fin pi) they ave cat one document to cons  
  
(2) The consolidated Act speaks from ooe and the samme  
time, and thus the convenience arising from the iterpeta:  
‘ions of sections of vagus Acts speaking from dierent tines  
's avoided. “The art of lgiative delting has altered very  
‘much during the last ceatury and the language ‘used, the  
Tength of the sentences, the arrangement of the clause &  
the sections may have fo be drasueallyakered to confor  
‘modern sy of drafting. This applies specaly to te Foreign  
  
‘Act and the Ofical Secrets At’ which wil,  
any case reqite reson,  
  
(2) Some ofthe provisions of the earlier Acts may have  
to be omited as unaecessary.  
  
Bee Sees RS  
  
nthe Seprene Cour Btls bere  
  
Pa a Bente re a 63,  
{5 Stow pnp tnt fet i a  
(3 Scion om erro se  
eeerentonrean  
  
s.non talon  
  
  
  
Page 7:  
5  
  
In addition to thee advanages, there arises an opportuni  
sf erring in he go Act me of te ovine 9  
foreign codea dealing wit sonal scunty whch my bev  
{or tian sondiuots ab. For thse reazons. we are the  
‘ew that there should be’ Sonschdated state ete tbe  
Nitionl Sesrigy Act  
  
116, Another question is whether the new law should be 8  
separate enactment, or ele, whether ik could be inserted #8 3  
  
that times afecting Rational scutty form an essential  
aki cal a he un nae Stn ny  
feign code, these crimes ate inciuded in separate caplet  
in the penal Code. But we consicr i esrale to pas separate  
‘Eglin on te subject for the following easonss—  
  
1) Aspe ral of iitation’\_ may have to be provided  
for Sone ‘fone afestng atonal wel,  
  
(2) The necesy of obtaining sanction from the Govern-  
met eae nang peru or errs de hc  
{he fences under the Pesal Cage” OF MOH  
  
(8) In some other respects also, the provisions of the  
CGrimimat Procedure Code may have to be modified in ther  
ppliation to offences under the new i  
  
(Toe rules of evidence ordinarily aplleable for tia)  
‘of criminal cases wll have to be very much modified the  
Spplcton forte tr! of some ofthe ofencs der the  
  
“These reasons make the new law distinguishable from most  
of the provisions of the Indian Penal Code and it may, hence  
fe somewhat incongruous if the new law i introduced a  
separate chapter ta the Indias Penal Case. We therefore re-  
commend separate lelation on the subject  
  
“Tee Chaps 1 ioe  
  
een of  
ed  
  
  
Page 8:  
1 Appeaiie  
omeoh Thapar ¥. The Sate of Matas, (950) SCR. $94: ALR. IPOS 124,  
  
CHAPTER 2  
(CovestrrenionaL Asvacrs, EXTENT AND APPLICATION  
  
21, While our comments on the vatious chapters of the  
[National Socarity BUI" anaeted 0 this Report wil be given in  
the sucoeding chapters of this Report, we consider lt desirable  
to refer hereto two possible consutaional which  
the validity of some provisions of the Bil might be challenged.  
  
fundamental rights guaranteed vee te @) of ancl  
  
ad  
Brion ucts (a) and) reopen] We hve  
  
i dou at asthe Bl frowns te saved by  
hes) G)and (of arte 19. They aren resonahic  
Fehon i the imerst of sovegny and tg of Tad,  
Sein of the state and friendly Felons Sih forlgn sate,  
  
23. The second possible ground of objection is that some  
ofthe provisions relat to “public order’ whichis exclsively fn  
the Slate legislative field (Entry 1 of List 2) and consequently  
‘urside the legislative competeace of Parament  
  
‘The expression ‘public order’ mentioned in Entry 1 and List  
2nd refered to in eases 2, (3 and (4) of aril 19 capable  
fa wer of enarom, consrecton asording fo the content  
‘fa wide construction sven, prowotons desing with te ecu)  
fof the state may be beld to fall whi “pubis order’ Bat ay  
Shier by the Supreme Court in Romesh Thapars=—  
  
“The Constitution thus requires fine wo be érawa in  
th Glo eb os fy Maing maybe  
Tough, the boundary between thee rious an ajgtuvatd  
form Sr pubic dotder wich re clsitd to eatagee  
thence of at ane let mr ero te  
‘Peace ofa purely tocal signiicance eating fortis parpore  
Uierences tn deree as they were dierences i Kind  
  
6  
  
  
Page 9:  
“Public order’ is synonymous with public safety and  
‘angsty th abn dod von eas .  
sha ‘Troation ci aide, war afcng the secu ot  
  
Ina later case, Gajendeagadbar J (a be then was), buoyed:  
spacer ete FT wri Sener, cao he  
  
aly provided for, pute  
Scr cunt pide of ate ou i Sis  
‘Tae maybe cable of ncing the said comept”™  
  
24, Thee w thus suficient judicial authority to support the Provins  
view thatthe expresion ‘pbc Orrin Entry of Lit Sabouke flog  
Somali be given a arrow meaning, a tferring tothe atunce oe  
of disorder sd involng rately nor breaches oft. peace TI  
St pry etna neonate tho wee  
  
hd Ragraeted forme of pubic dnorder which are clclace fom  
Pike presser Bulwilcome widurtss ope ot athe  
  
a ome within he spe  
  
‘Seder fn the narrow seme, tnd Rene the lepaie competence  
ofthe Paament may’ pe iaken as voasaiable  
  
tis rye that the subject ‘security of state’ does not figure  
cither in List Ir in List 1; but i may be taken as incl fe  
{he expression “defence of India’ (Entry tof List), which must  
{clude "dafence, not only Irom external agecsion, but also  
fom extensive iter iasurection and. pubic diorder of  
‘iolent type spread over a large area. We tay, in this connec-  
Tony a se ‘ene ay of ce Contig wh nd  
Support tothe above interpretation. Aric 382(1) relating to  
the Proclamation of Emergency describes the stea'on ia which  
{he President an nse sucha Proclamation aa pave emerponcy  
“whereby the security of Ida ov any part ofthe territory threo!  
ig threateted, whether by war or extemal aggression oF interna  
‘donurbonces” Simlaly, arte 395: provides that i shall "be  
the daty of the Union to protect every stale against “external  
‘aegression and ineral disturbance” Tn any ease it cam 50  
frouunder the adsary power o leptin motioned  
  
25. The territorial extent of the now law may now be consi tent of  
  
dered.” Of the various Acts whose provisions are to bs incorpo. Be Pe"  
  
Fated in the new law, the Unlawful Activites (Prevention) Act,  
  
1967, the Foreign Recruiting Act, 1874, and the Oficial Seeets  
  
se SRE Seg ie Ba Mane Loe, 9) 2SCHC TAT  
"OLR. Ghosh. Jvph 196 Sapp. 1SCR. 79; ALR. 1963S 6.812.814  
  
  
  
Page 10:  
‘Ac 2823, od 1 te ce of Inca inciting te State of  
‘ad Kashric."H appeats (0. us that the proviions of  
thaw Ac all nda Ente and 25th Union Ee popped  
it noed be by entry 97. Enis | and 2 apply withowt any modi  
‘cation to the State of Jumma & Kashmir. As reper entey 97  
‘thas in application fo this Sate born mocited ts follows  
  
27 Prion of acts ded ow ining  
questioning oF ese tbe sovereignty an terioral  
iiopty of Inn oF Puig aout cnion of «pt of he  
  
India or session of & part of the triory of  
  
Ina foc te Uni or cause ino he Ini Neonat  
‘lag, the Iadian National Anthem and this Consitition.”  
  
‘The modified entry clearly covers the Unlawful Activites  
(Prevention) Act, 1967,  
  
26, The sbecimatier of Chapter 6 and 7 9 the Pea  
  
coce,  
SEE 4e Code nich are'to be incorporated im the new lay  
Heal ihn Entry T and Entry 2 respectively” of the Us  
  
Sie. Though thet mators pertain to “criminal” and fal wiht  
ewe 27. We, therefore, recommend that the new law shouk!  
  
Seition exted tp the whole of Inala.  
  
OAS aye gee  
  
\* 28, tn out Report on the Indian Penal Code,» we examined  
uestion ofthe exertional application of the criminal  
  
SiS tt the nc, ad recommended tha far Cae wap  
FISEGLAI concerned, i ektersgoralappleation to aliens shouldbe Emited  
piston’ fo acts could by them whilst in the service of the Govern  
  
Seats Later nant taestocon  
Sr se ecum careers tee  
Re Gira a Reamteceetties i goa  
Eos eikaremcmsres tay  
Sous cae ene aes Ma  
sea eaeeaiear stipes See ete  
epee  
{SSee Ee Sie ee  
  
aie ainsi: Ac waa amended 6G) oa ond che a  
  
Te rrt  
IRS cer fo Ace were tended We Bat Bers A FS oss  
isa  
  
Riba tease oto  
  
Lo  
  
id Bahan v. Rana Sind 66 2S.CC. 29,  
  
3 ad Repo, pra 32:0 28,  
  
  
Page 11:  
°  
  
nz tend vii not to fai a may appear at  
sight. Though Anglo-American jursprodence fs fctant  
1 extend the principle of exterrtaaly fo acts committed by  
sess abroad, word opinion sosme to Be seeing found fo Oe  
en at wher the sect of sate ced wien eke  
{oriatty must be given. "Ths is based on what i Known, as  
“protected intrest principle” and, in the Harvard: Researches  
if Tnenational Law, one suggeon as fo extrstonalty wat  
  
A at bag json with spect to any crimes  
scorer nestor Pole indenters OF wt  
Sate prowded the tt or commision whit constutes the  
Erie ar 2 commie a exec oly poser  
{0 the aca by the woh ac wert as comme  
  
2.10. This principle has been in the Penal Cages of  
sever sation “Thesin ance? hg ery  
foreigner who outise the terntory of the Republic rendez  
himself guilty, either as perpetrator ox as accompice of felony  
‘9 misdemeatior aginst the security ofthe state or the counter.  
{cing ofthe seal ¢ the state or cureat national mans, may be  
Dromuted and tred according to the provisions of French law  
At be ip aresed in France or if the ‘Government obtains hs  
xradiion™  
  
‘The German Penal Code provides? that “Regardless of the  
law of tho place of commission, the German Criminal law 1  
applicable t0....conduct amounting to high treason or treason  
{ghinst the German Federal Republic or oue of her member  
States, aswell a felonies of constitutional teas”  
  
Ia the Swiss Federal Penal Code, 192, artsle 4 provides  
that “whoever commits in’ forign county any felony’ oe ti  
‘demeanor agains (Switzerland), carries on am ilepal news service  
‘tablshes an ilegal organisation, or diaturbe military security  
Sha be subjece to this law.”  
  
{In the Draft Penal Code of Japan it is propoted in Article $  
that” "the "Code shall apply to"an alien wio, being outside  
Japan, commits cine against the State of Japan or a Japanese  
‘ational, punishable by death, or imprisonment or confinement  
for life or fora maxiqum term of Sve year of more: provided  
that this sail not apply when such act not erinal Under the  
  
ice of ence:  
  
kaw of  
  
Jed Neeraegincopioa asain ni re,  
Steastiianiie na) ABS ol  
  
1 Sesion 4 of be rent Code of Cinna roe, 188  
  
5 Setoe pan 3  
  
Set  
proce  
  
Scopes  
  
  
Page 12:  
10  
  
Beinth, 2.1. AX fit sgh it may sem desirable if we alto ao  
ef a sila extent cn for efece lveving taioal sean  
Tete dd take t pena for eny sin to commit af ofeace undo th  
  
‘Studs, Nasal Seepty Act ven cud nda, Doubles there  
‘be dicules in caforing this provision, unless he is sub  
(quently found in India or ese he is extradited according tela  
Toul indeed be extremely aifical to enforee such a provision  
sand it may remala a dead letter othe statute book.  
  
$20, | 212 wl be weft rer the webknown cae of Joyce  
  
BEES" y. Dept intam nthe Lord Chaar bond Joma snereh  
1b “de seem to te folowing pine of extentonty i  
‘post of the crime of tensa i te Tellowing rs  
  
“No principle of comity demands that a State should  
‘ignore the crime of ueason Committed aginst ostie is  
{erntory.” On the contrary, 8 proper regard “or is own  
Security requires tat those who commitod that crane whether  
‘they commited within or without the realm’ should be amien=  
able roils law.”  
  
Haviog laid down this general propotion, the House of  
‘Lords hover, convicted yer of eaton the gous thy  
ita waa en to fom the a tide Hea,  
‘everthades ding the leva petod be bela Brits passport  
nd thereby owed allegiance to the Brsh Crown. It i (ue  
that this gemeat has raed Some controversy in legal ele,  
‘But setier Hnguand nor the United States appears to bie  
  
{0 the extreme’ limit of applying the law of eeason for shins  
omaitng the crime outise thir tervoes,unesseegiee  
to the country could be established eter by the holding of 3  
passport or terse  
  
2.12 If bones, a a er to out ein fr the  
purpose of completing an offeoce involving national scum for  
‘which he bas made preparations abroad, be may te gully by  
the express language of tome of the provisions be atx tbe act  
fof etry with that fenton may feel be an overt act suficent  
fo fasten the gull on him’ Thiv view seme to. preva ia  
USSRD. The textbooks consir a foreign ctizen who caters  
SEESG! the Soviet Union withthe intention of commiting a crime for  
‘which be has made preparations abroad, sk penshable secording  
{Soviet criminal aw (eg. eepionage oF simogging)"  
  
does DP M6) AV ER. 18512)  
2 Goma rein mp ewe eto rape pe! he  
STE ia Sy in 460 a VL te Set, Lavin Fa  
te Baron taney Loa oe  
  
na Teeter fake Reais ene Sort Cri Law Ge  
colar CSS USES eae at  
Sale tint ant aad wher ta tba ode  
  
  
  
Page 13:  
u  
  
2.14. We do not therefore recommend the widest form of Reon  
teritorialty for offences under the National Security Act The  
lion deus cece bys fo nes under te See  
ian Penal Code may be followed, and sub-clause (3) of Syuistite,  
ina ofthe Bl may ead  
“Q) Ie applies also ouside tndia—  
(@) to ctizens of Inn  
(9) 10 allens on any ship of aircraft io  
» ay ship registered  
  
(©) to aliens in the service of the Government.”  
  
  
  
Page 14:  
(CHAPTER 3  
Insursseron  
  
Taofue- "3.1. We shall now deal wit the offences to be included jn the  
  
ith  
  
aE  
  
1  
  
o  
i  
  
pe  
  
‘consolidating iaw. The frst group of uch offences should deal  
‘with direct intersal opposition to the authoriy of the State.  
  
ave forms of opposition ilarrated by the oence of consi  
eroverwe the Goverameat of Toda’ or of ny Sister Br  
Posiumen, or a State Legit  
  
Opposition 10 the established Government may manifest  
its the forty of a paysicalasssit'on its functionaries and  
‘ther dignitaries All hove crimes are provided forn Chapter 6  
‘of the Indian Penal Code, andthe relevant provision ss propos:  
‘to be revised in our Report on the Coda, could be coleted  
Under the heed "Tasureetion’  
  
33. In adttion, we recommend a new provision to punish  
those who prevent, or atempe to preveot, by fore the exeise of  
the authority of « State in Tercherance of ah Inter State depose,  
Daring the last decade, there have been cceasions for apprehend:  
io" \* ing’ threat to the country’s secuny from certain conten  
  
{oyss, which alma the disintegration ofthe country. Article 150)  
  
fof the ‘Constitution was amended in onder to haute that the  
freedom of speeth and expression is ot abused by the. propags  
  
tUon ef” wews supporting tuch tendencies Two Ceniell "AG,  
  
the’ Comigal Law Amendments Act, 1961 and the Unlawful  
‘Activites (Prevention) Ac, 1967 have been enacted to deal with  
  
the menace tothe Cou’ inept rom sock sores” A  
  
~ corresponding provision to. protect the teritoral integrity of  
States" has ‘tot ‘been considered necessary. Logically. there  
  
‘Sught to be adequate protection agaist any resort to force for  
preventing a Stato from exercising ts awh authority within  
Es teritory.. Movements Tor the titeration of boundaries of 2  
  
1, Sesion 11, TC (No cheng othe And Report  
  
2 Selon 12 LP.C, ar amended inthe od Rept  
  
4 Secon 123, LPC. amended in he 4nd Rep  
  
4 Seon 121A, LPC, renumbered secon 128, an arin in he ad Report  
5. S1Dh LPC, a neetuted ad Report  
  
© and Repor, Cpe 6  
  
Fai  
  
2  
  
  
Page 15:  
3  
  
State or disputes which arse between two States should be pers  
‘din s constitutional manner and.not by violent means. «I by  
the tse of fore a State js prevented from exercising ts authority  
‘vera paricular area within the Stat, the secu ofthe State  
ind consequently, the nation’s securiy 1s gravely jeopardised.  
‘Any such activity should be punishable as a rave olléce Such  
4 provision would not be an innovation,  
  
Penal Codes of few counties",  
  
‘The new provision may be as follows:  
  
“-whoeter, by means of force o show of fore, prevents  
ems fo prevent any Suse fom eighty  
‘any par oft ertory ofthat Sate witha vie tose  
2 alefation athe boundares of hat Sat or farderance  
of dpa ete ha Sate sneer Se shal Se  
punishable with gorous mpcsonment "for a tem Wh  
nay extend ten Jour and shal aso be lable to Be  
  
3.4 tn some countries, thee ate pil provisions gst the  
asampeion of dstatonal power iatendedperape t0pesent  
ihe resurgence of movemett ike’ Nasa and Fasc, "Thus,  
ite ena Code of Argentina’ penalties any member of te Con  
[Ess who ges diatoral powers to specid partons of bodes  
SF penn  
  
Similarly, the Draft German Penal Code? has a section en-  
Liked “preparation of a Despotsm™ puaishing anybody who =  
Aerts to promote group sl up forthe purpose of sbverion,  
Miolence, et” and who thereby: puree forts directed aga  
  
the existence ofthe Federal Republic or constitutional printiplcs.  
  
35. We consider the advisability of adopsing some such  
provion deat the pow stsumplon of tater powers  
  
any group of persons. We came to the conclaon that so  
fica the eetmina lw Is concerned, it would be preferable to  
check specific ats which are in the nature of variourstepein ald  
for such atiemps at assuming dictatorship, than to punish the  
final assumption of dictatorial powers. Il the attempt succeed.  
the provision will not be needed. I it has filed, i will ot Be  
lfc 0 establish the offence of atempt to wage war or prepar-  
ingto wage war for that fs what the "ct ealy amounts to  
  
1.6, The subject of reasonable act against State which forms  
part of a Federation sam interesting one, an we went nfo he  
‘Question how far our law covers such act "There was in fats 2  
Stggestion that Section 121, Indian Penal Cage, should mcke  
16) Atle 239 ie Argentina Pol Code  
2, SScton 27, Pea Coe Argon  
  
3. Sct 8, Dea German el Cre,  
  
Peay fo  
‘Seater  
  
  
  
Page 16:  
oreneta  
ser)  
ane  
  
“  
  
Punish the waging of war not only against the Gorernmeat  
‘St nda but aso apnea Ste Government  
  
We loghed iato the postion in other federal counties inthis  
reapet. "The Argentinian Penal Code provider tat “anybody  
wo, without rebsling spin th ational gover ane  
province aginst another or takes ams in det chee geal  
stitution, orto overtow any provincial or federal etna  
2vernnent or subsdivon thereat orto force ato 209 seh  
irre oe ion ely mere cron  
{Ff prevent, although temporary, te ec excce 9 toga  
owing re ano nal ine ie and wi  
tablished by lw, shal be pated by jaingfomore to he  
EAGT The mater has oched some aeons ihe Cn  
  
37, In the resale, the following offences wil bein  
the heading “Insurrection”:  
  
1. Waging war against che Government offi  
2. Preparation to wage war.  
3. Conceaing design to wage war.  
  
4. Conspiracy to overawe the Goernment, Parliament  
  
laSed under  
  
3. Prevenling by force exercise of State authority in  
Furtecance at interstate disputes  
  
6, Assault on the President and other high dinitarics.  
  
1, Seton 23, Ts Snide THe 10 res aa Gongramen ad he  
  
  
  
Page 17:  
CHAPTER &  
Assisting Tae Exiny  
  
4.1. The preceding Chapter! was mainly concerned with  
direct opposition to the State from within. "Theeat from without  
orm the subject matter of this Chapter,  
  
Az Tmt det of such ret ates fom abe at  
ning asanance to India's enemies. In our Report oh he  
FenaP coe. we have brought out te defer Sn the eksting at  
the subject. and recommended the insertion of proton fot  
hung 3 pron han oy croc 6 he aed  
‘with India, whether or mot war his besa declared betwen that  
Country and india. is appropriate that that provsion should  
form the fst section in the group of sections with which we  
sre now concerned.  
  
43, While direct absitance 10 the enemy country would be  
covered by the above provnion, the ln has sis to Uke into  
‘count activities which represent an ener sage of Solabora.  
tion witha hostie power. Such callsborstion may take various  
forms, and some of the acs of collaboration may fall within the  
cornea the Ocal Scr Ac. There, Hower» fede  
  
Inspired 6)» purpose pre  
securiy and auded saul, by" hes power,  
‘ules abe checkos  
  
“4.4. tis wall known that prior to the sate of vires asstance  
tothe enemy and micheal than the commencement of Nar of  
diect hosts, clandestine measures are resorted toi et 10  
Sarty on later, setts prejudinl to the national security.  
ike prea ct tween woul be pri dee  
the relevant specte penal provisions tach a, abotnge espionage  
Secition, or incemen of Ghafection among the mesiser of ths  
Heel fie er the pee ating noe Cay  
abe  
  
4.3. During recent times, inflation into nia with the object,  
of doing acts prejodkial to securty has been on the Incense,  
Such "hot Obvouly be thtacd’ the ay imrpon  
‘The Foreignen” Act ek and similar laws, ae designed pry  
for other purposes. The echnical offence of legal entry (©  
entry without a valid travel document) or sinsar act, which may  
fe punishable unde tone las are ie aferet om a  
  
T Ghaper ela '6 wang of war and Sana feces (Chapt 3)  
2 And Report Pare 67, 00 Billanneed othe Repro (31  
  
1s  
  
  
Page 18:  
16  
  
46, We consider that unlawfully entering into, or remaining  
in, the Indian teretory, with the object of commuting an offence  
  
inst the national security, should iuelf be an offence, Such  
Cu are preparatory to, and pave the way for, more harmful  
‘ctv, und thee Is enough fstcaion for the law punishing  
uch act, provide, of cours the prejuiial purpose i sab  
  
447. Exally pall provisions re ot found foreign Codes.  
‘Bu ity of interest to" find in the Yugoslav Ctiminal Code!  
‘eich punishes wth “srt imprisonment an) ene who “nfl  
ate eo the ferry of Yop rhe perp of  
  
ing’ ot howe propegaaa”. Hoste propaganda ede  
finod camprenenely in ie same section to fclee al types of  
Subversive of teasonable propaganda. affecting the ational  
  
colar Celta a ta a arte  
sean feces ee Se Cg wah  
watt tere ta meen we eo at  
  
448, The new provision may be on the following line —  
  
‘Whoever unlawfully enters into, or remains in, Indi  
for the purpose ef commiting en offence under this Act  
be punishable with rigorous impstonment for a ttm which  
‘may extend to ton years and shal aso be liable 10 Fre  
  
fonence, 49, If war does take place with an external power, and pri  
  
‘Sireened gna are captured, the ueston of preventing their escape  
  
REFS, Arsen, There ate provisions in the Penal Code concerned with  
the exeape of prisoners of wart These penalise any person who  
as the Scape of or rescues of huthours a pesouer Of war,” oF  
public servant who volunarily allows OF nepigenty suffers  
{Lfrisoner of war Yo. escape. These cts wually commited in  
the couse of or afte Rosiies, are proper for inclusion Im the  
lrroup undce discussion  
  
2, Fedotov tinal Lay (968, bing V9  
tert ape (Uae a Lose pa  
‘Gcral Par Ed by VAL Chubadec, Mow (1580 ™  
"Seton 1249 1, Indian Pont Code  
  
he See, Lawn Ea  
  
  
  
Page 19:  
a  
4.10. In the eesalt, the following offences will be Inctaded in Oflesto  
  
the Chater Sane  
(1) Assisting toda’ enemies; oun  
{2} Initeation for commiting offences apsinst cational  
  
) Aiding oxcae of, rescuing or hatboutng prisoner of  
  
() Public secvant voluntarily allowing prisoner of wat  
to etipe!  
  
(5) Pubic se  
to cvetpe.  
  
5 negligently sueving prisoner of war  
  
  
Page 20:  
CHAPTER 5  
Recations Wm Forston States  
  
favre: t-Indian state law isnot unfaiiae with pro:  
{So visions on the subject of tations with Torlen Senen oy  
Some time the statute book had a specie Act on the sbjet™  
‘Bg rl Code fv ev roi nen oat er  
‘ent against waging war or depredaions on foreign sates whic  
awe fadly with Inia." The Conson, wie gunrarerng  
the fresdom of speech and expression, xptesy praia’ acon  
able restrictions in the interns of friendly relatons mith foreign  
‘One ofthe grounds on which he Government can io.  
the fot a aod under the lat Act te mu  
tenanes of Pena ns with foteign States The pemary  
resco ny he mcr did noc eve prominent stent dsp  
the ast century was. perhaps, the poltical sats ofthe courts  
and the comparative Inrequency of occasions Tals ng questions  
Involving auch relations,  
  
52. These is of course no doubt a tothe close connection  
between friendly relations” with foreign” States sad. ational  
security. “The maintenance of friendly relations with foreign  
Slates of wal importance Yor the protection of the county  
  
ly from extormal danger. Protection from internal danger  
ako cannot be wholly ruled out because a hostile foreign poset  
‘may uy to create internal disturbances through fith columns  
Im the county.” The conection between the two may be indict  
in point of causation buts unquestionable. Besides thete 3  
Practical advantage in otilsing the present opportunty for cont  
Sidating the Taw on'the subject  
  
Oeces 53. Chapter 6 of the Penal Code has three provisions which  
Scere) punish the Tollowing ollences —  
ewe (1) Waging war against any foreign State in alliance or  
  
fiom on at peace with Indias  
  
sate @) Commiting depredation on  
State in alliance or et peace with India:  
  
) Receiving property taken by means of such waging  
  
ies of foreign  
  
1 The Foreign Relation Act 192 (2 of 19) neal.  
2. Secon 13 19 127, TPC  
3. Anise 192 ofthe Contato,  
  
ins l35 Upon 1, ry 0 “Focien Afi al mater ich ing the Union  
  
'seton TRH, Come Ac 1982  
8  
  
  
  
Page 21:  
‘These provisions are obviesly intended to ensue the main-  
senanse of fzndly relations, nd wil be placed in the grou,  
Under discussion.  
  
54. Recruitment for sorvie in the armed forces of forcien Re,  
  
Slate and voluntary enlistment of Indians for such service ae Din”  
  
‘wo other matters which could have repercussions on ourexernal 9s  
{ations “The subject regulated parly bya Contra Act! Sixes  
od ply bya Beta Suite. uch eraement may alo  
  
‘ne OF other ofthe following categories,  
  
() ecrultment fr a forcign State at war with Inia  
whic Lam be ella, rei Sm enemy oust  
  
(2) recruitment fora foreign State at peace it  
which Gam be called, for Brevi fen county  
  
(2) reccuitment for acount whichis friendly toan enemy  
souniry; and  
  
(4 recite fora county which is enemy ofa fiendly  
county .  
  
5:5. Recratment for an enemy country (at east where the  
secritoent for miary or tommy erie) season 19  
Eri iw fei Ba ne Sed She of  
  
feapiny of war against India punsbable under secon  
of the Beoal ‘Code  
  
56 Recruitment for a friendly country can, in England, be  
regarded ss erminal it subject the party to an lnfachce oF  
Control inconsitene wilh the allegiance due to the sovereign.  
‘Russell sayse  
  
{nconaitet with the alliaee doe to our own over  
isa to be a misdemeanour iodicatable at common Li  
  
nd where the foreign Slate sat war wth Great Bra  
  
Sogagement which subjects the pary to an influence or control  
  
tad, such recruitment ean be regulated under the Foreign  
Recruiting AGL, 1874,  
  
5.7. Reccuitmeat fr @countey friendly to 28 enemy county  
say or may not amount treason in England orto abet  
  
1. The FtelenRecrating Act, 1874  
  
2, The Fowl Ente At 170 G3 and 34 Vi © 90,  
  
3 ve dye 0) TB 4 Rael om Cre, (96), VoL 2 page 146  
4 Rl on ri, (164), V2, page 4,  
  
Si Yea pettee BL com 2  
  
Conch 90D 1B. 4,  
  
  
  
Page 22:  
AEP whom the recruiting is for the service of any foreign State st war  
  
. 20  
  
waging war in India. The answer depends on the nature ofthe  
‘atic o which the person treoruted te use to be made of the  
Jeon rooruied, apd other czcumutances. Usually, if the  
Thre country i giving sold miliary assistance to theenemy  
County, war would have teen declared aginat that country  
So. "fhe regulatory power under the Foreign Recruiting Act,  
Tens, cam also be exercise,  
  
+58. Recruitment under the last category. forthe enemy of  
a rendly country was no, intel, an ofence at commen a.  
Reuwell saysty “Ie appears not o have been an offence at common  
ivr for Bah subjects to ener into the service of belligerent  
ppowefe at peace wis Great Britaip unless the act involved  
rae of yt te Crown’. Tis category snow ulated by  
the (U.K) Foreign Fotistnent Act, 187,  
  
Age 59. The (U.K.) Foreign Enlistment Act, 1870. applies only  
  
Mik any Toren State at peace wih the Goverament The  
Forign’Reeroting Act, 18% on the other hand, suihorses  
Fare Romer probibit of routes reeritment in Todo for  
ty teen vce As he wi fhe wo mB  
dscaned Bet  
  
S10. Underthe Foreign Recruiting Act, 1874, recruitment  
  
Recling for the service of any foreign State may be prohibited by the  
  
THEE Gtrat Governments or that Government may imposs conditions  
  
Sesuch recrutiment®. "Where. sich prohibition or condition  
ducer  
  
fis een imposed, then a person who, i violation thereof  
Seatempe to taduce any penn to acept a commision oF  
‘raployment inthe service oF foreign Sate, or induces any person  
{fo procecd to any pace to obtain such commission et. or kro  
Inely acs in the engagement of any person so induced, is punisha-  
ine si imprisonment upto teven ears, oF fie, both  
  
S.1h The (U.K, Foreign Enlistment AK ates the  
  
Teg, conduel of Baush suet thoughout Her Majasys demnions  
Fee... Sorng the eusence of howe between foreign State with  
aie, SARK ihe Brash Crown Heat peacet” Sewion 4 which he  
  
os i Nata AS  
  
‘Stat Puc provision, probs (in the absence of «licence from she  
SECT Goverbents Bea sant fem elsiment  
  
the service of  
‘Sfovlan State which sat war with aacer foreign State, fend  
Sith the” Brith Crown.  
  
‘Ruse on Crime 1960, Val2 poe 154,  
fe sho pan, 312, below  
  
Seton 3 Foreign Recane At, 14  
  
The Bi ct fs os oe epee nits applet ona the ah at  
  
  
Page 23:  
a  
  
5.12. The postion at common law has been thus stated!-?:—  
  
by the parent” Go  
  
sn the forces of ether belligerent  
  
im progress (including & cil  
m of belgerency hss been granted  
amen of by his own Government)  
  
tame no eine ans the ues eigen, who not  
  
fated to punish him i captured. But,  
framal of resent Washington (an wat  
  
Ca of htt  
  
‘George Canning said : "IT washed fora guide n aster of  
‘pouralitye | shovld tae that aid dowa by America inthe day  
  
of the Presidency of Washi  
  
ton andthe Secretaryship of  
  
Jeeson),, many counties, including our own, have made  
ite enmital office to join the forces of any Government a  
‘rar with a State which i at peace with Ths Majesty.” Our  
  
ent saute te Foreign Enistment Act  
not often enforce thi of  
‘bjt a found Bnei  
  
70. We de  
  
part of t, and itis note  
  
5.13. The present English Acton the subject prohibits: (1)  
the enlistment by a Brith subject nthe miliary or naval secice  
tester belligerent and simar acts": (2) the bung, eauipping  
  
‘nd  
  
idespatching of vessels for employment the mary or  
  
aval service ot employment inthe maltary oF naval service of  
  
tthe ‘beligeren  
ferntory of te  
  
Ty theinerease by any person on. Brith  
rament of man-o-war of eter belgereat  
  
being at the dine ina Britsh port; (4) the preparing or fii  
  
oat  
The  
  
S's naval oc military expedition agaist reingky State  
«vo prohibitions apply to any person, sujet  
  
within” Her’ Stajesty's- dominions  
  
5.4, The extraterritorial application of the Act is interesting  
  
‘The  
  
Tada, im most of the penal sectior  
punited when commited i  
Srwhon committed  
  
5.15. In its Report on  
  
ananes ofthe Ata fate dnote comic ateh  
  
{5 ys pect Be i abviows from the care he has taken to  
  
oe ‘mister the act to  
  
in er Majess"s. dominions  
thove dominions.  
  
thin or without  
  
itish Statutes applicable to India, the  
  
‘Law Commission observed in regard to tn AC =  
  
“This statute regulates the conduct of British, subjects  
  
throughout the Dominions during the existence of sti  
Deoncén foreign States with which the British Crown is at  
  
ing Chal War in Spin, (07 33 kaw Quarry Review  
  
‘Si ao para. Sabor.  
Section 10, Foreign Fnistment Act, 18%.  
‘Sein 1 Foreign Enlstnt At, 179.  
Finpar in ayComnin (Sasa rg  
  
  
  
Page 24:  
2  
  
peace Thus, section protibits a. Srkh subject tot  
Enlistment in service ofa foreign State which is at war with  
Shother Toran State, fends with the Britsh Crown,  
  
‘Since the extent clue of tit state refers 9 “Dominions  
  
at has Become inapplicable to Todi, according vo Menon's  
  
But such a fegidaton is necesary for india, for no  
Iai siizen cane allowed to sede against Seas fekedly  
‘wih India, in cae of war between thit Stale and another  
Farther whether he beget of he esaion should be exten:  
Jd to all members of the Commonwealth is anciher question  
Io" be ‘considered  
  
516, As ropards the Foreign Recrucing Act 1874, we are of  
‘the sie that tis sufcent (corporate che suatanoe of section  
{ofthe Foreign Reerting Act and be penal provision nsect.on  
Or thes Acs wi the mocaions indicted belom®. That  
“eG ote th Coil Goverment tice a eh  
  
‘probibkingrecraltment for serece under foreign Sate,  
oF eboney ebdtiows oe sink secoearte The set 6  
‘Que sew, serve a weapon to dea wth any nation tha may arse  
by reason of attempts at recrutment on a Targe ‘cae  
  
Tieother clabarse provision which ae contained inthe  
orsign Recruiting Act, mostly deal with acts inthe nature of  
[heise ofthe misono he plc fens of eatho™  
‘ed recruitment for servic in &forign State. "They ae unnece-  
Sary as the generat proviign of the Penal Codes "punishing  
Abeiment would apply 10 all offences under the peopated la  
  
Carer, eh a oa 9 9 evn  
onSSie pee moe ematsots soate  
SEU ORS ISI Ta poder  
SPanvirs  
  
eco LAS rend the (UXG)\_Fnvign Eten Ac 10  
etn, wate te Ul ate cate A  
Sener GSU ne Sos ik tee eae pe ne  
Be agate cuca ler Sa te owe Se  
Sia {th rt cok Sener Shek oe pet etl  
Seem io oh or ep ene inge Se nr  
Lee gee et Cece a he Pgs Reins  
ate ubrcve tay oe cases Hak peneses  
Sie aint ee ee Shae ch et  
Pitt Aten I tn Se iy ae  
Suet Sena om wun ase of  
  
Fite Nai C6. Maw, AER BAECS ORATCR ID  
  
Zier ite FW Wapato oto op A Rat nd & Sine  
Feta, US Sad” ”  
  
3. tan 1, bow  
4 Pani cans 109! 16. LPC: pnpond tons 6974, Amd Reon  
  
  
  
Page 25:  
2  
  
the activities punishable under the Act could be dealt with 25  
‘Tbecment ofthe commision of the principal crime, which is—  
ihe matte shordy-nauihorsed fecrutment or a foreign  
  
|A provision similar (o section 4 of the Foreign Rectiting  
‘Act would be adequate (0 regulate, restrit of prohibit sch r=  
‘raiment whatever be the Satu of the foreign country in que  
ton.  
  
5.8, ing et :  
ever fs very wide in two eespets.  
‘er is prem unkimited power to peo rerut  
{ny fort State oro mpove conditions on such sevice, the  
Selion snot confined to miliary sree, and covers ab Kinds of  
formar service, Secondly 1 does Not specify the cosiera-  
tions which should weigh wih the Government im sui  
  
Inbvtion or rstton. ta out opinion, the scion needs to be  
vedo both these seapsets. Apart fom any objections that  
‘lul Serased from the comstuconal point of ew wit reference  
{Saree 19(1X) of the Constitution. sueh a wide power i aot  
teidtinn Med for eration on esac andr 3  
aly forsign State is extremely improbable, at the present day  
‘Bren as regards resiions for enlistment, in service the armed  
foves of foreign State, there should be some enttion on which  
the Ceauel Goverament coud act. We. think that the inesests  
‘national security or maintenaee of fend relations wih  
fovea States are adequate estera in this context  
  
4 ofthe Foreign Recruitment Act, how-  
mal Gower  
  
5.19, Weare, futher, ofthe view that a maximum punshenent  
cofinprisonment fur) years will be adequate Tor the ofence  
  
5.20, We, therefore, recommend the incorporation of the  
  
Ioifowing provisions im the Bil?  
  
(i) The Central Governmcat may, i satised that i is  
necessity to-do 30 in the inetest af the national secur ot  
the maintsnance of trendy teats with foreign State, 95  
frecral order notiied in the Oficial Gazette ether probibit  
Sorting or enlistment for service in the aemed forces of  
‘Tieign State oe impose conditions on such rcruting  
  
{@) Contraveation of the prohibition or breach of any  
‘of the conditions of suck Zestetion vill be punishable th  
‘Ipasonment of ihe descr pion for aterm which may extend  
ta'three yeu, oF with fine, oF with Both.  
  
521, We exsfly comidrl a sugpesion, or ising & depart  
  
provion panting the a8 of vdins whch eopardse the ep  
1. As to servos in an enemy countey ducing war, ace para SS,abowe  
5 SESS Ween em be  
  
  
Page 26:  
By  
  
neutaliy of the country. Attention was invited tothe provisions  
‘some of the foreign Penal Codes.  
  
‘tion'“\* itself to dealing with the important maiters, leaving other measures:  
sa earache cat tie, nats  
SSE tn ase car ed te rte ine  
easier ated le th Ce At  
Paener  
  
Boson ig 523. tn some ofthe South American and Central American  
South" countries and is some Continental Codes however, there are  
Azsican provisions the Penal Code o'a permanent und genta nate  
Shu", Punishing acts compromising the neutrality of the country. At  
“me Cunt the same time, in the event of 4 Pariclar war berweeh other  
eg” States, “deaied Tegal prohibitions are also issued  
Postion jo 5.24. The United. Stats represents a midway posiion, The  
meUSA: provisions for enforcing neutrality are more numerous than i  
England and’ Commonwealth cotniris. But they are speci  
and precise, rather than general and abstract as in the South  
  
‘Amefiean count,  
525, Acts jeopardising neutrality have various facets.  
  
ROME of First, there isthe question of international law. Where there  
SE Ko isa war between two ‘sountries, oterntional Taw may ioe  
  
{o) Sieh th Cnoahan ant Coxe  
1 ttt on nn pe 52  
1 Slee tat Rad some tate  
  
  
  
Page 27:  
as  
  
certain obligations om the States asa consequence ofits neutra  
fig. The prose extent of such obligations may be gathered  
from leading text books on the subject  
  
Secondly, thete isthe question of rend relations wi foreign  
suiee"Itapecive of the quewion whether or not abstaining  
fom a certain act fequired av a matter ofits obligation under  
International law, 8 neutral State may desire to abstain from  
that act onder to malotaia is feeaaly relations with foreign  
States in general  
  
‘Thirdly, there isthe question of intecnal security. Si  
which Ses adopted the postion of a neutral one may wish (0  
{oud jeopardy 40s neutrality in the interests of its Own 320:  
ay.  
  
"336. 1 appears to us, however, that the subject is one’ of  
considerable Complexity Hivolving number of repercussions,  
‘General rules framed in absract terms may Tead to comsequea-  
(SS cannot beanticpated at the time of faming the rules,  
‘al this may cause embarassment.  
  
Furthee, such a provision may result in considerable vagueness  
in fu application parlly because. of the eiiclty of precely  
ening an act hich jeopardises neuteality, We do not there-  
fore tak i propst to have a penal provision on the subject of  
"general and permanent nature  
  
527. As a result of the above discussion, the following  
offences ave recommended Tor inclusion under the group dealing  
‘ohh oreig States!—  
  
(1) Waging war agsinst any foreign State at peace with  
  
Inia: ‘anny  
  
(2) Committing depredations on terstores of foreign  
suas ae prace wth Indi "  
  
(G) Reosiving property taken by means of such waging  
war or depredations;  
  
(4) Recruitment 10, oF enlistment in, armed forces of  
foreign States.  
  
~ See Oppensn,Ieralioa! Law (96D), Vo Baas 6  
  
  
  
Page 28:  
Into  
  
tore  
  
Susy  
innards  
  
{i stnd naj, Gar  
  
CHAPTER 6  
‘Orresces Retain To AnMeD Forces  
  
6.1, We have so far dealt with direct attacks on national  
security.  
  
‘The security of a country may also be threatened by indicect.  
ts, such as thse which weaken the agencies estatsned fo the  
ialteoance of secur Sige the armed fren ocouty  
4% the most Important of such agencier- provisions pun  
  
interference with their preparedness ard eficens. fhe de  
charge of their functions are Townd in the cximial law otal  
  
62, In India, such provisions are contained  
of the indian Penal Code. and tf appeoprate tha tl  
be laced in the ew fa  
  
Report on that Code  
  
6.3. I is not a ere coincidence that in the Indian Penal  
Code, the Chapter dealing with offences relating to urmed. forces  
appears immediatly afer the Chapa cating to fens xs  
State.”The importance of armed forces as the chit tases  
‘ment for maintaining hational security most have been tne pits.  
Bal reason.” ‘The Chapter attempts to provi. in manner move  
‘Sonsistent withthe general character ofthe Code: forthe purshe  
‘ment of civilians who abet military crimes. The inteweation  
{hip of the offences in Chapter 7 ofthe Code witht offences  
in the laws rolating to armed forces has been explained rely  
in our Report on the Penal Code.> "The nec for hese ps.  
visions js Obvious. ‘The military law does not apply fo eel  
85 s0 they cannot be punished ax abettors unde? that las A  
the general provisions of the Penal Covi as to alent wold  
so not apply, because the principal olfeces of mutiny doses  
‘ion, insubordination and te ike, are ute the  
  
Copter 7  
ey should  
withthe changes recommended in our  
  
64. In England, there are several enactments on the Statute  
Book which are designed to prevent the spread of eafectom  
‘These ire mainly concerned ‘ith the protecion of pubs ser  
‘ants, and more particularly members ofthe Armed Forces who  
‘may be exposed fo attempts fo seduce them fom her dit) or  
sig Aliens Retrction (Amendment Act (9159  
Prohibits an alien trom causing sedition or diatection among  
the chi popalation as vell at among the Armed Forces othe  
  
2 2nd Repo. prnrain 71 and 12  
  
26  
  
  
Page 29:  
n  
  
‘Crown and those ofits ales, and provides for summary punish  
‘ment forthe promotion of, or interference in an indus dis  
‘Bue by, an alien in any industry in which he has not been en  
‘aged in the United Kingdom Tor at fst two yeas fenmesatly  
pressing  
  
sac Slt; 08 te xenon af he mutiny a the Nore an  
1 Was panied punishing asa felony witout benett of ery”  
ihe incitement of siden or uo 10 sting pasa ts  
lerporary measure, intended to expe at the end of the fst  
‘month ofthe then nett sesion, bat Nt wat several tines fees  
ted, and was in force tll» August 1, 1807. when it was sacred  
10 pie, but was revved and made perpetual n 1817,  
  
Mearns gas Eee fe  
elena ae ater mec hs  
‘a Sesiae Saar ems  
  
A lading aor on Constiaonal a at made the io  
ing commeat after refring tothe provion lating to poses  
Sno documents fn the St Ace s  
  
its menus ams the Gone with» mean of  
restricting the. dstebuton of polka propugandes parte  
fury it could be asad to suppres tne dbebaton of a  
Sst iterate," Wmost be admitted that pronectons are rie  
And that Jues "ave reluctan to onic”  
  
6. A few suggestions for the addition of now provisions  
relevant to armed forces may be Wiel dissed.  
  
68. We had, during. our consideration of the subject  
of offences agaist the national security. looked ito the Ties.  
chery Acts. “an English Act passed during the second) world  
war The Act which was w temporary one, has been fepealed  
1. The fndienest Muay Aa, 197 G7 Geo. 367,  
2 Sepien, Hoy ofthe Crna Law of Egan, Vol 2, age 23  
  
Teese.  
  
ih Ge0 3. eter tain Seen Mitr othe Criminal Lay of Fog, Vt  
  
2. thae  
‘6 Section 2, nstenent to Disaflection Act. 1934 (Engl).  
the Treachory Ac, IMO 4 Gon. 2h  
  
  
Page 30:  
28  
  
Jp England. 11 has alo been epdid in its appicatin to ada  
But fview ofthe impor a he sane Pevoios  
‘ite comideraton. "Fae main section” fends  
  
, with ne to blo teeny, any eon de, of  
smpts or consis wil any son to do, any act  
or likely 10 sive asiance to the naval  
Inlay or ar opeatons ofthe enemy, to impede such opera  
tins of His Mages fovon or to endange ie. he shal bs  
Illy‘ felony ad shall on contsion sulle death"  
  
Metin oe uh he tee a  
spy oat ats te ati ase  
So pellet ial oan ee  
Reece ype” Wear te  
SS ee hap  
End  
  
se sae Ppaeants i the naar of saben ates aman  
armed fores Was felerced to dufing our discussions and i  
femal” was suggested that a specific provision aimed at such acts coetup-  
forge. ing the minds of members Of the armed Toces was needed It  
  
‘vas sated that the gets would not amount to inciting tiny Not  
tind Section 808, Todian Penal Code.  
  
Now, an arempt to seduce an ofer of member ofthe armed  
fess rom i dy pia ven unde he rsa.  
So's. statement, rumour ot report indocng him to fall ns  
Guiy4 there ie no nach inetement oF Inder, 2 mete  
tempt at indocrination- though morally rencehansbhe—  
knots nour onimon, be. mide pena, Sposa provisions  
Spplicate wo armed fores maybe mcs. and Maybe o>  
‘dod in the special Acts appieable to atmod for. But et  
Sons outside the armed fores cannot be punished for mere i=  
detain falling shot of ieeent or ndocemet t0 ed-  
  
(esse 6.10, Hence we recommend thatthe offences Lo be, intuded  
  
Fetcdet iq the Chapter relating to arms forts may be a fllows#>—  
  
oon. (1) Abetment of mutiny.  
  
(2) Attempting to seduce an ofge or member of any  
‘of he armed foros fram hs dy  
  
‘lesion  
  
3: Sexion 133, LP. as proposed i he 2nd Report exsting section 1M  
5: Of arch 3 ofthe Contin  
  
  
  
Page 31:  
»  
(2) Abetment of assault on a superior office.  
  
(4) Abetment of desertion from armed forces.  
  
(5) Harbooring a deserter.  
  
(6) Abetreat of a act of insubordination,  
  
(7) Incitement to mutiny of other act of subordination,  
  
(8) Disuasion from entiting, and instigation to mati  
‘or subordination afer enisizat 7  
  
(9) Wearing ga or carrying token wed by ofer or  
member ofthe eed forces ”  
  
  
  
Page 32:  
CHAPIER 7  
  
Suuvensve Acres  
  
fmoduc. 7.4. Inthe preceding Chapters, we wore concerned wit: ss  
ve" nthe nature of dest opposition io tie State, Leaer oem  
‘or indret modes, of alteks onthe security ofthe Sate pill now  
  
Fequie consideration. These coud acum Savery of fosr  
such 8 disruptive activites, organising. paramtay ecu  
‘alnaining relations witha foreign power or body fer pa  
spoil fo the ana uy ance pb  
‘ant fora purpoe prejudicial to she national sec sootag.  
Splonage tnd sedifous ac Thovgh the exernal hares  
‘es ofthese acts may dies, the al hace some common charac.  
{ers naely-"() the act re the resale or are intended  
{o came," sh alegance, 9 git betes the nation and  
Si! andy thera ct 5 parry ier  
gg caver than treason proper. ‘he vlmate tnd i not it  
Scone he ee he  
‘nate end isnot alwaps easy f0 dicen. “For example eion  
{uly const of words not aston." The lina end to  
‘estoy the bond betwen the nation as represented by the Go.  
emment established by law and those whose: obed ence thc  
‘erent eh Crtmang Bt te ene od  
“stall Words represents a tage pepartory toward ten  
cis Similatly, an act of sabotage undowedlycomstted  
‘ith the object of impeding the defence eons ofthe natn, ts  
{ovetheles, an indirec--and,tnereore no eaiy divoversoe  
mode of aching that abject “The txpresion’ "asbucrne  
  
we think, apt ass comenint ibe for desing  
these act, as distinct from graver ets of coverihfownge  
Government.” And ve" proceed now to inicate the oteaces  
to'be includ fn is wroup  
  
7.2. We think thatthe principal offence? deat with in the  
Unlawful Activities (Prevention) Act, 1967 (so far ay relates (0  
individuals) namely, taking: part in, commiting advocating,  
abetting, inciting of ‘advising Certain activites described ia the  
‘Act as “unlawful activities" could form the Srstsetign in the  
‘roup of subversive actviiss "The definition of an ‘unlawful  
{ctiiy” in that Act comprises three kinds of act concerned  
spectively with (i) cesion of Indian terior.) secession of  
4 pot of the feertry from the Indian Union, a i) dota:  
ng, questioning or disrupting the sovereignty and eritora  
Ing of ad "Theat to ae eal fy hate of the  
third, which is the most genetal, and the esence of 1s eupe  
  
20  
  
Darwshe  
  
  
  
Page 33:  
a  
  
tion, A more expressive designation for this type of ant  
ational activity Would, theretore,,be "disrupive acy”  
{ty Obvious that such cts are in their eseace svbversve act  
‘As has been ‘sted mare than once, tbe esence of treston  
‘dcstruction ofthe bond between the cizen and the Site. These  
Sets are aimed at such destroction,  
  
‘The provision which we propose on the subject is modeled  
con section 13) of the Ac, which contains the pena provision,  
“The gist of section 2f) which defines “unlawil activi" and of  
section 2(0) and 2(¢) which explain “cession” end "secssion  
‘respectively, i put inthe Explanation.  
  
The relevant section will be as Follows:—  
  
“Whomer commis of abet the commision of, any  
siete ay ety an ay, ie  
ACH hay Cush sven yeas and hall ao te table to  
iplnaton For the prpoie of this section —  
seh anne acti” meine ay aon ten,  
Sri repesenaticn, of tae  
" G@) which questions, disrupts, or is intended  
to drupe Sverapy aad tier ep  
inde  
wih sited ring abuso spre  
ates te eae ras ig  
ie secasion of any par of Tada fom The Union,  
  
ui) which incites any person to being aboot  
  
such cession of secession;  
  
(©), ession” includes the adssion of the claim  
of any foreign country to any part of Indl  
  
(6) “secesin” includes the asserion of any claim  
to dtm wheter a part for Tala vl remain win  
the Union.  
  
Exelon —Nothing i his sction apis any eat  
‘grant of convention ented into SEtveen the Covers  
sient of India and the Goverment of any’ ctr county  
  
{o any negotiations therefor caried on by any person svtho-  
this boku by the Goverment of Inia  
  
hed ia  
  
te Jib ogi of zat he Goverment Ina cn  
commited eet org iat  
these could be leer often commuted OF pots suse as te  
‘eting Up of paremltary group. Tt & setius defects  
  
Disupine  
  
  
Page 34:  
Seton 31, Pie Onder Aa, 136,  
  
Bs  
  
aa eee enon rnin ot of  
Racine nt aie tree  
Beet cigeesc e ce  
bhteaekeamrae arene ral  
Sere eeerth sus ents cio  
trained fo use force io the achievement of ts objecs should te  
meas  
  
74, We notice thatthe laws of many counties prohibit the  
formation of such groups., Thus in Eland,” gessriiitary  
‘organisations are penalbed by" statute a8 Follows!  
  
“IF the members o¢ adherents of any association of  
persons, whether incorporated or nol, are—  
  
(@) orgsised or trained oF equipped forthe pur  
‘ot enling them tbe employe in sear the  
Eero oth poze‘ af te crmed fret of the  
  
(raid and tained or ogaised and euip-  
ed citer Yor the purpose of subling thc to bees  
Flv or te wo dy yal ce roma  
  
foun plc oat fae mane tse oe  
tronic appebesicn tht they ue Septal ad  
‘ther trained equipped for that purpose:  
  
the any gran who kes prin te contol managed  
‘of the association, or in s0 organisiog or taining az afore  
Said any members o¢ adherents there, shal be guilty of an  
‘offence unr this section.  
  
In Denmark, the Penal Code has a. provision? punishing.  
ih impommest ‘pt Sx Yea, partpation ino se  
{ntial tupport to, aay corps, group or arsosation’ which ine  
{ends by te use of fore, to inlence publica  
  
{pub ‘ode” “The sine  
  
‘in “unlawful clitary organisation  
Ble detention” of (in aggravating circumstances) impesonment  
pio two years  
  
‘The French Penal Code has, in the chapter entitled “Felo-  
ies against the Interna Securiy of the State," a provision?  
Fusing peso, who ray or cui o be raed an armed  
  
enlists of causes enlistment of soldiers ot supplies or pro=  
‘ides them with arms and ammunition without leptmate autho  
  
Danish Pea Ce,  
  
3. Anise 2, Frech Penal Code,  
  
  
Page 35:  
‘dangerous crimes against the State" One of these sections  
  
hes organisational wtvty directed Co the. preparation oF  
Commission of expecially dangerous erimes agninat the Sate oF  
{othe cen of an erpniation which hat for fe perros  
{he commision of sch crimes, of particption in an antesovet  
‘organisation.  
  
1S. There should hardly be any question that such organisa:  
tions ought to be prohibited and patipation in then severely  
‘Dunibed: "The awcaton of defining In prece term the Kind  
Grorpanation to be prohibited wat carefully considered BY  
Before « group canbe eparded as punshable, two tes show d  
‘nour option, be satisied Fit, he group must be of such 2  
haruhi pene ae fined regs fo te  
for achieving its object. Secondly he groop mort be organised  
for, porpose prj to the national security.” That wll  
foctude of courte the purpose of usurping the functions of the  
armed force, or of commiting any aes of sabotage, But the  
lest two purposes may be speially mentioned.  
  
The folowing section i recommended:  
“whoever cxpaines, tins, maniains of promotes any  
  
soup the membes of which are ned eed tse  
  
sce ior achsving Ws Objet tnd which Ss crpanbed-—  
  
for the purpose of usurping the functions of the  
ame eat “ns  
  
(6) forthe purpose of committing any ats of sabo-  
  
(6 for any otter purpose prejudicial to the national  
secon,  
  
shall be punished with rigorous imprisonment for a term  
  
‘hich tay extend to ten yetr, and shall also be lable fo fre:  
  
{od whocver partipates my or beloags. to, any” such  
foresab shall be punished wit rigorous imprison  
  
term which may exend 0 Bive years an shall also  
  
‘be Hale to fine  
  
7.6, The offences refered to above ate concemed prim  
‘with ‘internal securiy Danger to external security can  
rom other act, and these wil now Be dealt with  
  
“The gravest ac endangerog extemal security is, of course,  
what haf lae decribed ie Enphind and USA. aeing ere  
To'the (countrys) enemies, iting them aid aod comfort and In  
the Canadian Code as "asisting the  
  
1. Seton 7 ed with eons 71, RSFSR Pal Coe  
  
{Sinaia  
  
  
  
Page 36:  
Pn  
  
willbe covered by the new section which we have recommen-  
{et te our Report on the Penal Code. and which i to be ia-  
fel ge ropes Consalatin Ac Ms te a ees  
‘ttences whieh require allestion- While assisting an. eoemy  
Mon act Conined to time of War, there are acts committed in  
‘enim which show 8 guilty association with a hostile sour  
Fsome respect, thee ae diferent from the graver act of s-  
‘ing the enemy, because —  
  
() the country assed may not have commenced wat  
or note \*  
  
(i) the assistance i not direct, but is of a subtle character  
not easly desemnible  
  
ut precisely because the sasistance is indirect andthe situs  
  
+ tion nasot yet atained the stage of war here greater ceason  
{or punishing such sinister preparatory acts which pave the way  
fr gon ots hast fom. We vl rer Blow 1 2 ev  
  
For example, collaboration with hostile countries may be  
retest Sor Re appents iat cao groups are in lag with  
Tosue mien powers In some of the border areas aod dye  
tees ake, preparatogy to insurrection. Owing fo want of  
‘Sidonon its amet to bring any charge of waging wat OF Pe  
Sutnion of waging war. ‘But collaboration with a potential  
remy ng set om ad fora te ros  
Setyonatly revered to." or example, a proup ot indian ei  
See fhe border, oblaia some arms from un neighbouring  
EUR Sonu: come bick to. India and then cary "om subver~  
BeeNfetniues The preparsory acs ae ult up slowly and  
tofu tny convincing idence could be obtained. The Sat  
eens loss ground while the insurgents are gaining ground  
eer atroa in tna the insorgents do not Eo wrth ar opealy  
fe ny. nego ie coms i  
foreign ispicaion coupled i aratory acts Show  
forge aS lign power Such ac soak,  
Soageaea, be Gea wih by a specie provision.  
  
. 1.1. We fndthat some of the foreign Codes have provisions  
oro, gexgned to puna craton withthe “enemy” ann 307  
designe tauorntion nth’ foreign sae in a manner detrims  
  
she State  
  
FFor example, the Norwegian Penat Code has this provision \*  
  
‘Any Noewesian citizen or resident of Norway who  
receives from a foreign power of patty or orgapsation acting  
$5 iu imereses for Ruel? ov for 8 party oF organisation,  
  
Repo  
2 Chaper 4 aoe  
Sisquse st Nowwelan Pe! Co  
  
  
  
Page 37:  
35  
  
cami capone ines mabe opinion about the  
‘ountry’s fmt of Government or foreign policy of for pars  
‘Barposes, or Is accessory thereto shall Be punished by jukny  
‘or imprisonment. upto to year,  
  
‘The German Penal Code provids punishment for such “tree  
sonable relations ina section reading as follow:  
  
1. Anybody who, with the intent of bringing about ot  
furthering var, an armed undertaking or ceeetemeaste.  
psi the Fedeal Republic of Gcrmaty or one of het Sate  
  
nt or maintains retaion tha Government, wpa  
4analince or organisation in existence n'a teary ous  
he fetoral jdition of ths aw. or wth a person who  
sacs nthe service of tach a govermicn. pra. alana or  
Sepanntion, shall be punished by coatinemon int pent  
‘nary. \*  
  
2 If the perpetrator acts with the intent of bringing  
about or furthering other measures or efforts oa government  
ary, alice, of organisation in exwtence ita temo  
Sutnde the teritori jurisdiction of ths law, which are den  
fed to impair the existence or the secur of the: Federal  
Republic of Germany orto abrogate or invalidate the cons  
  
tullonal principles designated in ston 88. the punishment  
shall be imprisonment. "The attempt is punishable”  
  
{The provision inthe Vugestiv Penal Code for. participating  
jn host activity agalat the country simpler?  
  
pats St we ass thon in the perorance  
SLES Sanaa ee  
  
2, cvows ha ah ip a tnd oy call  
‘oration with or rocenng antance fom foeipy power  
  
SHG hereon or ive owe isnt am See x  
cept whore the colaboraion takes the shape of arsine  
‘ot secret information fling under the Ofieal Soviets Act A  
Speci provision, therefore. requte. So pealac sech ate  
iP Committed Yor a purpose’ prejedial 10 ‘atonal Secu  
  
During our discussions, it was suggested that persons who  
ere Smt ih eras hc com of ne come  
gmresion aguinst India and propagate thet ideology” shou  
Setpunnheds The provision we recommend Seow Sil cover  
sai oe te. "The elon ena  
‘purpose prejudicial to the nation scat, wile ¢ course,  
have fo be proved  
  
1. Secon 106, Gn Real ove  
2 Arce 109, Vegan Pl Cove  
  
  
  
Page 38:  
“The now section may be as fllows:—  
  
“Whoever, for aay purpose prejudicial to the ational  
seca, mastane relations with fore on  
  
Se  
  
nab 79. Throat to external security of s country may arise not  
i axon s rhenod a fot Tat ao trom acs  
‘Sone fraudulent” o° eandestnely ti pouible to conceive  
of fraudulent acs which mislead the public authorities, tad there  
  
by prejudiee the national security by deruping its flaionsh p  
wih foreign country.  
  
H  
3  
  
740, Vice, whan conttng» det eter su  
rity, is amply taken care of by the present provisions ofthe Pes  
‘Code; and clandestine acts, which Usually const inthe cole  
tion or transmission of intelligence, are aso fully provided for  
In the laws relating to espionage.” But Travdulen acts of the  
  
He menoned above ie ng specially powder, and  
the lacuna should, we think, be Aled  
  
u  
  
jon 7.11. We propose anew section onthe subject, as follows:  
  
‘ends ‘Whoever, for a purpose prejudicial to the national  
security intentionally transmits fo a public servant a false  
por the content of which is likely 10 disrupt relations bet-  
‘ween India and a foreign sate or an international stitution,  
Shall be punished with tmprisonment for term which ly  
extend to seven yeas, or with fie, cr with Both.”  
  
Sntomee. 7.12, Another subversive activity of which serious notice  
tas fob ak Sabotage. The ot conus nt on  
wanton desiriction of, or damage to, the property ard ‘under  
Taking required for defence purposes, butt also inches organi=  
‘sings paricipating in unlawful snes In Jetence plas and  
in the esental services which impair and impede tte proper  
functioning’ of such plants and services and thereby enanget  
rational security.  
  
Duterest\_ 7.13. Malicious or wanton destrction of property could be  
‘gamer commitied from diflerem motives. ‘The objet may be to pale  
SGESSIRY. the defence effort of the nation, or {0 Uncerming its cconormic  
rosperty orto harm the owe of the property. oF scme other  
‘Shject. Provisions im difernt Penal Codes of foreign countries  
emphasise one or more of these object. ere we ae primary  
‘concerned with those provisions which deal with Jeopardy. 10  
the security" of the country.  
  
1 © Secon 39, Dra Garman Peal Coe  
  
(0) Swedish Pea! Cave Cape 1 ton  
  
  
  
Page 39:  
Ea  
  
‘In Cana, under the Heading ‘offences against ps  
there is'a secon" punishing sabotage ast  
  
‘The purpose must be one prejudicial to the salty. security oF  
<efence of Canada of to the nafety or security ofthe armed forces  
‘of any other couaty lawfully present in Canada. The  
Impait the etictoney of aay vel, vehicle, irra, machiner,  
Apparatus “or other thing”, or cause loss, damage et’ of proper  
‘The property need not be'State propery; this = smaphasised By  
the words "oy whomsoever it may be owned”  
  
14, There is no separate offence of sabotage in England  
Bot in Chandler's case, twas pointed out that the Offical  
‘Secrets Act is widely framed so as te cover some act of sabotage  
ort Rade observed with reerence 10 the Otic Sets  
  
¢saboteur just as much a8 the spy in the ondin  
sense is contemplated as an offender under the ALS  
  
11.5, The French Penal Code pun by a provi  
sion appearing in the Chapter ented "Felonies and memea-  
‘Surs agains the security of the Sate  
  
4s the German Penal Code, he offence of sabotage i incladed  
‘under Chapter 2, eniled “Endangering the State" The object  
‘must be to impair the existence ofthe Republi, or of abrogating,  
  
ing the consttutionalpeincples et  
  
7.16, In the Russian Code?, sabotage ig included under  
‘ita One chines agen ne Sat, Seabee  
  
Especially dangerous Crimes Apsist the Sate"  
shouil be to weaken the Sov Ste, “The tof the woes  
{the desiuction o¢ damage by explosion, arsan, oF other means,  
‘of enterprises, stuctures, route and means of transportation,  
‘eins of communications or other sale oF socal prope  
Baath i's permaibie punishment,  
  
717. There is aso in the same Code the oflence of wrecking.  
Te il ofthis ence san act ov omition diced towards  
subversion of industry. vansport,agdculture, monetary system,  
ttade or other branches of national gconomy or activity of  
  
‘agencies or socal urgansaions, forthe purpose of weakening,  
the Soviet Sate,  
  
2.18, Mere destruction or material impairment of property  
‘with such intent not heft Unpumihed ‘even at present \  
{group of wecions in the Penal Cade dealing with mnchie! aad  
iS aggravaied forms provides equate par  
1, Section 9, Canaan Crna Coe  
2 Chane» FP. 1962) 2 Al Eagan La Reports 142 14801)  
4: Stn 76 French Peal Cade  
4. Section 90 and 19, Gena Peal Ce (190.  
5 Sesions #0), RSS. Peal Code,  
  
Stode®  
  
  
Page 40:  
8  
  
Vionofpo- destruction and impairment. But the emphasis in that group  
  
Sl sestony i onthe proprietary spec, ae 8 evident from the  
fact tha the soon fe placed athe Chanter om olenecs lating  
{orpronerys Wer cosier that fou ct where such gearac:  
{ion and lniament take plc for the purpose pf preudiing  
‘alonalecriyy a specie poniion ts equed; te ofence  
Tay be conven daveribed ws "abouge"  
  
roviian 7.49, The physical act punishable would be an act, whic  
Fone imps te efiency or mpedes the working of Or uses damage  
  
(@) any means of public transportation.  
(6) any means of teecummuniation,  
(any place used for the prodlucuon of any article  
  
use For the defence of iia OF a machinery OF apparatus  
  
“Thete shoul be an exemption clause dealing with stoppage  
of wotk ansing ont of an indus dispate  
  
“The provision which we recommend on the subject is, in  
‘oem, lee laborate than that which was contained inthe Defense  
‘of Inds Rules"  
  
"The new section may be as fllows:--  
  
Saborage.—(1) Whoever. for any purpose oreludicil  
te the nations security, Goes any act which ips the  
ctenoy or iapedey’ the erking’ of, oF causes  
Samage to  
  
(@) any\_ prohibited pluce of any machinery or  
apparatus theten, oF  
  
() any means of public transportation, or  
  
(©) any\_means of telecommunication, shall  
jusiable with rigorous. imprisonment for a tei  
Lich may extend fo fourtcen ears, anc sha also. be  
Tia 0 fe  
  
(2) A person shall not be gui ofan offence under thi  
section by oason only that he stops work as a recut of,  
Rusia! dupote te defined in clause (K) of section 2  
‘endgnal Disputer Act 1947: but othing in ths sb  
{Sct shal fet stant to be pronecuted for an oer  
SSIS fetinay have commited aginst the prevsons 0  
thar Act”  
  
Espns 7.20, A number of offences relating to, espionage are  
{Omcat eit with in the Ofeal Secrets Act, Hence it te necessary  
  
‘$Satkder in detail the various provisions of that Act  
  
—GSFE eens of aia ie,  
  
  
Page 41:  
»  
  
Sion) ae aay tree ple eogng te  
se ream ans tary ls son  
‘egormmen mae sel ab epee At  
Ecowimita” ethics cass arta He  
122, Son 20) on fpdaty lng eens ming See  
  
tart € iransmiston of he Seth pa, mode arene Sel,  
  
‘The whole definition appears to be unnecessary, and should  
be omies  
  
23. Seton 23) defines “document” a inching pat of  
  
The definton in smercary cause te deh  
tion of document in the General Chases Acts apheabie to  
Ihe shole as wellas'a par os dacoment Clase het eton >  
‘Moai therefore Be omied  
  
224, We considered the question whether the expression Denion  
“enemy” shouldbe defined: ‘The expresion oocurs at several © S99:  
places in the Oficial Seerets Act. There san English decision!  
  
‘hich contang observations (othe eect that the wed mn”  
in the Ofeial Seerets Act Includes & potential enemy.  
  
7.25. In one of the forsign Penal Codes? the concept of Provision  
  
“vonsructive enemy country” hasbeen inroduced in these terms. too  
  
“in any ofthe cine of Arise 93 through th precting eae  
Aviigt'tYorigy county ott poap of Reopens ees  
‘iat agate Repl of Kore sel ued  
sce count  
  
‘The English, devision® is likly 1o be fotlowed in India ao  
and it ig ot desirable to ‘define the expresion “enemy” Tt  
Imay be let undefined S025 (0 facilitate an else constrction  
According to coment  
“a Son 300, Gopal Causes Ae, 197, dines 3 document ile “any  
  
mar ween, cred we dtd goa my aoe nea of a fetes oe  
{ath ory tore than one Of those scans whch iended to Be wed: oY ww any  
  
ethclfer prone of ecoing at mer"  
2: Rev. Pat (919 8 App. Ren ECE,  
3. Seton 102, Kereta Penal Code  
{Atle 9%, Koren Peal Cade pune person wo gts aunt the Repu  
of oie ng ttony county rte 1 ponte, okt pga as  
SSopincy fo com onan wale aces) =  
  
  
  
Page 42:  
0  
  
Refer, 7.26. Thete is, in section 4(2)(6) a definition of ‘Yoreign  
Sece"iS gent which neds o Shang bu cam hence ote gene  
  
Sein 727. Seton 24) which defines ‘model’ neds no change,  
SRM. 128, Section 219 dens muidonsof war The parece  
SESE? oc hate ai ihe eo ett  
  
cris" ‘prohibited place, and for one of the penal proves  
change of substenct ts needed tn this dehntion®,  
  
Sete, 729. Section 26) defines th expression office under Govero~  
  
He, Ps; ment as including any fice or employment nor under any  
  
fnge % depriment of the Goverment” We Tank ha the dein  
  
wis unnesssary, "The eapremion “fice under Gorernment  
  
Saco. well undersoed. ‘The dintion shoud be onal  
  
Tuc The, dtition does not ince employment under public  
Seem elope feo aoe on ths  
  
Ae" eae toinformaionenaned in. cheney  
3 peron “holding ote under‘Goveroment" or infstpaion  
Shain a person who oki ofee under Goreme But  
that part of ection 3) which refer fo prosibied ces ot  
information ukiy to asst he enemy may be ntracied Sons  
re be unin of war athe ata he r=  
imation, the specie proviton reat (a munitions of war fa  
‘Eston 33) wal av come ito pay Hence the supe of he  
‘Re ned not be expanded on thi point  
  
SP, 70, Section 2) dens photograph as including an wndeve-  
  
2 oped im or pnts ines Sage  
  
oar  
Sn 73, setion 28) dates he expetion ‘otitie’ pa’  
pete! ie ilustrated by several provitons, bur it suficient to mention  
  
sein A wth er fl, anes der heen poe)  
say poston ‘who, for any ° te the salty  
Inte f the Sat, appeoachox ipa pss shee oi  
the wcnty of. oF enters, any “Prohibed’ place  
  
nko COWS; Te Ne ono be nae int pul ens  
  
3; Tee ein of de i propose to be inca inthe era deo  
eat shai at  
  
3 Seton 203.  
1 Seon 50)  
  
4, The intion of nis of wat be poponed to be ince the wr ein  
oat apie to the hae A  
  
© Cf pars 781, teow  
  
JR detec o otorpt i ropne be insta inthe general eto  
noite tthe ods £22  
  
i  
  
  
Page 43:  
“  
on Edn, alan A cs Fa, ef tig,  
ea Se  
  
he  
lke, aad factors cc. used for mazufacturng. munitons ot  
eed Ses, etnies, insure and  
lactories ete. mut Felon too Be occupied by the, Government,  
under clause (@). Cause (b covers aay place not Belonging 16  
Government, where any munition of wat of any sketches, meds,  
plans or documents relating thereto are being ade, tepered,  
gotten or stored, under contract with, or with any peteon of  
behalf of, Goverament or otherwise behalf of Gevcrnese  
  
{Clavie (covers any place belonging to or wed for rhe purpose  
ef Ganerament, which forthe tine beng Scared by the Cobra  
‘Government by notifcation in the ‘Guaete, to be  
‘Prohibited pce forthe purposes ofthe Act onthe round tha  
Information with tess thereto, or damage Thre WOU! be  
ful to an cnemy’  
  
Clause (#) covers a railway, road etc, of other meens of  
communications by land of waler or any place wed for gis,  
Water or electricity or other public works &te, oF a plie  
  
faunitions of war ete. are being made ete. ofherwie tha ov  
behalf of Government, which is forthe time being declared by the  
Central Government by notiteation to be x prohibited place,  
‘on the ground that information with respect thereto, or thy der.  
‘action or obstruction thereof, would Be well toon enemy  
  
2.33. Clause. (4) lacks ciarity, While enumerating the Det in  
lou pices it does clearly not bring ut the dea tat the two Se  
  
requirements, namely.  
  
(0) declaration shouldbe made that information re  
to, or obstruction et. ofthe pace, would help the ene.  
  
J  
i) 4 copy of the notice decarig the place to be a  
  
Drobibited place should be axed  
  
‘intended to apply to everyone of the placer eaumera  
  
17.34, Apart from this verbal defect, it would be seen from the  
above analysis, that while poes direcly conceened with defence  
‘nstalltions ae adequately covered, ther places, information  
‘Tesarding which may be useful tothe enemy "are not sufficiently  
Bait gets Oy he aes Pico oe  
ation regarding wixch may bs useful to an ene. are he  
in with minute Kimitaions, under clause (0) th’ place mast  
belong to or be used by Government, and ander classe (2) the  
  
\_Jh= clase requires that a copy of the notieeion should be alld to te place 0  
oti  
  
  
  
Page 44:  
2  
  
28 the nature ofthe place (namely, means of com  
oF places used for public works OF places where the  
‘munitions of war are made et), Tei felt that there nay be  
places which do not fall under clauses (c) and (@) and which,  
Ineverthles, are important from the poiat of security, fastas  
1s Information with respect there‘o may be useful 0 ak emery.  
‘The Central Government should have Dower to nly any pace  
48/8 prohibited piace on that ground.” We, therefore propose  
4 few clause, giving such power to the Cental Governtien  
This will render (e} and (8) unnecessary.  
  
nee 7.35. The changes which we recommend in clauses (a) and  
"ise, (0) are of minor verbal nature. "The definition i» propose to  
  
SeS0R" be split up into more intlgiie categories A short exprsion  
‘monica, “aed fores establishment is proposed to be used  
  
‘ash  
‘os pps te who Re  
  
place of  
lengthy enumeration of such establishments; the gtetence (0  
“ming tbe omited as unnecessary, as misobeld stacy  
  
“The revised definition will be as follons:—  
(‘prohibited place’ means —  
(@) any armed force establishment, station or camp:  
  
i) any work of defence, wireless ot signal station,  
hor telephone instalation, arsenal mine,  
ireraft under the contol of any of the sted  
  
ship  
foes!  
  
(id any factory, dockyard of other place belonging  
igor grme ye ono Gove an ed  
for ‘the purpose of making, repairing ot storing  
union war of at ice melo sect  
Felting thereto, ofr the pur lg any metals,  
‘il or miners of wie in tine Sr ars ea  
  
> any place ot belonging to Government where  
any munitions of war or any akeches, modes or dose  
‘ents relating thereto are being made, repaited or stored  
‘under contract with, or otherwise on bell ef; Gener  
  
{any other place which is forthe time being de  
dazed by the Central Government by aotieaton i the  
fia Gace ob a rod pace forthe pps  
ofthis Act om the ground that snformation wake  
thereto, ot the destcton or obsructon thecal et  
sora ra wa te el, rey  
For public iaformation.” non 8 Gin  
  
1, Tig ttn of rhiied plc proposed ob nclaed Ts We paca Sa  
  
  
  
Page 45:  
“3  
736 Seon 29) eons see ining anh  
ot other moce of representing aay place o¢ HOE. Wo Sey  
‘ropes fo'a4c “plan in thin cainton, 20 astoavoiurepetiion  
(be word “plat inthe various sucreding provost Sect  
  
737. Section Xt) detioes “Su of Police’. The  
QU, pret lity of the dition i the powet of  
cal Goversnen designate lower ocers as Stperatendens  
‘fPolce. The various powers urder the Act may we be confined  
{0 ters appointed as Superintendent of Police. Where Its  
Suir azar ove some over borate ple  
‘cers te has been expres pr "As regards higher  
‘Sco po paca Sy il fo be chued ite aberoe  
‘of a defintion. We, therfore, recommend omission of this  
  
Sefton  
  
1.38, Section 3(1) deals wih the most important. offen secon  
  
nde the Act” Though described se “spying i comivies acts  
  
‘of three types a fadeated in three cine cf the subsection, Ams  
  
ate) eos eran at one lion io ra  
  
‘ed place™ deserbed av approuching, inspecting, pesing ove,  
  
Eck ake veins 9 ortega purrs oa  
  
{0 the safety or initons ofthe Sate Clause (8) oncerned  
  
wating aac cel a ces wh  
  
Jurpose Clam (0) Sais with or comm  
  
Zeta sett offal code of pas word oF sete or for  
  
‘nation afl ton enemy. reatng to 4 mae the disclosure  
iy faire anergy ad gry of dy  
  
othe State or fend relations with foreign Siales,  
  
vain wth the same purpose.  
  
738. For a corte interpretation of the expression “safety or Chan's  
3 ofthe Sate occurring inthis provision, we may reer “e  
to-animportant Engish ease on aimiarprovision ia the English  
[Ret that case the tired, which was Occupied bythe United  
Stes ‘Air Forve Squadrons, had ben declared a prohibited  
place” within section ofthe Oficial Secrets Act, 1911 Ceneish  
‘ether. e applan, ‘memben, of Commie “of 100:  
whch was carrying om 8 jor meciear duarmament 8  
‘Srosrising Gastonsrations of civil diobesience, planned  
trge demonstrators to sit or He on the road outside the erirance  
torte aired so as to black access 10 ft, and To encourage &  
mber of persona to enter the field, and, by siting in  
  
recat, 1 prevent them fom taking 92” This second  
(ject wae not cased out a the demonstrator were prevered  
‘bythe poise rom entering the eld. On these facts, the appellants  
ere hanged with conspiring to commit a breach of section  
tthe Oma Sasets  
“aul Ti tig a te rpm eT spel ons p=  
  
2 Sr prs 782 and 744 tlow eling to seins Sd 10)  
  
3 Pea 13, shove  
  
4 Chander BP (962)3 WLR. 6,75 (HLL) (Lard Rl) 9 Lord Rai  
  
  
  
Page 46:  
“  
  
04 Next comes te gue  
  
F what is meant by the safety  
  
ReesReid) or interests of the States. “Stale” is not an exsy word.  
  
doesnot mean the Goverament or the Executive. “Eta?  
est moi” was a shrewd remask, but can hardy have been  
intended as"defntion even dm Brence of the time. And I do  
‘not think that it means counsel urged, the indvicuals who  
Inaba these tends. The statue cannot be rlering to the  
Inuerats of ail show individuals because they may differ ad  
the Interests "ofthe majority are not necesafly te same as  
the interest ofthe Site. Again we have seen only fo0 clearly  
Insome other countries what ean happen you personify and  
Almost defy the State. Perhaps the Country or the ream are  
4s geod synonyms as one can find and | would be prepared  
to ‘ecepe te orgumned community a8 coming ae ear to 8  
defintion ss one can Bete"  
  
sing, Tl, Lord Radelife dealt with motive and purpose in these  
othe’ words, “All controversies about mative o intentions ot Purposes  
  
Sed"Ti re apt to become involved through confusion ofthe meaning of  
  
Sg B) the diferent terms and ii perhape not dificult to show by aly  
  
Sisthat the ideas conveyed’ by these respective Words merge into  
  
itu, Glah'other\_without a sear Ine of eiferentation, Nevertheless  
  
$Sisunction etwoea motive and purpose, fr instances fama  
‘eough in ordinary diseusion and theo are branches of Ta  
‘which the drawing of such a distinction ts unavoidable.  
{do not think that theultimate aime of the appellants! in brings  
‘ng about this demonstration of ebstrucon sonstitued 2  
Dose at all within the meaning of the Act” T think that thoxe  
‘ims constfated their motive, the reason wy ‘hey "wanted the  
Semonstation, but they did not qualify The: purpose for which  
they soughe 10 enter the ail  
  
will adopt the same  
  
‘We may assume that the Courts in I  
  
suggestion that the maximum penalty for  
sections Sand Should bs enhanced to acs the  
it the ct relates to defence Insllations®. ‘The  
fio ralaes important and controversies "as (0 the  
idee Gesabiiy capital. punishment  
  
ScStes ‘3 The Law Commission inthe Report on “Capital Punishment”,  
  
obser.  
  
“473. The offence of espionage shoul, it has been suggested,  
‘bemade apital one. Temay be noted, that where espronape  
  
1. The timate sim was md be the provenion ofa nuclear war.  
2 RIC)THLG, SNo 21 (Sgpeston forwarded by oe Mine.  
4,38 Reporte (Capa Pushes), paraghs 47346  
  
  
Page 47:  
4s '  
  
consis of acts which constitute an abetment ofthe waging of  
‘war againt the State, the olfence would be amply covered by  
tection 121 ofthe Indian Penal Code, which allows the penalty  
‘Of death. Other cases of collection and transmission of Stale  
Screts mostly fal under the Oficial Secrets Act, section 31)  
thie provides the maximum punishment of impcsonment  
‘upto 14 years. In times of emergency, addtional provisions  
ate made’by special legisation®-  
  
474, That, under section $(4) of the OMcial Secrets  
‘Act, 1923, a8 arnended by the Defence of India Act, a person  
{Bully of an offence under section $ ofthe Oficial Secrets Act  
hall if such offence is committed with intent to wage wat  
‘orf assist any country commiting external aggression against  
Tndia. be punishable wilh death, or impesonmeat for life or  
Impasonment upto ten years etc  
  
‘We think that the provisions of the law on the subject as  
they exist now are in substance, adequate”  
  
743, We have also come to the same conclusion. We are Death  
aware tha in some counties spying (isclosure of national defence $1,  
Secrels) is a capital offence®, "These are China (Taiwan), Daho- 2728.  
‘may, Spain, some Slates of the US.A., France, Greece, Tran, fendca  
Einzabourgs, Poland, United Arab Repub, Cental Aftiean  
‘Republic, South Alia, El Salvador, Somali (Northern), Coe  
  
id Yugoslavia. But,  
id unmistakable trend  
lover the world, we  
death penalty for any offence under the’ Act  
sould be acpi the peat dy, eee dria emeactey  
  
7.44, There, however, another point relating to punishment  
which requires atizddon. Secon 3) clsaies the elenen nko  
SF pmakinene The efender 0 gute he evant porto)  
SiRut'be punshable with Impatonslent fora term wh may  
fxtend, where the offence is eommived in relation vo 2ay work of  
Sefene, "arsenal, navaly military ora force evablshment or  
Station, mine, mined factory, dockyard, camp, ship or aieraft  
fr olhicewise in relation tothe vel, military oat force fas  
Sf Government or in teation to. ay sextet oil code, 10  
furcen years, and nother cases to hrs years”  
  
ET om Ses As 193 9 of DH.  
2 Sethe Delmon Act, 1962  
3. Sesetion IND). [Dele onda At 1962 (5 of 196.  
4, Seva rl 340) ule 3800) and (9), re 385), rae DN) and  
  
= ol 340, se SKN) an 38, ae 3 andre 2,  
  
5 Sex UN, Pbliation or Capital Punt (96D, Tate at he cod  
6 Leteatour i bowee, de fo aa ablionit come.  
Mot Lawn  
  
  
  
Page 48:  
“  
  
ngtice, 7.48, This clasication is unacocssary. Apsit from the  
Betiseder qvolved nature ofthe language wed, it may be aficul fn prac  
  
SBS ne Ee te at ote it tose wo part” would 2a be  
Sec” ary to demarcate prev the scope of he quoted words, pec  
EEG Tory the phrase inflaton tothe navel, miliary or ae force alas  
Ste Gf Govtremen” Ia wide meanings piven fo that pore, ita)  
  
‘ett: Include almost all offences under section 3) within the graver  
  
His" in the detnitions,  
  
‘Seton, | \_ 7.48. Section 32) contains a spacial  
  
Dar punlihable' with Id) years. “We, therefore recommend  
{Rr fe: diction shoul remove, andthe axinae  
ud ‘be 14 years ‘rigorous imprisontnent leaving it to the  
<iscretion of the trying court to impose a lesser sentence, accord  
ing to the facts aad ircumstances of each case.  
Eine o be 7.46. We also propose the laclusion of fine as an additional  
sled? "punishment, in ston M0)  
  
rating 7.47. No other change of substance is necessary in sub-section  
( of section 3, but we Fecommend & Tew drafting changes,  
  
Some of thee are contequeatil on the amendments proposod  
igi deionn, renal the wo pom son  
‘uty and inerty of Toda or salty or nterena ofthe Sate?  
  
“The lengthy phrase “which is clelated. tobe, might be, of  
friend wef any nem, wh cater  
she Phase Soh intended or Belo ee  
  
“Hes ton  
or sre eth tg oes  
ifr eel ta  
SESS See ina pd  
ipoueteiokae wraps deltas paces  
PSST hibaten Ses  
  
f evidence which  
relaxes the high standard of proof required for convktion on  
‘Sv erimioal charge,  
  
Frsasiial The first part of this sub-section sate that on a prosecution  
  
{Gintsoad foram offeoce punishable under section (1), t shall ot be necee  
  
Fs show thal the acised person was gly of say partclar  
Sct tending to show a purpose prejudicial tie safety oF interests  
‘oF the State, andy notwithstanding that no such at Is proved  
Spans him, be may be convicted from the ctcumsances of  
i ce th eect or hs Known tara eve,  
ppsas that his purpose was a purpose pejodical tothe  
  
err inteepis of the States PO "  
  
Ty Se propo delion af skh; pana 736 abo  
2 Se ropored dein of he expeion “pean 9 sonal wy"  
3. Reve dats of penal provision in seto 3 10 ar give apn 76, below,  
  
  
Page 49:  
fo  
  
Me conser sat hs part of ston 32) sould be extended  
toate oe eae alo. “inal oie oles, he eset  
Ingredient is the mental clement, namely, the existence of « pure  
‘ore prejudicial to the national security. Such a purpose cannot be  
rainarily proved by direct evidence and has to be fnfered from  
‘he fats ad cirumstances of such ease and the antecedents of  
the accused. Hence the Tue of evidence applicable for proot  
f he ene of spying may, ih gual json, be ppd  
for those offences als.  
  
Our recommendation will ccesarily involve the omission  
gf saccton (of eon & tees acoring to Our tape  
‘on, the aforesald. special rule of evidence will be applica  
fo the whole of section 6.  
  
149. The second part of section 3(2) provides that if ay  
sig pl, model a ot docwott” or iron  
‘eiting or used nny prokibted pce ce 0  
TBaucts place ar hay let eel code or pas Nord maces  
hind, "Salad coded pie comminiaid by  
ron other than a person acting under iwi authority,  
130 Fm the ekcunstanss ofthe tv or is conductor Bs  
  
Dan, model, are, note, Jocument, information, code or pass  
‘ord thal be presuned to have been made, oblaiied, collected,  
‘eorded, phot, of communisted for & purpose prejudicial  
{o the sty oF interests ofthe Sia  
  
150, This corresponds to section 1(2) of the  
CEngiss) "Secrets Act T9tiy as amended in 1920.. The  
Inver, i ts tara, to follow the language of a parallel  
  
‘provision in the (English, Prevetion of Crimes Act, 1870, ‘That  
Rot provides with reference to the offeace of vaprancy, that  
‘Na’ proving the intent to commit a felony (oow an srestable  
offen), it shall not be ‘necessary to show thatthe person sas:  
FeSsE Nes Bal of ay petal at or ating to show  
  
‘purpose Or intent and he may be convicted if from the cir  
‘cumutances of the case and Icom his known character as proved  
fo the justice ofthe peace of court before whom or Which Be is  
‘Brought, it appears to such justice Or court that is intent was  
  
Pg  
=  
  
1 @ Peat Boop  
(@) Trewonie ets wit og State ee tiation ee.  
(0) Tremooabe decepice:  
  
(@ Siege,  
  
(9 Sova  
  
© Divlig oat sexes:  
  
(a) Unig fake otal enform ee  
  
2, At present section 40) apple the provisons of sein 32) ealy whee the  
  
fence rates (seid tes.  
3 Sesto 15, Preveton of Cries Ae, 170  
  
  
Page 50:  
e  
  
{to commit an arrestable offence; and the provisions ofthe said  
section, as amended by this section shll Vein force in Scotland  
  
‘and Telandeses  
Gener) 7.5L: It is well-established in England? as wellas in Todia?,  
RES to that (cubject 10 certain exceptions hot relevant for the present  
  
Fieecel purpose), evidens of bad of ue acclsed cannot be  
  
HM vto nartue Thetis tapas acct  
fon fo that rule." "The exception has, apparetly, been con  
  
‘et neesaty in lew of the nature ofthe elec, andthe efiealy  
  
of ecunng diet evidence of purpose  
  
Secon 32) 7.52. We recommend that the second part of section 32)  
FER°S ge should be combined with section 4 a they both deal with rule  
  
ESaulael® of evidence.  
  
fon  
  
Seelon 7.83. Section 41) provides that in any against  
SG)" a person for am offence under section 3, the fet that he ha been  
  
Segrape ara tree tcmant cat  
fee eo nes he ae  
Sac oee.  
  
Tie rohien teats peerncee tt ah  
Shit care aa gn ea eat Pees  
oom a eyecare  
Broce ame eee aoa ei  
sald Siloeteienateg ce opine traf  
  
rr eat d  
sebeen Oy reat Pen ar eee  
  
Tnierchoslotenb actin seen ee med  
  
“TRY Br wane, (BE 2 VER. A5(EEAY.  
2 Seton 4 Evidence Ac  
  
2. Reals of tos 3) and ace nad in th rostral provisos a the sd  
ccs Cpa, “Paar 21, boa  
  
  
Page 51:  
°  
  
(3) either within or without India, the name or address  
of, of any other information regarding, a foreign apeat fas  
‘been Youre this possession, oF has Been cbiained by him  
from any other person:  
  
Under clause (8), the expression “foreign agent includes  
‘any person who employs or has been employed, o in respect  
Pao topcase ae rnnnl, ous or  
‘uspocting hn of being or having beon employed, by 4 Torelgn  
  
Ss euher directly or indirety, forthe purpose of commtt-  
Ragan'ct, eer within or without india, prejudicial othe safety  
‘ornteresis ofthe State." Itinclades also’ person who has os  
fcavonably suspected of having either within or without fadia,  
omitted, or alemptd to commit such an acti the interests  
‘of a foreign power.  
  
12M Cae (0 ae, arn, whe within of witheut  
jalan respect of which i appears that thee are reavooa  
‘grounds for rorpetiog it of bing an address wed forte csp  
EF Semcon ened for fog ene oF an ae  
  
‘ot giving ot receiving communications, or at which he  
‘Rares on any Busine, “may be presumed” to be the address  
‘of a forcign agent, and commonieationt addtewed to soch an  
Stddrens 10 be Soramonicatons wit a foreign agent  
  
2.35. The actus reus of obtaining wsefl information mo  
inshor, be evidenced by atlempted communication withthe  
  
soa reasonably suspected of bang a foreign agent. Proof oft  
‘mens rea isfaciitated by allowing, in evidence statements of the  
‘Scouser past behaviour and character, under section 2}.  
  
1.56. These presumptions and rules of evidence may appear  
  
prot  
final  
  
to be very deste. But they ae very necessary foroflences of Pru  
  
tive.” Wemay, in tls connection, feler oa View expresed  
fn the US.A. where such presumptions are not avalable. AM  
‘American writer has observed  
  
“A further point in the program ta improve our security  
tures that we should review and ighten up out espionage  
  
wn in crt respects. Since 1946, o several occasions,  
tml ahora ben ae by xi ranch  
(Bovernment co ariend the 30 thata prosecution  
srould not fail merely because of difeutis in establishing  
‘gnistent or reaton 1 believe" that the information wrongly  
divulged or passed to foreign government was “to be used  
{the njaryo( the United States rio the advantage of a fore=  
gn nation. Thlstshardto prove, Fortunately, the requirements  
f proor oF such intent has ateady been eliminated 9 eases  
‘involving restricted data under the Atomic Energy Act and  
  
‘wth rept to dictoture of etawHfed information m the Bel  
  
1 Parsee 7 sed 7a  
2 Alen Dall, The Cra of aes, (Hare (968, age 2A  
  
  
Page 52:  
%  
  
of, communications intelligence’. The requirements. tit  
holds however ncases whet oth types oftosretand east  
fed information are" civulged  
  
Mor 2.57, We do not recommend any chaoge in this section,  
SRs2m° excep the transfer of the definition ef “foreign agent” to” the  
some,‘ delittion clause! and the merger of svton 3G) "with the  
  
SH gg 2S Seton 40 pits the wrosfil communication of  
  
Bt ine seed document or information by a peson in omsenion  
  
of control of the document or informatign, These nay he  
onvenintly described as “ofiil soets  
  
vey. 759. The wrongful communication of an oficial secret i also  
Jn dealt with m section 3 (1) (@)and there may be some ‘overlapping  
BRE, tet? between tht section a  
  
ection 31). But ston MING)  
{iF Festneted to communications intended to be uel fo an cacy  
Sede Or reating to mater likely to aft the sovereignty sed neg  
  
St india, the scurity ofthe Sat or iendy relations wih foeiga  
States (ter the amendment rade by Act 24 of 1567). Section  
Sth thats hard wombat Wie, esis ot oly  
‘communication and use for 8 purpose prejudice to the sl  
Sind interest of the State but als unauthorised retention, or fale  
{o'take cate of Such oficial secret  
  
wise 7.0, Section 5 (I) and section 5 (3) speak, respectively, of|  
  
SEE, gif “any peron’, "any foreign powee oie say sider nae  
EEL? julttl the wit of te Sates snddieady ot area,  
  
{o any foreign power or in any cider manner prejudicial  
ae “Tes india wucently the  
  
8g 761. The wide language of section 5(1) may lead to some  
‘Seamal controversy. Ii penalses nat only the commtrication of  
tion useful tothe enemy or any information which fs wal  
‘Sheed ty Tallonal security, but also” iaclades” the ‘act ‘of comms  
er.” leating in any" nauthorsed manner ay hind of secret Infor.  
St)" uation which 1 Government servant has obtained by virtee of  
iis fice. "Thus, every noting in the Sectetarat Be to which  
an officer of the Secretariat has access is Yatended to be kept  
Secret. “But itis notorious that such information's" generally  
‘communicated not ony to other Government servants but even  
{o seme of the non-ofteial public in an unauthorised mane,  
Every such information will not necesanily be elu othe  
‘enemy ‘or prejudicial to national secuniy.” A question ‘arses  
whether the wide scope of section (1) should be narrowed down  
{o unauthorised communication oaly of that sass of inform  
tion whch is either useful tothe enemy’of which may ‘prevuals  
ally‘ the national security eavigg unauthorised Cont  
iction of other classes of secret formation to be 4 mere  
  
Paragraph 726, above ~  
Paraoph 52 shove  
  
  
  
Page 53:  
3  
  
breach of departmental rules of jstiving disciplinary action,  
inay, However, be urged that af secret taformation accessible  
to\a Government servent may. have some connection with  
‘ational security beease the maatenance of serecy in Govern:  
Inn functions is ewentally for the scusty of the State. In  
{his view, it may be ucfl to teain the wie language of this  
Section, eaving to the, Government n0t to S208 prose?  
tion where leakage of such fformation Is of a comparative  
{rival nature not materially affecting the interests of the St  
  
7162. Incidentally, we may point out that a query was  
raised whether the Words ia thf Eabsection are wide enough  
chide retired ‘or dismisied Goterament -oficers also.  
That they ao. The Words "hos held)” should, in the  
rte te ake a nding rete or dsmised Gove  
Servants also.  
  
73. The language of subsection (I) of section 5 is cum-  
bersome and lneks elanty. “Hence, without any change tn  
ibetunces me secommend the adapilom of the drafting device  
Separately defining. “olfial secre” as including the camera  
‘i classes of documents end information  
  
7164. The pusishment for offences under subsection (1)  
of section 3 gat present, menoned separately im secuon 58).  
‘he propose to inclae tim sub-section (1). Further, the present  
PPonithment—smiprisonment of either description for theee years  
neo oti i ou vw, nadeqat, or ome ese  
‘We'propose a maximum of veven years for important offi  
‘erets and three years in other cases. In th former case,  
Fnmprsonment will be mandatory, but fine can be added. In  
the Inter case, the exising Punishment will continue, “Under  
the category of portant oficial "secrets we include secrets  
Inteaded or likely to'be direc or indirectly lef to an enemy  
‘or prsudicial 1 the national security.  
  
2465, Section $2) penalises voluntary receipt of official  
secrets (folly daseibed im that subsection) ifthe offender at  
The time of such receipt knew or had reasonable grounds to  
belie atthe sere were cmuncted i contrayention  
Of the Act. Wis extremely fo prove this mental eles  
asomtbie grounds to believe  
tested in contravention of the  
provisions of the Act. "The language of this subsection  
Somewhat similar to the language of section 411, LP.C. which  
equirs gaily Knowledge on the part of  
ok eer est re a resumption of  
nowledge arising out of recent possession (we lustration  
(@) to section 114-of the Evidence Act] we consider that a simi  
{22 presumption should be made tothe effect that where a pet~  
Vis in possesion of an offical secret without lawful autho-  
thee may be a rebutable presumption that he received  
  
Fei Narainfam however, tw arseration omic sabe.  
  
  
  
Page 54:  
2  
  
it knowing or having reason to believe that it was communi=  
‘cated to hit in contravention of the Act.  
  
Seen |, 7.66. Section $(3) deals with certain, sets regarding infor-  
6, mation relating to. munitions of war. Bley, a penson who,  
mite, ~ faving in his possession or control any sketch eft. document  
of information which relates 1o munitions of wart, communi  
Gates it directly or indirectly to any foreign power or in any  
other manner prejudicial to the security of the state, i punished  
Ander the subwaction. We thik that most eases of such com  
‘uniation ‘would fil ether under section IY) oF Und  
fection $ (I) (8), and, therefore, do wot see any need for ret  
{ng tubssecdon (3). We recommend that it should be omitted  
4s redundant provision  
  
ecion \_\_7.67. Subsection (8) of section S prescribes the punishment  
SE or offences ender the section. Te has already been dealt with?  
  
Sesion § 7.68, Sestion 6 punishes a varity of acts when commited  
SEES or the purpore of gaining admission tom prohibited place?  
Beplet” Gr rorany other purpose prejudicial to the safety of the State.  
  
‘This section deals with offences relating to three kinds of  
anicles, which can be coveniendy labelled oficial uiforms,  
‘ficial passe or documents and offical seals. The dominant  
‘bjeet of the section fn to. punish Trauds\_ pertaining to any of  
‘hese three, when committed forthe purpose mentioned above.  
‘Many of the punishable acts would, no doubt, all under the  
‘tlenge of heating or the offence of forgery (or allied offences)  
Under the Penal Code, What. dtingushes te offences under  
the Oficial Secrets Act from such celmes under the Penal Code,  
In 'the purpose bend the offences, and Its this purpose which  
Fendect appropiate thelr facusion Tm a law primarly design  
Sate: prorer ‘ational security. is this” purpose, again,  
‘which Eonritates the. common link between types of conduct  
‘Which are otherwise before helereogencous in characier  
  
“This essential link may sometimes be oveelooked due tothe  
length of sentences in his Section ané thei lack of clarity.  
  
7.69, tn the opening paragraph of section (I), the purpose  
  
a described as one of gaining admission to a prohibited place,  
‘Suing (or of amiting another person to’ do 50), any other  
  
E pose prejudicial to the safety of the State®."The word “other  
Boer, fenof correctly tied in ths context t implies thatthe pur.  
  
‘SSmiud? pose mentioned earl in the paragraph, namely, the “purpose  
Breuning admission or of amisting any other person (0 gain  
Sato tn pried pace 8 nema Ore res  
{othe safety of the State." But that view would confit with  
  
| “Maloof wate dane a scion 20),  
2 see dctaion rating o ponent under weton 4), Parag 7, above.  
3, Spo Ch were, os tine pao miso 8 po  
  
  
  
Page 55:  
3  
  
te opening line of section (0), Setion 31) (0 fara i tle  
{ani} punlther s person, who, “for any purpose piace to  
ised plc. if panne adnasion We monied™ ae  
feces apd in leat indicative of «pa  
  
purpose in the opening paragraph of section 3).  
  
Hlnce the word ‘other’ is misleading in the opening para  
‘raph of sexton I} and Should be omitted:  
  
7.20, We further recommend the shortening, of clase (a) Sign  
in section 1) by substituting the expresion “armed force” S038)  
Jp place of the words refering to naval, miltary and air 3"  
  
7.71. Clause () of section &) punishes person who makes Sesion  
any sate ot sev gurposecliyor in wring  
in any declaration oe application of m any dosoment -  
by he Shtenders The quoted words ae in our view, uongcer- Set  
Sy.” as the word \*Jocument” would cover writing ip a decs~  
Fie or io an apaaton, We, therfore, popou to om  
  
7.72 Clause (6) of section 6 (1) punishes a person who  
forge, alters o¢ tamper with, any passport or navel mili  
fer ass, permit, comiieate ele. or other Cocument of" time  
fer, as Well as perion who knowingly uses or has  
fe fany forged etc. passport. The “Word “know  
iy  
i  
  
which occirs inthe lier pat, does not occur in section  
1 () of the English Act of 1930. "The word was inserted  
{he Indian Ac a result ofthe amendment suggested by Sh  
K'S.LApnibott, which as aovepted by Government  
  
No, ste: aa i needed in aie (But we  
one to nod a defton of “ofan document seperately,  
End this enables the clase to be shortened  
  
173. Clause (@) of section 6 (1) punishes a person who, scion  
for the speci purpose () personates a person holdiog anise)  
fofice under Governnent, of (i) falsely. represents oneself to fetona  
beor not tobe person to whom an oficial document or secret fam ant  
‘Ofical code tc has or has not "been communicated, OF (i) ig  
‘wih intent to obtain an official document etc, Knowingly Si  
makes a fale statement. It neede n0 change of substence,  
  
sight ceasing of this clause for Peating  
mata accraye and suo tga thatthe inter ca  
  
2 Abosee Counce tates Debates, ad th Mach, 1933, Vol I, No. at  
  
  
Page 56:  
Py  
sion 7.75, Cause (of section 6(1) punishes the use or posession  
  
Hho {2 of ecvain des, vals and stamps without he authority of Gov  
heres” Srament or the authority concerned. Bee, the ies, sels  
{ated Sr uamps wih which the clause i concerned are those Belong.  
  
mie ingtoor made by Government etc. The clause eds no change  
  
‘Shea “ SPatbanee But we propos 1 deine ale sa” pe  
dy thereby enabling @ shoring of the clase - Ali  
Tetons i ranter the mater conmined jn section 62)  
  
1G Tolls case a the subject nai of Boe the same  
  
Seton 136. The lst portion of section 6() (©) panishes a person  
  
ERS” who Knowingly tee or ins in hit) possesion or under his  
  
Rotini Shue toch comeried de Sete am, cooterat  
Semis ca? ‘Tas pans sto be umes se sion  
  
SPE io 2K) wl cover i” We therefore propose 10 ‘omit this por  
secion 7.7% In claws (@) and (b) of section {2) minor (verbal  
SIS. eanges alone are suggested.  
  
seiion 7.78. Clause (¢) of section 62) deals with the fflenee of  
  
SSH? manufacturing without lawl authority or excuse (and othe  
Sian qenpect of), vany tush die, seal or lamp as aforesa  
  
wtb tered in action (1). We have already recom  
  
fees da® euasir of te substance of thisclausetozection 6(1)  
  
©:  
atin —\_729, Section 3) eds nochange of obs  
BaF Atlant secede oe:  
on cP Spa on 30. ta = RNS  
‘scion 7. 681. Section 7 punishes interference with officers of the  
pole ‘or members of the armed forces of the Union. But  
rience ast be “i the my ny proibied  
ory important ingredient not brought out 0 the  
va Yo PR worde cf the Union’ in, sbsecton  
{i Thous be Gmited,"in wew of the proposed deiniion of  
Some force  
Sesion, \_\_ 782. Section 8 imposes an obligation to. give information  
abo er demand being mae by ()A Supe.  
  
‘Eadent of Police or other police oftcer not below the rank of  
raethoe, empowered by an, Inepector-General of Police ee,  
UP tay member ofthe armed forces engaped in geard patrol,  
‘haut simian duties This corresponds to section 6 Of the  
Engisi Act of 1920, a8 stood before 1939,  
  
1, Paazaph 778, below.  
2 Se dusion Felting 9 ston IN) paraph, 7.75, above  
3. Baragaph 78, above.  
  
1 Sethe pepo ein of “emed oe  
  
  
  
Page 57:  
58  
  
We propose to substtte. “Sub-laspector® for “Inspector”  
as i appeas thatthe present restcion cause some practical  
diay We ao prope fo put the potion relating (9 armed  
fer i a ester pactt importance othe eo  
  
7.83, Section 9 punishes any person who attemps to com  
rioraht tcp a fens ar he Act” Sach  
  
"S'puuishable with the sume punshmeat and fabie  
{Sie proetded apn ari he had Lommited. sock flee  
  
‘Tus Scton coneponds to section of the Engich Ast of  
Bm. .  
  
We are of the view that section 9 can be safely omit,  
Apetmeat of an’ offence onder the new lav caa be taken exe  
‘tty the general provision inthe Penal Code, Sofa a aterm  
Ste conosrmed, many of the seis punishable under the penal  
Secuions, by thle very terms, cover them.  
  
2.84, Section 10 prescribes the penalty fr harbouring spi  
Section af te Engh Act of 19 on which ou secon 10s  
‘Ssel"g der in one important rege namely overs the  
bouring ef 4 person auto connor ho has comm  
{ea any Stone under the Ac The lian section ihe  
{Orie harbouring of a pena who har commited Oe Of tht  
{Bote sei ‘ofenas Under the” Ase  
  
Farther, the Indian section creates two separate offices  
‘The ambiguity caused by the se of the words “omits oe  
{ses section of the Engh Act, has been avoid, and  
  
Is been provided that the uaformation shall be given’ on Ge  
Ind to the police offers who may demand it under section  
  
Pie Got ina dear of ubsiane The son isa mate  
‘of drafting, and represents change made by the Select Com-  
tittes on the Indign Offical Sects Bil, 1922  
  
It shoul, finaly, be noted that section 10, in some respects,  
‘goes beyond section 212, Indian Penal Cade, which i the pere>  
a provision punishing the harbouring of ofenders  
  
785, No change of substance i, needed in this. section,  
‘But we propose to substtte™ “Sub impactor” Tor "laspector”  
‘aubsctuon (2) which relates to te duty to give, on demand,  
  
[eerain information to the specied. officer.  
  
ses 3  
ia  
  
1 ag St Co 2-1, pio ing care 1, Oa  
  
1 Cf encodes propose in section #1), Paragraph 782, above.  
  
  
Page 58:  
oe  
  
56  
186. The penal sections to be taken from the Official Secrets  
  
‘Act (as we propose fo reat them) wil be as follons  
  
33. 1 an for an adi to the  
adh TARY Peon, for any perpote pr  
  
(a) eres, inspects, pee over, aporochet, of  
4s inthe iy em pobibed see  
  
to'an enemy; or  
(©) obtains, colts or records any such model,  
steal) state a afronid of Soy ani "aecaens  
‘or information which intended orikely to be, drecly  
fr indirectly, useful to an enemy, or relates to" mater  
the dislosere of which is Hkely 19 be prejudicial (0  
the national security; or  
(© pusisbes or communicates to any other p2ron  
any sock things or information as afore,  
the shall be punishable with rigorous iaypeisonment for a  
rm which nay extend 10 fourteen years and shall so  
be Table to fing,  
  
34. (1) If any person, having in his possesion an  
etic! Set =” " "  
(2) wes it forthe benefit of any foreign State or  
  
in ny manner psjdical tothe nations. ewig  
  
() witflly communicates it to any person other  
  
sn person to whom he is authorised fo comrnutie  
fate i, or a person to whom iti, ia the interests of  
State, his duty fo communicate, ot = Court of Susie;  
  
(© retains it when he has no right to do 40, oF  
‘when it is contrary to his duty to do a0, or willy als  
{comply with any direction isued by lawlal authority  
with regard te its return or disposal; or fi  
  
\_\_() fils to take reasonable care of, or so conducts  
hieself a8 to endanger the salty of the offal acre  
te shall—  
  
if the oficial sere i one spied in cause  
(©) oF cause (0) of section 35,” be punishable with  
‘Rgorous imprisonment for a term which may extend  
{0 seven years and shall aso be Inble to fnes  
  
(in other cases, be punishable with imprison  
rent for three year, oF wit fine, or with both.  
  
  
  
Page 59:  
37  
  
any person seccves ny offi! secret know  
ox hvig reo tone ta i tna nk  
{in contravention of subsecdon (1) of tus section or secon  
3, aa  
If the oficial secret is one speci in clause  
(po cae (0 of won 33,"be. puna wih  
eorous for a teem which may extn.  
{ooven Jou, and sll aoe lable ae  
Jn oer cases, be punishable with, imprison.  
men! forte pst il foe or wih bole  
For the of sub-section @) a person who  
isin Pocono ad el set whos le arty  
tay be presumed unt the contaty proved to ae  
‘Revved Enowing ee having reason to fle that ft  
ommoncatd oh in contravention of subsection)  
‘Fis Soston or Seton 3, a te eae may to  
soll), M0, “ofl secret” meas anything or  
(@) which is specifed ia clause (b) or slamse ()  
of ition 33; or  
(©) which has been enirased in confidence tothe  
‘fender by any Berson holding effce under the Govern:  
ten; or  
neo RRM ener, tan or 0 which  
‘access Owing to is postion ts 8 person  
tho holds or hsbld fies und Government oa  
person who holds or har beld's contact made ot  
telat of Government or aa pera who for bas  
Fen employed uncer a person who holds or has held  
Sch an feo contac  
  
35, () Arany petsom, forthe purpose of gaining admis  
sion, of of asisting any other person to gain admission, do a  
‘robiited place or for any purpose prejudicial tothe national  
‘arity  
G@) uses oF pears, without lawful authority, an  
armed force, Police, ot other oficial uoiform, ef any  
Uniform so. nearly fexembling the sume ss (6 be cal  
ilted to" deceive, falsely represents himself 10 be  
person who is or bas been ented to tse or Wear any  
‘uth uniform; oF  
(©) orally oF in any document sgncd by him or -  
‘on his behalf, knowingly ake, orconnives at the mang  
Of, aay false statement of any omission; or  
(6) forges, alters, or tampers with any official docu  
‘ment, or knowingly uses or has in his possesion ny  
‘Such’ forged, altered, or ‘eregulat”ofclal document  
  
  
  
Page 60:  
3  
  
(8) perionates, of fssely represents ims to be,  
‘pers holding office under Government, oF falsely  
epresets himself to be or not t0 bea perso to whom  
‘if document Bas Ben dt ied or emt  
  
(0, ih ota to obtain om. ficial document  
whether for kimsc or anyother penon, Knowingly  
Imates any fale satomen of  
  
(© without lanfol\_ authority, uses, asin bis po-  
session or under his control, manufactures or” sells ty  
‘fil seal or any diy seal or stamp so neal resombling  
‘tn ofa teal arto be ealulted to deoive or count  
eis any oficial Seal,  
  
he shall te punishable with igorous impesonment fora tem  
which may exead to three sears, of with fae, or with both  
  
2) I any. perscn, for any purpose proj to the  
ational tet  
(e) retains any offi document, wheter or not  
compl erlad for i, when hebas no ahora  
ror when cis Contrary to is duty tortion wie  
Tae copy wih ay dens pnd, "ok  
tnver author Goverment wih regard ts etum  
or spon theca or  
allows another person to have posseion of  
cor oSutunenes to anole peron any esl docu  
stest raed or his woe alone  
+ ati nel anthro ace, tas in Mi  
postion a5 acumen taued forthe te 0  
Some person otber than bins; of  
(@) on obtaining oxtesion of any oficial document,  
ty shay or thers, wally fas to ere  
fon af sth by thom oor whe So a  
Grucd, or to a pole olcers  
te shall be punishable with imprisonment fo aterm which  
say extend to thre years, oF th ne, or With othe  
  
©) In this. seston,  
  
(@) “oat document” means any armed fore  
police oil pan, permit, coifcate, lisence oF other  
‘Bocument of a sar eharace, and lclodes any secret  
‘tial code ot pam-words  
  
(©) “oficial seal” means any die, sel, stamp of or  
telospag to tse, tate of Proved By any Sopa  
seat of Goterament, or b) any diplomatic or aed  
{ores authority sppotited by, or acting under te author  
sy of, Goverment  
  
  
  
Page 61:  
136, If any person inthe vicinity of any prohibited place  
obstrcts, knowingly misleads or olberwise interferes with oF  
Impedes any pols oficer or any office or member of the  
[tine feed engaged on goat, senty, patrol, or other similar  
‘uty i relation to the peaiites place, he shall be punishable  
Svth imprisonment witch may extend to thre years, oF with  
fine, o¢ with both  
  
37. IF any person fails  
(@) togive on demand to any member ofthe armed  
{ores engaged on guard, sentry, patrol or other similar  
‘duty, orto any superintendent of Police, or (o any oer  
‘ofcer not below the rank of Sub-Inspector  
  
fer ‘by an Inspector General or Comamissionet  
lise inthis behalf any information in his power  
  
(Tse reared, nd pon tender. fh resonble  
exo Sata ia reonale tie sade  
‘Hany be tpt forthe pupone of fuming Sock  
  
te shall be punishable with imprisonment for a term which  
ray extend to hres Jens OF WH fine, With both.  
138, (1) I any perion knowingly harbours any person  
‘whom bs kaows or bas seasoble grounds Tor suppouing to  
Teetperson wh is about to commit or who has commited an  
fered ton #2 or won 33 or knowl ee  
{omect or ssemble many premises in i eccupatign CF under  
Harcontrol any mich pettons, he shall be punishable wth  
eat fot aterm whi may extend fo thie 9a,  
ori fn, of with both  
@) If any person who bas harboured any sch person as  
aforsatd, or who has permed (0 mest or seein any  
remiss ‘in is occupation or under his contol any soct  
oons as aforesaid, fl fo pve on demand io Supeiten.  
taf Poe 16m pce oan wt ao  
Stb-inpector empowered by sn Inspector-Gencral or Commie  
‘Sioner of oles Ip th bball any iaformaion I his pore  
Featng to any such penn or perons, he stall be purihable  
‘ith penonment Fora term whi tay extend to thee  
eats oF with fn, or wih Both”  
7.87. The procedural provisions in the Oficial Secrets Act  
may not be cord  
  
7.88 Under section 11 (1), if a Presidency Magistrate, Ma  
tout the frat cantor b-dekional Magaste acne,  
by information on oath, that there is reasonable ground  
  
Sspecting that sm ofesce under the Act “has beca Or i about  
  
  
  
Page 62:  
(BsSeuen emergency, and that inthe interests of the  
  
©  
  
to be commited”, then he may grant a search warrant authoris-  
ing the speciied oficer to eater "at any me," “any premises oF  
place named in the warrant, i necessary, by Tore) and t sare  
fre premises or place and “every person found therein”. The  
polite offices can further be authored to see any sketch, pl  
ods, ttle, note or document oF anything of «like ature,  
‘ot anything which s evidence of an offence under this Act having  
‘ean Or beg about to be commited and with regard to Which  
‘otha reasonable ground for suspecting that an offence unr this  
‘Act has been or about to be committed.  
  
7189. Under section 112), where it appears toa police officer,  
not below the rank of Supesntendent, hatte casei one of great  
immediate action  
  
(pliiene fs ocsuary, be may, by writen order under his hang, give (2  
  
Cxdect, Tedure, 1658,  
SEDER tates to ase search warrants  
  
{ay police offeer the like authority as may be given by’ warrant  
‘fa Magistrate, a8 aforesaid. But subsection (3) provides that  
‘he must report such action io the Chiet Presidency Magistrate  
{in presidency tows) or to the Distt or Sub-divisional Magis  
{mie (outside a Presideney town).  
  
7.90, I is obvious that these powers are of an exceptional  
  
Exceonal character, in 0 fat as they cover even situations where an offence  
  
BRET. about to be commited, and cua be excised at any time and in  
fespect of any piace. At the same time, they are needed in the  
Interest of the security of the Site, "They are exer only  
byjodical or police ofcers ofa high rank, and this sa sufficient  
Sicgard against abuse.  
  
L791. There is, however, a matter of considerable interest,  
SGM wn aver by fat fhe fit thatthe Coe of Cepia ro=  
po at of provision which autor Magi  
  
Pad also empower an ofer in  
  
Prostar (Range of a police ston? (o conduct or order searches for the  
purpose of” a investigation.  
‘potion 7.92: We therfore comsideted it proper to g0 into two ques-  
  
EER tions, tamely—  
  
(@) how far setion 11 ofthe Act overlaps the power of  
search under section 96 and section 168, Cr. P.C. acd silat  
provisions; and  
  
(@) whether the detailed provisions fepulating the exercise  
‘of the power of search as fakd dowa in the Cr. PC. (i  
‘SEetion P05, Cr. B.C. whic require wo witnesses) are tobe  
‘Somplied with when conducting sentch under section Il  
  
1, Gu 9, Ce PC. Bil 970 (Eising sion 9.  
2 Gaue 16, CPC. 970 dEising seca 36D,  
  
  
Page 63:  
st  
  
fates power under the Code is imied to cases where  
there isa. proceeding pending or inmince!® Section II),  
Offcial” Secret Act, on he other hand, contains no such reste:  
tion.) Where an offence hs been commuted, section 1i(I) applies  
vem if cognizance has not yet been taken and fe not about to be  
faken, ‘Further, as regards cases where an offence likely to be  
‘commited, ther is no overlapping between the Code and ection  
TiOmcial"Seerets Act, because the Code does not apply-\*  
  
7.94. Heoce, notwithstanding the partial everlaping that seaion 1  
‘exits between the Code and sevtion T0r we think that pres temete™  
Ferable to veais scation 11. The sectgn should not of coume,  
  
be taken as superseding the Magistrates: power under the Code,  
  
though the question i mosly academic Having regard tothe wide  
scope of sion 11  
  
298 Asrepands question (ou view is thatthe procedure Pov  
inthe Cina rosedure Codes socatacted, We rfommend ihe  
= provisions shoul, as fara maybe extend 0 searches PS, Sa he  
  
en eating te prvions of ton 1 an fete aon  
uly exiened tg mbotage Lethe new ofons® proposed tobe test  
added by us on the subject, sine nea for tauing Search warrant 0  
  
fim are in respect of that offence also.  
  
‘Change in the nomenclature of Magistrates consequential on  
separation, involve verbal changes in sections. 11(}) “and 11).  
nd we propose to Mody these subssctons suitably. for hat  
purpose also  
  
797. Section 12 deals wth the tender of pardon to a person Seca 12  
pos eee ui forthe tee seston fora de  
‘flee under the Act The position in thie fapect may be fet FSG to  
{be governed by the general provsions inthe Cnmial Procegu- = 8.  
  
re Goce,  
  
[As the punishment ia most caes, under the Official Secrets  
‘Ac an om propane 12 Peamendd, wil be inponment for  
even etm oe more, the need Tora serial provton dnapeat.  
  
218 may, tertore be omied  
a7, above  
hada rent of esing seo 96, Cr RC. an he da) conus of  
  
ha 72 hve,  
2. Sesion S710 IDA CRC.  
21M of kaw 71—8  
  
  
Page 64:  
e  
  
Sesion 127.98, Before 1967, section 12 dealt with other topic. One of  
  
them was the ffences that were (0 be cognizable. Under the  
  
Tet con. a  
Tier con- flo as it then rood, only offences punishable with imiprison-  
SHRE—Inent upto fourteen yeas, and offences under section {1KA)  
  
Sugmeion 7.160, According to su ection (3A) of  
ie, procedure Code iin any case triable by a Mapisrate, the  
  
‘Of the Act, were cognizable. Section 12, did notin this respect,  
ous far” ts the Canadian secion,! which covers even &  
{erson about to commit an offence, and also authorises his arrest  
Efthout warrant and detention by any constable or police oficer.  
‘The Bnglah Act! “has slo's smarty wide Provision.  
  
‘After the amendment of 1967, all offenes under the Act have  
ech eget, bauer, Cami oedine  
  
iment provide ts imprisonment or Thee  
ear or more, ofences under specal laws are cognizable.  
  
7.9 There was ato, before 1967. 2 provision in section 12  
reaniging the balabiity ofotfeness, The provision was somewhat  
‘hee libel having regard to the sare o the offence. The sc  
fiom after is amendmeat® in 1967, doesnot dea) with bail ail  
"The matter will theolore, be governed® by the Criminal Pro-  
dure Code, under which offences under special laws, which are  
Erma ih mpoonment Torts years more om:  
  
‘This doesnot end the matter, because, even where the offence  
ics oasis bot beend a ae of  
Course In the case of person suspected of an offence connected  
‘Wi the Uscusure of secrets of tational importance, ther is 3  
‘robubiy that his ies with aia are very thi, and the probability  
[his absconding t greater than inthe case of other offences.  
‘Tic consideration, no. doubt, wil be Taken into eccourt ty  
Courts in considering appliatons for bail ATepilative provi.  
Seca arertion onthe pone oft Cr ma note  
  
Stee person accused ofan) non-ballabie offence is not concluded  
  
Si n'a pred cy de om he est date ved fr ang  
  
din he who Oe a ice ce de  
Facts ec ata eden  
SAT et ene te onal Sore A  
ony i i pg goeerton oon sent and ty  
‘ecient Ba  
Perea  
Seren cs, ren et  
Seer ean  
  
  
  
Page 65:  
a  
01, It does not, however, appear to be proper to insert  
1 Figid provision and to take away the bene ofthe thove prove  
‘on in al cases, The Magstrnte has discretion not to release  
‘the accused on bal even ifthe period of snty days has elapsed.  
That dieretion should be adequate for practical purposes  
  
7.102 Th one suggestion forwarded to vs! the poston with  
reference (0 the three Acts relating to armed foro tas" been  
fefered to, Ichas been tate, that section 38 of the Navy Act  
Provides vhat a person not subject to Naval law who i or who.  
Set as x spy forthe enemy ie punishable under the Aet with  
“death (This. provision could be applied to persons not other-  
‘ise subject to the Navy Act, only f Oey committe oflence of ©  
‘ping it respect of naval secre or intelipncs). It tated sat  
imi ofence is committed rgard fo Army or Air Force  
‘or inteligence, then civilian personnel could be tied only  
ader the Official Secrets Act  
  
7.103. The suggestion is that to remove the existing disability Sgn  
inthe Aimy end Ai Force Actin respect of bringig totaal  
Pevsone not governed by those Acts for offence of espionage,  
  
2 provision mular to” that tn ‘eising. Section, 38, ‘Navy Act  
  
‘Should be introduced a the Army” and Ait Force Act a  
  
Bring civilians under the tree Service Acts  
  
7.104, We conser that it would hardly be appropriate 10 Noctanse  
bring civilans within the laws "relating to armed forces, The sore  
provision n the Navy Act whatever be ts precise spe, does not  
LBppear to furnish a satisiatory preesdenk, We “cannot ssceot  
  
‘he sugeston.  
  
7105, Section 13(1) deal withthe court competent to try. Sacton 13  
fences under the Act." Disiet Magister and preency {284°  
Maprirate can any offence under the Ac, whic other Magi 2a  
trates cam do so only they ate othe ft cane and are spetaly  
powered bythe” appropriate Government. Seation 15)  
  
{Eves right fo he ected to mae claim to be tied by the  
  
‘Gcart of Session for an offence under the Act. Wer prope to  
  
‘omit both the sabseaions The genera provision inthe Sch.  
  
tle to" the Criminal Procedure Code so the a  
  
ours wll govern the matter AY. the punishment Tor few  
‘tlencey unde tbe Acts proposed tobe ifereabed: mast offences  
  
‘ill now "go to the higher categories of criminal courts,  
  
7.106, Section 133) contains certain provisions requiring sen 13  
  
complaint of the appropriate Government or some officer ame Otek  
‘by the appropriate Government, ax a condition prece: Seni  
  
Sent to a cout’ taking cognizance of an offen under the Act,  
  
‘thd makes certain otis provisions as fo the place of ta  
  
1. FIVDHL.C, & No.2 (Sinton ferred by one Minty)  
2 Thetugmtn ao dacs the poton regan erbes of the ay and he  
‘ai Tore, But tat apt 6 mo of portance forthe present pupae.  
  
  
Page 66:  
“  
  
We propose to substitute sanction ofthe appropriate Govern-  
‘ment in place of complain, as the present provision seas  
cia te Coty owner hs Sly a  
‘complain then the more eaborate procedure provied in the Code  
of Criminal Procedure for cases inttted on complacnt i fo be  
followed, which i dilatory, .  
  
ita TAO. A caleutta cae, though not directly involving this  
&=" , ay be clerred fo.” M'was eld tibet aut Yh the  
Of Secret ace roids fora pool peters oF senha  
  
sae cal by pron tad on eA wat  
  
quired, cognizance was taken under section 1900) and, hot  
Under section 1901)) of the Criminal Procedure Coe The  
  
‘rosedure for tril woul, therefore, be feulatd by sexton 259,  
  
‘OF that Code, which applies to eases intuted on complaint  
males 7.108. The change which we recommended wil alter this  
sited” postion, as cognizance will now be taken in the uoual manne  
‘on 187.109. Section 13(4) deals with the venue for trial of oleces  
& under the Act. Te neds no change of sultance®  
  
Some e 20, Selon 1¢\_ provides fo excaion of the publi rom  
Proceedings of the Court in presceutions under the ACt.  
Jodi decison on the section may be referred to,  
  
tn 4 Caleta case, an order had ateady becn pss under  
section 2 excluding ihe publ rom ine Coun oon, ike  
uesoa fl tobe conrad whather the greting Sf epieg of  
Socata under “seston Tt Cr. Be wea ee  
pe de re mer tion i, The Masa ad  
eral and vague order graming copies a mate ot ses  
intespet of documsatsou Gund ints ser” Burak Hes Cee  
eld that sch general onder of ranting or fetuing would mene  
oper in the stant case The general ule nl be tat he  
Sppoute parts are coiled to such copie bulma OF  
Serial copy ad he Mans so co a  
  
‘Spply hind o Cou toa fading wie he ano hs  
eal hs oun Sede ane sss eH GLH cy  
ch confi. thet the’ opin may be granted; Outi there a  
Conf then the copies canny and"choud' vot be gone  
Sen 14 TALL Stil speaking. the section isnot required a theres  
iSicre's a general pongo nthe Cumial Procedure Coase Se honse  
Eitifipe jot Howewers as the ection is hormise Wisay Sy aay  
TTT Rosa Sigh «Miki Coady & Oi, KUR V9 GBT, pa  
2 lores tote eel pyon rating taco te Coah oor  
  
‘meat ofthe Sine Government orev eee under Ne. inn i.  
  
3. is prone L adopt the pile a secon 34, Of Sere Ac or a  
oan ne 3. oF a  
  
entire Rembeacer of Legal Aes, West Bengal. Satyen theme  
Seon 32 Cina Procedure Code 198; ston 35, Criminal Prcedte Coe  
  
  
  
Page 67:  
65  
  
If ts to be retained, we think that it can be usefully extended  
to some of the offences" which We propose include the lam,  
‘an emphasis on the power to hold peoceodings im camer  
  
be tseful for thse oflencss also.  
  
7.12. Section  
and needs no change. AMter it amendment in 1967 he ection  
‘has been brought in fine with similar provisions im recent Acts?  
  
ZAI, So. far, we have dealt with espionage. ‘The group sesion so  
with which we are Concerned. should also incade sedition (aeady Senna  
Sontdined in the Penal Coe,  
  
LIMA. We do not consider it necestary to provide specials nuh to  
for insult o the Consitation, the National Fag or the Navona JO.  
‘Anthem, because te Lek Sabha has ont now psed 9 Bul which  
  
fally'“ate withthe sobs ® Sc  
  
TIS. Woes sated during our dicusions  
‘one Ministry that antinational slogans, and slogans enteling son  
{2 country which has commited agerewion against Indias mere alos  
Trequenly writen shouted. Sach acts Soul mot be punished  
  
at present ad the suggestion made was that this dee  
  
Should be vemoved. It appears to vs: however, that  
‘minor act of disloyalty, and could even be vepirded ars pasning  
phase. "We do not consider ie necesary to lalate such fens  
Tina permanent Taw on national secur,  
  
th offers oF Waking  
  
2LM6, We considered the auton if publicly detuning or ene  
raion vilgng nono cel he Sle head pet ete  
ieteence wns mae nt conection tthe German Peet  
Ghee hore ai he ai ike  
  
‘ope reny hart ald be poe wat nea ht  
  
her prowlons "Far expe Lele of penees Sacnee  
  
seston S3A of ihe Peal Ca cols be nncked ira gee  
  
‘Sr writen camer dfn icy Wiad to doar  
  
unk ordre act weed amos twee  
  
nthe circumstances, no farther lepslative provision is called  
  
1. Danpive y  
(© Paramiary goue,  
(2 Tressomabe atone wih fin State,  
(@) Tremeable dep,  
te sabre  
  
2 Il proposed oxen the provision retingo fens by Compares tah ofeses  
set sean  
  
1 The Peentin of Ina Nason Honor Bi 197.  
4 German Peal Coe, 187, ston 96 ur  
  
  
  
Page 68:  
ra  
  
‘ESN TNT, as saute to that 9 provision prin  
  
SHSHO™ izes of India from aozepig tes from forcign Gaveramets  
  
ESE. Should be ime. re may 8 ped ou tat wns Tat  
  
sors” the Contieton say probe te sepa each  
Iva empned ta there ought Ses Fal sro te  
foe ie "We'do not. however onndeesth's priv to 8  
tended Such coe muy be wits anin ance he cone  
dectn queso sno nen conmetton Winall Sa  
ES  
  
stg 7.118. As a result, the following offences should be included  
‘ovidey as Constviing subversive activin —  
  
(1), Disruptive sctiviy!;  
  
(2) pars-miltary groupe?  
  
3), Mainsining relations, with foreign State oF ina  
tution for a purpose prejudicial 10 the ratonal sceuny!;  
  
4) reasonable deception’;  
(9) Sabotage?:  
  
(6) Spying’:  
  
(Divulging Official Seorets:  
  
(Using fae oficial uiforms, documents and seal  
for purpose prejudicial 10 the tational security:  
  
(9)\_tmesfering withthe poice or armed forces on daly  
at a prohibited: place:  
  
(10). Failure to give information:  
(11) Harbouring saboteurs of spies;  
  
(2) Sedition”  
Revoel | 7.19, The procedural and evidentiary provisions in the  
GEMS chapter relate 00:  
  
Some (search warrants:  
  
enn i) Exclusion of the public from certain proceedings !#;  
  
 rocdurat ad ose prvion wht are eleva ao to ofleces wer  
vies CS pct endo be ea  
  
"Sf pa. 2810796 above.  
  
10, fp 7 abo  
  
  
Page 69:  
o  
(Ui) Evidence of purpose prejudicial to ational see  
riy't  
(is) Presumptions in prosecutions for sping \*  
“The relevant provisions will be as folfows:—  
  
49. ()\_ Ifa metzopoian magistrate, magistrate of the SR,  
  
first class ov sub-dvistonal magistrate satisied by informa:  
on von cath that there ls reasooable ground for suspecting  
‘that an‘ffence under any of the sections 32 ToQ38 has Been OF  
[Beabout tobe commuted, he may grant a search warrant  
Juthoriing any police oficer named therein, no being below  
‘he rank ofan eer In charge of a police station —  
  
(2) toonter at any time any. premises oF place  
nam nthe wneant, fr necesary, by ore,  
  
(0) 0 search te prizes of place and every Pt  
son fod therein, and  
  
(©) toseize any sheich, model, aril. note or doc:  
ment br anyhing ofa ike nature, or anything which  
‘uence ofan offence under any ofthe sd sections ba  
Ses orig abot te omic wi fe may  
  
"Sn the premises or place or any such Person,  
  
‘Mh reeard (oor in connection with which he has Teaon-  
Tole ground for suspecting tha am olence under any of  
the std sections has been ori about 10 be  
  
(2), Where it appears 0 police officer, aa being below  
the fank Of superintendent: thatthe exse Bone. great  
‘Ghergen, and hat inthe stress ofthe Slate fomediate  
Stten ie nesaay, he tay, by ween order under hi hand.  
veto aay pate oficer the tke ator as may be given by  
fhe wavtan of magsrat vader ts sexton.  
  
@)\_ Where action has been taken by a police offs under  
  
subsection Oy be hal ss so0n as maybe, Feprt such action.  
‘n'a mctropollan area to the Chief metropolitan” magistrate,  
lind outsee such aren Ao the dat or subdivisonal- magi  
  
(4) The provisions of the Code of Criminal Procedure,  
1971 thal so far at maybe applicable, apply to any search of  
Seizure vader this section as they apply to any search or seizure  
‘ace under the authority of warrant sted under section  
54 oF that Code  
  
vad dation gn witout prude of am, poner  
which a Court say ports fo der the exchision ofthe pubs  
Iititsm Soy peowcedinp tn the course of any nau oo  
Or tral of any person for an efence under any of the sctons  
1 pe 7 ate.  
  
2 Of pam a0 fo 162 above  
  
  
  
Page 70:  
—  
eS  
  
Reson  
  
ra  
  
[Cis comenpand secon 5  
  
28 0.38 or inthe course of any proceedings in appeal or revi  
‘Sioa from such inquiry oF tal. applistion is made Dy the  
‘easeculion onthe ground that the puication of any evidence  
{o be given or of any statement to be madein tbe conesty of  
the proceedings would be prejudicial tothe national sceunty  
that all or any portion ofthe pubic shall be excluded. durin  
irl ofthe hearing. the Court may make sn ones to tha  
et the psig of sentence salman ese ak oe  
in pubte.  
  
42. fa & promcution for an oflence under any of the  
sey 0 Esta pt benny Yh te  
‘Scie pron wi ty of ay arc tne so  
  
prea to the nana! secur and othe  
Sug hat uch cs poe spl, he may  
eve rom the creams of the eae ois Condit  
‘ehh known character at proved: appear that his purpose  
‘asa purpose prejudicial (othe nations sect  
  
43. (1)\_tmeny prosecution fo an offence under sesion  
  
chy published or communtsted by any person othe than  
Bets acting under lnwful authority, and from the ereumstan=  
‘ror the cave or his conduct or hx known character sx pron-  
‘St appesrs tha his purpose was purpose prejais othe  
tational security. such sketch, mode, ari, note, docu  
Serato al psu to have za mad ones  
Sallie. ished or comiineated for prpors  
ala the sana set  
  
1) fo any rose os penon for a oftss ander  
{)\_the fact that he as been in communication wih  
ox attempted to communicate with,'a foreign eee,  
ster mine waht Ti, hale ra he  
ihe total esi, obiaied or scoped fo sbain  
chi ended fo be or kel to be, Sec  
itorinarety wt toa enon  
(2) person may be presumed to have been incom  
smuneon ts Tosagn agent  
(0 be has, ether within or without dia vst  
the address of a foreign agen of somorted ot  
‘sociated with 2 frcgn agent ct  
  
i Oca Sere Aa  
  
2. This corenpnc fo wet 3), tr bal Of cal Sere Ac  
3. Tht courapondt to eton A), Of Secres Ac.  
  
  
Page 71:  
e  
  
Gi) either within of without India, the masse  
or adress of uy other laformtionsepudiog  
  
4 Foreign agect has been found in his posession 6  
‘hasbeen obtained by him from ‘any otter person!  
  
(0a) ade, whee within or ouside Ii,  
in rect of which appears that tere are ressoable  
‘rounds for scoping fof bing sn address wed for he  
Fecipt of commenistons intended foe foegn ad  
any adr at whch fori agen ee o ohh  
  
fests forthe purpose of pitng or resting coma  
‘ations, or at with Be carries on any busin. may  
‘resumed to be the addres of foreign ase, ind com:  
Iunictons addres fo sch an adeno be comtn  
‘Stone with forcig apot™  
  
1 Wis corponds wo scion Hen, Oi Sere At  
2 This corenpond to sxtion 2), Of Secre At.  
  
  
Page 72:  
CHAPTER 8  
Sunvension ASOCIATIONS  
  
1.” stute equal in importance tothe Oficial Secrets Act  
‘she Unlawful Activities (Prevention) Act, 1967, which was ass  
{28 primarily to deal with Secessionist activities.” Pursuant to the  
‘fxeptance by Government of & upammovs recommend  
the Committee on "National" Integration “and Regi  
appointed’ bythe National Tetegration Coun, the Constiut  
  
teenth Amendment) Act, 1968 was enacted empowering Pa  
‘ment to sypose by lm, reasonable restriction inthe inert of  
the sovereignty and integrity of Indi, on the fTeedom a” speech  
  
nd epreion, ght anenbl escaly and withowt ts  
ind the right 10 form associations  
  
“The object ofthe Act of 1967 was to check and penalise active  
ties ircted against the integrity and sovereignty of India.  
  
8.2. During the consideration of the Bll (which le to the  
‘Act 1961) inthe Joint Commitee discussion took pace a 19  
‘wether the legate expression of ones honest open about  
the ving up ofa cern territory to Toreign sate. would be  
Suracted bythe penal provision: Of the Bil The Atorne  
General, tite refering apparently #0 the penal provisions  
ating o“unlawfut activity? aand in hes evidence before the To  
Committee:  
  
“dicialy itis imerpeted to mean inciting anyone to  
action forthe purpose of cbtaining a particular end. May |  
Sy that in my opition, if we have fo give away something oF  
fal of ou territory and Soon, that does not come within that  
michel  
8.3. Broadly speaking. the unlawful activites which the Act  
  
secks to control are those which encourage claims toa cession of  
Indian terry. of secesion of any State from India, or disrup-  
on of the sovereignty or tzritoral Integrity of I  
  
“The definition inthe Act is a fllows:—  
“unlawful activity”. in relation to an individual or asso-  
ation, means any ation token By such nda or assoiation  
{Grhether by commiting an act or by words, ether spoken or  
‘eritten, or by signs oe by visible representation or otherwise),  
(©), which is intended, of supports any claim, to  
  
bout on any ground whatsoever, the eon of  
  
bring 2  
  
  
  
Page 73:  
n  
  
1 pat ofthe testory of India or the secession of a part of  
{he terior of India from the Union, or which cts 2  
Individual or group of individuals to bring about such  
  
whit, dims, questions, dros ort  
Jnwended fo iarupt the sovereignty and evitorial  
Integrity of India.”  
  
.4.\_ Equally important isthe definition! of “unlawful uso- efisiton  
  
ciation’ wich teade— ene  
“Unlawful association” meani any association which has \*™"  
  
for its obec any unlamfl activity, which encourages oe  
ids perms to undertake any slaw activi), oF of which  
‘he members sndertake such activity"  
  
‘Tu covers rep asciations tesa whe  
‘ery object the commission ofan unlawful activity. secondly.  
Salon witch ensourage or ad perons, wheter members  
‘Sr nt, to undertake any unlawful acti, and thi. ssc  
  
‘om whose members undertake such activity. whether or ot the  
Sbjct of the ssaciaton ithe commision of soch ace The  
five lasses are not mutually exces and there could be over  
Tpnine  
  
5. Though the provisions of the Act infringe the funda- Comite  
menial sights gustan in subclauses () and (et of ele (1) ora  
‘Sr Aru neverteles they are saved Because they ar "eason™  
  
{bl restricions” ain the meaning of tunes (2) and (4) of hat  
  
‘Avice They are det relatable ty the prevetion of ijry  
  
{D the soverelany and step of Ina  
  
‘A doubt may, however, be entertained a to whether the wide  
definition oF "unlawful ait” ay unreasonably restict even  
thon gtnon 0 pony a eon forth centon ot  
Fonton of indies crtory or ging spp to uch an opon  
{Sth intement so olence:""There ae however (we Cons  
“ratlons which weight with 0 soggestng ay amenginent to  
Einy tis doubt’ Fits the definibon begins wih the word  
‘Scion “Th requites something more postive than an academe  
‘peech.Heace the courts may. te petsuaded fo construe the  
‘Retrarrowiy inthe manner wggsried by the Atorney General  
‘hit chndene before the Joint Commitee: and secondly. i  
1 ely at Goverment wi omer etary ch  
£ proseuton fora purely academe expresion of opinion. The  
{Question of prosecttion el wil, therefore, emai a eademic  
the opinion.  
  
6. In the leading case onthe right to form an association, Storm  
te validity of the Madras Amendment ‘of 1980 to\the Indian Cour Se  
(Cfiminal Law Amendment Act, 1908 was under challenge. "The °°"  
  
1. Sion 30.  
2 Parpaph 2. above.  
  
  
  
Page 74:  
n  
  
XQ. Rows Supreme Cour, after setting out the consideration to be borne  
ene gid in cxaining the vesonalene offs obee  
  
si ing ea fo ale eet tens  
Sg rere ecm et aie 00  
sain ose a cr ea, I,  
Sore ei Fg Sk  
Fone ti fay haan  
oe eee Sees  
iit iar oe ge  
ae ARO senna ara  
Hey WA ace Sa arb  
WELT iene aceon et  
se eae cn fom oi  
eine ces cae ana  
Be eee he Soe pO eh  
Seno ease eae on ened  
ee a ee a  
soi roel ee  
  
een gy i eng pow nthe goverment ise  
  
HESS? restrictions on this Aight mow ‘haring the prounads therfore  
  
lage" tested tn ada! ig. isan ipporant clement to be taken  
{nto consideration in udgiog the reasonableness ofthe resist  
fons. "The existence of a summary, and largely one-sided, review  
‘by an Advisory Board could not bean adequate subsite fora  
iia nga  
  
8. 1s obvious that while framing the Unlawful Activities  
‘Act, Paslament has ied to avoid the above defect "The import.  
‘ant points of diference berwsen the I908 Act (as amended  
‘Madras 1980) and the 1967 Act ae worth poiming out  
  
‘The 1908 Act? did not categorically lay down that the  
  
ouiitation declaring any association unlawful shall nat hare  
  
fcr antl the Advisory” Goard has contemed the declaration  
  
‘The 1967 Act® provides for confirmation by the Tribunal except  
Target case,  
  
1 Si of Maa. VG Row (952)SCR. S97; ATR 286.196  
2 Seton 6A(0, BOF Act amended in Madan  
  
3, Sesion 30) 967 Act  
  
  
  
Page 75:  
1  
(i) In the 1908 Act. the scope of the reference to. the  
  
greg Heo deed i'n on eS  
che eference to the tribal apesical forthe purpese of  
adjudicating whether or not teres taicnt case for detaning  
the assecation uniswful  
  
{i) The Advisory Board constituted under the 1908 Act  
at to consider the materials placed before (and any sock for:  
thee information ait may deem ft to cll for form ihe Ste  
‘Government or the atocationconceasd). Unie the 1967 Acts  
I fates at all ro hg aocion 6 dw case  
{© hold an inquiry inthe prseribed manner. (thas power at  
Sal oe Sue Trther information as coniders cess  
  
(0) Under the 1908 Act, he report ofthe Advisory Board  
<ontaining its opinion as to wheter or'notthete was Sacent  
Fas Ft i fhe nuh, Sao Kn spray  
Is Proceeding and is tain report wore fo be tested an cote  
{tinal Under the 1967 Act the oréer of the Trbaasl  
required to be published inthe ofa gute  
  
9) Under the 1903 Act? no person was entitled to appear  
before the Adviory Boar, ether himself or through a esa  
rereentae, Inthe 196) Ac te nosh tr “sie  
he Tribuoal holds a regular inguiy®, it must necessarily pve  
{he paris concerned en opportunity bot only to appear before  
4 bi als to angue tei cane Temay aso be menitned teat oe  
ules under the Act requie the Tribunal to follow the Eviaenee  
es  
  
1c appears to us, therefore, thatthe constitutional validity of  
the Act unastailable,  
  
89. We propose thatthe scope ofthe Act should be widened Scope of  
  
to gover any asociaton which haw fr in objet a subverve AGS,  
  
activity, of wich encourages or aids persons to undertake such  
activity, We'recommend this change, asi. obvious that such  
Subversive astocations consituie as great 2 danger to  
ational security, a8 the aszcttions whic are at preset  
  
<elby the 1967 Act under the nondetrip designation of “unlewe  
ful associations”. ‘The penal and ~prohibtory provisions con  
‘ined in the 1967 Act in our opinion ate urpely necded fo  
respect of all Subversive associations,  
  
1: Seon 164), 1905 Act a anded a Madan  
2 Sion 1S At  
  
3, Seton 42) and 40), 1967 At  
  
4. Section i), 967 Ae  
  
5: Sesion 16AS), 1908 Act. at amended in Maas.  
  
6 Sexton 1967 Ac  
  
7, Seton 16AS), 1908 Acs amended in Maas.  
  
Seon 9,167 Ace  
  
9 Rule, alent Aces (veto Rules, 196%, as amended pt 197.  
  
  
  
Page 76:  
™  
  
alin tea rin“ ay  
iba ae de pte trea  
Sin see ones Ce Aout  
Saray ate erat tpg eep ene eae  
Sao Sane  
(©) mae we att te Gown end  
0 peuime corn  
(0 Sines te te Puan, Co  
© frrening fe rin of Ste wy in  
‘Eoin ote anton  
(0 dem sae  
CP tomy pera pox;  
(© same etn i ee ute ont  
orks  
© cone  
  
S11, Section 24 ofthe Unlawl Activites Act (ne  
190) dean wit ihe eonsroction Of fies to ay ase  
force in Tamra and Kashmir. It may te neopries wont  
Sane  
  
5.12. Under section 3, ifthe Central Government is ofthe  
‘pinion that any association is or has become an unlawfal osc  
aon it may declare ito be an unlawful, its only ter secs  
deslafation thatthe opecative provisions of the Act corn Into  
  
Sate play  
  
(0, Penalty for being members of an valawsl\_associ-  
sation so destared (section 10): [Imprisonment upto 3 yess,  
Frkat c {lr io 29  
  
es yw ata oe  
wel tt i tt  
eda ah coat gs  
‘Sioa! et ese he Rust of and os  
=e  
  
{Ut penalty for use of an acl of an ula asso  
5 ja pllon of the priory prvons wcon  
T2()i; pesontent upto f'yea, and ta)  
  
1 Sepa 72, show  
  
  
Page 77:  
1  
ype for ey ot oiled plas Le» place  
tied ae or teal ssi cry ta Sach  
i ertetibacd “ton 15 tesco ape t  
ria ae  
(») penalty for unlawful activity; [section 13(1))  
peal for asiting the aii of a anal  
aaa fe ein ai of sl  
TSS aera Spo See har bay  
13 he pun proica selon 10 oft Ak, we  
SSptaneat Shaan hinges  
Secon 1 and 12 nerd no changes of oance  
S14. Sesion 190) oyraps, to some exe secton 10  
  
In ve of our recommendation 19 enhance the seitenoe for  
‘offence under section 10, section 132) may be omited  
  
8.15. ‘The saving provision in section 13), isnot intended  
o apply to associations but ony (othe activites of individuals  
Henge it need not be focluded tn this Chapter.  
  
8.16. The probibitory provisions in sections 7.8 do. not  
require" any “change  
  
17. ‘The aotieation by the Central Government decasing  
an association 1 be Unlawful has o be confirmed bythe Tribunal  
Sections 4 to 6 and section 9 coataindetaled provisions in thai  
‘espect including provisions as tothe composition and: procedure  
Othe banal  
  
Higa $ ea wth merece 0 the Teal o be  
appointed for the purposes of the Act. The Tribunal is to be  
cnsituted under the’ Act for approving or disapproving the  
Siders of the Central Government desaring an assecation fo be  
‘lawl  
  
819. No changes of substance are needed in sections $ 10 9  
hich dat withthe Tribuoal the period of operation of the Not  
Feation and with powers of the Central Governmeat to Prohibit  
the use of fonds ofan unlawilassosiation, end fo notify places  
tied for the ‘of an unlawl association, and with the  
power ofthe District Magistrate to prepare alist of properties of  
{in unlawfol ansociation and ancilary maters  
  
1820, Section 1 of the Act declares certain offences under the  
[Act ioe cognizable. The mater cam be lt be dealt wah by  
‘he general provision inthe Criminal Procedure Code. As the  
  
im  
  
seen  
  
1. Ti atc can be comity niu. bar ben coves dy ie proins  
  
‘einiog to Grup ean  
2 Svtion 150) has ee ay Seat wit in pata 72 and 73. aove,  
3 Serpe 13. bore  
  
4 Comin! Procedure Code Bil 197, Fin Sebel,  
  
  
Page 78:  
6  
  
punishment under ston 10s proposed tobe increased seston  
Pai unmoseury and shoulé be omit.  
  
S21, Section 15 of the Act deals withthe meaning of ‘con  
tindance of an anscciaion"and needs nochange”  
  
Section 16 ofthe Act deals with bur of jurisdiction 9f court  
and “needs no change  
  
22. We have already recommended the insertion of a gene  
ral provision regarding sanction® of prosecutions under the pre:  
posed Act and hence Section 17 ofthe Unlawful Activities Ags  
‘neces.  
  
‘ach Sesion 181929 and 21 of he Cola Aevties  
ct may be incorporaied inthe proposed Act without substantial  
modifeauons.  
  
the following offenses will be included in  
  
(1) Being member of a subsersive association  
2) Dealing with funds of a subversive association’  
  
{@) Contravension of an order made in respect of &  
oted place =  
  
5. Para S10 above  
‘Par 126 above  
5: Pars #12 (i) and fv) and 8.16 above  
  
  
Page 79:  
CHAPTER 9  
‘Tne Cuuainas. Law Auunoaext Act, 1961  
  
9.1. The Criminal Law Amendment Act. 1961, contains «  
{ew provisions relevant {0 ational secur The bject of the  
‘Actas thos desebed inthe Statement of Objects and Reasons  
‘appended 10 the Bill  
  
‘Certain recent developments in the regions adjoining  
hs orders of ia ad the pars of te ou kl  
eopardise the security ofthe country and Hs (ronuers point  
to ‘the necessity of placing curbs on such activities. The  
‘Criminal’ Law’ Arpentment Bil, 1960, accordingly scehs 10  
provide for punishment to pecions who may question the  
{ecrtorial integrity ot frontiers of india in a manner prejul-  
al to the salty and security of the country, and for other  
opmate matters”  
  
“The Act has not been frequently used.—at las. there is @  
paucity of reported decisions on the “ACt  
  
92, Unter wion2 fhe Act apn wo avin te  
so pi beats of a eg pee wae  
ep teal ete ao  
Sy oer tae eed  
cia fei een A a ae,  
ae Sake nr eo ee ee  
iin aoa, phe tee par ay sh  
eg ee ee a]  
Seen ae sche Sa are  
Space ge ete ae eA a  
ela ectan os ma  
stalin we ot eget, on sete  
Sree oe coe ee ee  
  
Moreover, the masinum, punishment under section 13 of  
the 1967 Aat fmptoment ua fe yea wi the ACL  
  
unishes the ect with imprisonment po. Year even  
though the later Act i more ringent. ase reqirs tht the  
Ac con ins waar prc ote tne th fey  
  
ae  
2 Seopara3A. bow  
  
7  
BM of Law  
  
in (W90) Baardany, Pa won 3 pase HH  
  
  
  
Page 80:  
®  
We, therefore, recommend that sctton 2 shouldbe repealed  
  
an 9.3, Under section 3, statements te in & notified ares pre  
Jui tothe maintenance of public order therein ort the salty  
‘or security of India to the maintenance OF exerts! pplice,  
fate punished. and the etry of persons in ‘tuch area Is als  
‘egulated, The basic provision isn section (1). which ves power  
{o' the Cenral Government to declare an area adjoining the  
Frontiers of India o bea noiied area, where the Cental Govern  
ent considers that in the lnterents of the slety or seu) oF  
India or in the public interest, necessary or expedient 19 dy  
  
\_ 94 The only reported case? under the Acts that 0” the Det  
  
High Cour. ""The petitioner in that ease had been granted a  
Betmit to enter an tea noted under the Act and to remain ia  
for a specied period. efor the expiry of the petod, how  
{her the permit was cancelled arbitrarily uid In vcltion of the  
ales of raturl juste, “The order of cancellation way for thet  
Feason, quashed hy the High Court  
  
cos 95. The Slate Government has. under section 4, power to  
  
HES" declare certain publications to be forced, being pesications  
  
Segions3  
iSSear appropriate for  
  
‘which appear tothe State Government to contain tng ater the  
‘ublicathon of which is punishable der scion 3 of seston Ay  
‘There's aso 4 power to ise search warrant  
  
Sistementprejadeal  
{0 the maintenance of esseatial suppics can also be" pana  
Such provisions would not fin wi'a ay primey det  
the protection of national security. We donot. thelr con.  
sider it necesary to Include these provisions (ions 3 16°3)  
Jn the new fw  
  
2 Ma at. Goreme of Minha Pre AR. 196 Des 5k ary  
  
  
Page 81:  
cuAPTER 10  
Procununt, LIMITATION AND MBscrLLAMOUS  
  
10.1, Having discussed the substantive provisions relating to  
‘offences agaist the national soci, we ow discuss the Pro  
‘Sedu and anclary” provision  
  
102. Procedural provisions may be divided into thee eroups:  
  
Fst there are new provisions .e. provsions not found in  
any of the existing enactment Secondly, there arc provisions  
Already contained in one or more of the fespective laws, which  
{ppeat 10 be appropriate for being applied toal cence past  
{he rational security. In the thd group are. provisions cane  
tained ia exiting late, whose application may be confined (ay at  
present) to ollences under thors laws. "These need not he dat  
tse here again a6 they Rave ben deat with under the  
felevant Chapters  
  
10.3. The subject of limitation comes, inthe fist group. We  
fave, inoue Report! on ihe. Peval Code, recommenda the  
‘nirodvction of the law of liniaton Tor prosecution for offenas  
punishable with not more than theee sears imprisonment. The  
amendment recommended thera wil not cover. most of the  
‘offences under the proposed Act because these are punishable  
sore. severly.  
  
104, Ja England, an indictment foe high tteason within the  
calm (with the eeption of treason by designing. endeavouring  
fr altempting any assassination om the body of the Qucen By  
Poison of otherwise) must be signed within thre year after the  
tence is committed  
  
‘Aa, “information” for Blasphemy by words spoken must be  
{led within four days ofthe speaking. and the prosecetion must  
‘be within tree months oF he information's  
  
[A prosecution for an offence under the Unlawful Drilling  
Ac, 1819, must be commenced within si calendar months after  
the lence commited  
  
1 Repon, Chaner  
2 Treason Ac 195 (78 Ma, 3,63) seston Sand 6,  
2 Suan shen Ac 197.  
  
4 Section 7, Uni Fting Act 1819,  
  
5. The dics thse ely Provo 1 the iments for prseans  
  
secon a ever ther Stes  
»  
  
  
Page 82:  
80  
  
[No particular explanation is given by Stephen as to the  
reason for passing the 1095 Act, whch itrodveed the prowsions  
‘elating to hmitaton for treason” he makes Justa bref reference  
{oH Maitland. in fis Consitational History refers tots  
‘Ret and points ut How the Act made 2 number ef exceptions  
{om the general law in favour of persons accused of tease.  
[But he does not deal withthe histoneal reason forthe particu  
provision relating to Vimitaion,  
  
Wut the backround ofthe 1628 Actin general canbe gathered  
from what Kenny states i his Crinal Law  
  
“As teason was, of all crimes, than which the Crown  
‘had the strongest direct interest in securing the conviction of  
fa accused person. it was the one In which pubis prosecutor  
4 aie judge had’ mos temptation to cond te  
{al 60 a6 t press harshly upon the prisoner. “The reigns  
‘of the Stuarts afforded s0 many stances of this harshness  
‘hat afer the Revolution of 1688, the Teplatare in 1035  
Introduced great innovation ito the course of etna pro  
Cedre 0 far astray for tcason were concerned.”  
  
mse 10, Some of te fins rating 10 tain acu ate  
  
SES" ami inoue, aod thou be tbe nition en  
‘Sklacs though the punishment mabe more than three yeas imprison.  
Imeat A tor or ach seitont of tolay ay be the Head of  
"Gove Sm er ama hn comer  
reat pat ff there a subsequent change in Government  
(aE o"dhnge i Meslay oar) there ssid eno  
mono timistion of sbch person fr a rime  
eBPimtedsoveal yeas before” Hence we conser tat there  
Should be a law of mitaton fx some ofthe offences under the  
jroposed Act especialy those of mere speeches sid Wings  
For'very sevows fences such an waging war oF setious acts Of  
sabotage, te law of imitation should ot be applicable.  
  
1046, Acting on tis principle, we think that there ought to  
bbe a timeliit for a prascutlon forthe following offeces:—  
  
(€) Ioctement to mutiny or ther act of insubordina  
tion. {Maximum period of Tiprisonment-3. yeas).  
  
{@) Dissasion from enlisting and instigation to mutiny  
‘or insubordination afer enlistment.  
  
{hanimum period of imprisonment} year).  
7 igen, Hsin of Criminal uw Vol 1, pas 48-416 ad VO ae,  
  
2 Multnd, Contato! History (940), pas 3  
3 Renny, hal Lay (1960, pe 203  
  
  
  
Page 83:  
8) Disruptive activi,  
(Maximum period of imprisonrsent—7 years)  
  
(8) Sedition.  
(Maximum peciod of imprisooment—7 year). .  
  
(9, Contravenion of an onder made in respect of a  
othe ace =  
(Steximum period of imprtosment— yea  
A timesimit of one year should sce in all these ens.  
  
1n ther wees such a sompoation of the tien a the  
  
lhe the aid Peousions recommended in Sur Rept  
the’ Penal Cove’ shoul app  
  
10.7. The sew provision wil be ay follows:  
  
“(ty No court shall take copnizance ofan offence punie  
shabie unde” Socions Bi, 3, 38099 or 38 afer toe ape 3  
  
2} The provisions of sections $13 to 516 of the Indian  
Penal Cods\*"shall apis forthe purpose computing te  
  
Sigrid fiat wer bari (sey Soy  
Te he purpose of computing te pe ion fot  
taking elgmance aan eence ner that Code  
  
108, The following procedural provisions belong to he second Fonsi  
soup refered to abone onde fo be appcabe to all fens asec  
fier the “new aw seas  
  
(i) Ahe\_prowisiont reguiirg stzction\* of the Govera- arcs.  
ser, n'a proveation Yor an aloes  
  
(i the provision® relating to place of ti and  
(Gi) the provision’ relating to offences by companies.  
  
The fiat of these provisions has becn already deatt wiht, oon  
10.9. One point regacding cognizability of certuin offences seein  
and the courts competent to uy them requires to be mentioned, tlc and  
‘ences under chapters 6 and ? of the Penal Code arco Be tanse mateo  
  
Ted tothe new law. Now, the Postion a regatds bala  
  
FBS Rp Gupeeae ~  
enn eed aie a 0 ring pars Slcing eka Gas CaS Aa  
3. Pan 102. shoe,  
4 Secon 3G), Of Saves Act, pron o be rove  
{fe Grapsed sow te suite anton pic of the Meat Feemet of  
core  
1 Soston 134, Oficial Sect Act,  
1 Seton 15, Ol Sar Ae  
Chanter 7, decasion ain ection 110), IY) ad wes 18 OF ces  
  
  
  
Page 84:  
w  
  
‘maby nd ear woe tem et  
goers ape ems in ede oe Cadet of Cia  
ec 1193. "On the tater of thous fens 10 the neo  
  
od th provson  
‘ene agaist othe ly  
‘ome appieble. Weere the postion so resting would be  
Aiterees om the present one, i wil obvicaly Be necesery  
{conser Wa speife provion fs tex ied for aralning the  
Present position We deal Below ‘sith this. mater.  
  
(1) Asculting the President ete. with iment to. compel or  
estan the exerise ofan lawful powers. —This offence (pais  
‘hent—imprisonment for ? yeas, and ne) i under tae opecic  
fntty in the Schedule to the CrB.C, rable by the Court of  
Scslont. Under the past of the Schedule applicable to olfences  
under other fam, the fence would be triable by a Magistrate  
‘ofthe Fine Clase Weare othe view that this change way stn  
“Though the offence ivolves high antares cam ever a variety  
(fac und shore is no harm i twable by a Masistate of  
{he Firs Clas. Serious cases can be commited to the Court Sf  
‘SSsion. “Hence Ro special provision is rege  
  
2) Public servant nelgenly allowing prisoner of war 10  
‘escapes This offence (punahment—peonment for 3 yeu,  
‘Snd"fine) under the Specie provision in the Seheuule. on”  
Gogniable It would now become cognizable. We sre of  
‘Siew that the offence should be cognizable. Hence no special  
provision need. be" recommended  
  
(0) Sefton? This ene (groped punishment—innrie  
soviet Tor sven pers a fra) ander the Scho won  
SSintahenow balan and uit tal by the Cau of  
Solos ovis now Become copmiatie’ adr-taiabe nd  
Srabe'by a Maga the fe ene ici wow opine  
Soul niche late. Hence wil be meoy to povie  
That the ofkvce h morcopnigble and able by te Coun Of  
Seesce  
  
(2) Conmsting depen on terntories of forcen State  
x poe a "  
  
(5) Reeling propery token by means of sah wating wor  
ox tins on fine Fr a=  
  
1. Fa soto wite cr PC, 1.  
  
2 Sidi to Leer Nort Saat 97  
  
5. Theraeene hentia te CPC, 0  
  
‘event ot ms Row eo se oe  
  
Skee Tec use Racal sty  
  
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SUhip ibs tiesto oe Nase Scr 9  
  
es te in opto see te nto  
  
Scioelauteciaca thao Soy Bt  
  
  
  
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3%  
  
‘imprisonment fo 7 yeats x88 Se, and orteiture of certan  
are under ie Scie able by 2 Coat of Seat:  
‘Fey lwo become sable by a Magitate ofthe Fst Case  
Toavod tht geal i wl be Sonia to povie they fe I  
a6 by the Court ‘of Sesion.  
  
6) Ateiment of desertion Tere  
  
(a) Abetmentof desertion from ame faces ithe deser-  
ton hanes soe. pane  
fovnt‘oe'3 year, and fin. or both) a 3 proposed cop  
waits Sombie and trable by 2 Magstate of the Fes  
Gist “ths: potion remains analeed, and no. specie  
fwoviion wile regime for thn ofence. But, spec  
Frontion needed for ntuaion YO) bee  
  
) Abernent of desertion from armed forces in othe,  
ceases! This “oenes (punishment “imprisonment (00 2  
ears or ne, or both) ‘s, under the, Setedule cognizable  
Ie wal 'now become non-copnizable 1s. therefore, neces  
Suey to provide that it i cognizable  
  
(1) Harbonring a deserets This offence (punishimen—  
immonmgat fo" 2 year, or ine, oF othe unde the Seed  
Sgniables (would. now become hon-coga male. Tes.  
fiefore seoesay to. provide that tne olfone Is copnizable  
  
(8) Arerment of 0 act of isibordinaion  
(2 i such act be commited  
  
(6) in any otter case —This oflence (punishment for situatina  
  
under (a) itaptisonment for ta years or fite or bo ard for  
  
‘Station under (@)-imorisonmeat for ® mosths. or fine, oF  
  
Bothy is, under the Schedule, copnizable®. ft woul now become  
  
ong Hence, ould be ecesary 1 provide at  
i copia  
  
(9) Wearing gat or carving tab sed by  
ofthe ered fees This oscepanshment™  
  
Append ots nd Rapa has no aha is potion  
  
ad, SRupetanent ot or he i Rep son 2), Nin Se  
  
sete the Cr. PC at mended by ad Rey, Appande 8  
  
4, Sesion HS, LPC sectin 210D, National Sec 197  
  
$ SERIES RG sete 2, Navona Seen Ba 197  
  
{Apnea othe Sd Report nated this poo,  
  
4 Seton 38, 12. eso 17a) a () an roped hea Repy, estion  
axa) end 8) Naim Sen  
  
pene hed Rept has oot aed this potion. See sti 15)  
aoe oh UPR SS append tere  
  
Sst 4, LPC con 2, Nona esky Wi, 197  
  
19, At prope in the 4nd Renn.  
  
  
  
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fa  
  
{or 6 months, one or both is, under the Schedule, cognizable.  
Jeu mow beso nowopnable- Heme, € neces)  
to [provide that iti copnzable  
We accordingly recommenda special provision as fllows:—  
Notwithstanding anything contained in the Code of  
Criminal Brocedure, BT  
(@) offences under sections 21, 22, 23 and 27 shall  
te cognizable:  
(©) the offence under section 39 shall be non  
connfnbles and  
(©) offences under sections 15, 16 and 39 shall be  
triable ony by the Court of Semon.”  
Repel, 10:0. Consequential on the incorporation of the provisions  
cof savoussttuty as propre in ths Report, spa of those  
Statutes i recommended  
  
Provions 10,11, As a result, the following provisions of a procedural  
BEES or miceitmeoos character wil be toaded:—  
(U) Copnizance of ofenses?. (requiemen: of sanction)  
  
(2) Bar wo taking cognizance after lapse of time  
1G) Place of inguty or trial,  
  
(4) Offences by compuries®  
  
(3) Cogsiaabilty of oflences and courts competent to  
  
uy thems.  
(6) Repeal and savings  
  
Aprons 1042, We annex to this Report, wo Appendices. one showing  
  
a cour recommendations ia the form of @ draft Bill, ind the other  
  
ine consequential amendments esded in vatiows Cen  
roesorated in the  
  
Show  
{fal'Ach a ares ofthe recommenda  
  
(rat Bil.  
1. KV. K, SUNDARAM—Charmar  
2.8. DULAT, 7  
3 Miz ANNA CHANDI, |  
  
RT NARASIMHAN  
  
5  
  
P  
  
Members  
  
1B. RULKARNT  
M, BAKSHI-Seeretary  
[New Dexa;  
The 30th August, 191,  
pend 3 to the na Report has not alte this potion,  
2 a 10.0, above  
4 Para 1D nde  
5, Pars 108, above  
6 ra 109. above.  
  
“1 Par 1010 above  
TEAR Nara ba sent the Rep, subj tthe nte append  
  
  
  
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8s  
NOTE BY SHRI R. L. NARASIMHAM  
  
As Ltrs ten uae pense ty colleges sept  
2m oy sgpeson for ion inte popes ae  
Say OF Se  
  
some of the foreign Penal Codes relating to treason. “Kt appears  
{0 that they ml be sutabl foe Ina conans aan ae  
once may be tatuded in our proposed low  
  
1 Rerosrance  
  
Under ou existing law, the only inducement for an accom  
pln to betray” his eoleaies ithe tender of pardon arcer  
Section 37 andthe succeeding sections ofthe Crimea Proceders  
Code," Bux this pardon cannot be lame 0 9 ighivaedt  
Jy Within the ductetio ofthe appropriate cout {See cee,  
(of seston 337] to tender pardon to"an accomplice ae  
ready and wilng to betray his coleages by makleg's fal dn  
glesure! Though the section hax itn ver} ell empl  
ina ew lsanoes, nevertheless, icant be aid tobe asec  
indecent.” On te ther hand the law sae conten ates,  
{mmnity from punishment on & prson vo scious there  
aison rth eeme Gubject to cetinconctons snd eure),  
it maybe greater indacement tor acorplcs to See hey  
‘lene tte ier ses fe crm of he  
‘lime (sch the preparatory sage or the Sage ef auengey  
And there either prevent the completion of the chive atopethey,  
fei the Union. of arsine Corp  
‘omit he crime of tenon is gency hahed in pret seiec  
and 4 study "OF the hisiony of reason a all ve the wor  
sows that hh offences ae elected aly onthe basso  
kes ore ecomnth ar dont anos  
{or offences involving vatonal cuit, spel pronto pte.  
omolete mannii from "ether prosctnon. OF panatenene  
$6 the cane may be, is highly dena: Twin nck soared  
‘cha provision for all the offences under the Penal ae  
  
1 wil be at 0 compate the provisions found in some of  
the forcign Coven: ns  
  
Argentina. Articles 216 and 217~The person who takes  
part in a plot of two oF more persons "0 comin reson snd  
tos tt rs cn of the cit cme,  
{5 humihed by imprisonment or" jaling “ftom 0  
  
ie 216), "mathe pltce who revels the poe toon ate  
ty before the criminal process has een sania feasts fea,  
any punishment (ole 3),  
  
‘Germay!.{ Draft Penal Code), seston 368—~  
  
(1) The court may mitigate, under section 64, paragraph 1,  
‘he punishicent provided in sections 6” 363, 364, pargranh  
ad setion 305 W the perpetsor iumarts abate is  
  
‘Scion Gorman Peal Cae, 1, inp  
  
  
  
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6  
  
Further carrying out of the act, and averts of materially lessens  
‘ny danger that might exit that others will fort Carty oat  
the actviy, ori he voluntary prevents completion of he hee  
  
(2) The court may mitigate ints discretion (4. para  
the punishment provided t's. 363 and 3/304 pardgrah $ or  
‘eran from puntment, ithe perpetetor Suita alban:  
dons his design, and avers or mately. ener  
  
"that may ave Been eaused by him tht ether wl farther prepare  
‘9¢eary out the scsi or he voluntary prevents comer  
  
8) The court may mitigate in its dseretion (6, paragraph 2)  
the punishment provided ins. 366 or retain leon punhment  
i the perpetrator voluntary abandons his activity, a avers  
[BF materially lessens any danger that may have bese eased by  
hi totes wil fuer pune the Weswonahc srt the  
‘in saed. "The foregoing. shall apply correspondingly. tacts  
punishable under seston 36). von  
  
pan Aric 80-The purse of peron wh afte  
<omiiting the eres mented int two" preceding aes  
senouneeshimslf cove the order rescael srall tsse  
  
1 would, therfore, suggest the imrtion a 9 new provision  
in the fast cher of the propos bi conerang Spice  
nang ether Irom presse (abere a" proton he  
tot pel tet nied or rom punahnen he ri ae sendy  
ommend) 10 the person wh has ceed a fence une  
the National Security Act he wil make atl and tue he  
lsu of he ie of ths Sums ihn bs Ea  
‘lating to the ffence ana to every sake porn” Sones  
‘ether a8 principal or aber i he Somsmbsion of the tae  
Siher‘before the authority empomered to invetgse the ne  
Stina the fener of tear the cout empl Sake  
Srprcaes ofthe fence ot the cur belo theh kh anes  
song  
  
UL Datovaity 1s Nigonanens  
  
1 notice that in many forcign counties there is special  
provision inthe law of treason Tor ponalsng dedayally tn Repos  
  
Argentina —Artclo 225 --Anybody being in cherge of  
negotiation with a foreign vation on behalf of the ArBeutnin  
Government, who conducts such sepia n't say prejude,  
‘ial to the tation by devising trom any isrustions even to  
‘him shall be: punished by" imprsoniment ot jing Tron three  
  
Colombia —Artle120-—Anyons covsusied by Colombia  
teeta a Sint ih ory Gime oth  
Inthe exree of hs agency shal st posal sevaeds BMS  
  
  
  
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7  
  
Denmark. —Anicle 106—Any person who acts against the  
inverts of the State in carying outa mission entrsted to hit  
{o negotiate oF vette on behalf ofthe State any matter with ny  
foreign powsr shall be liahle to impraonment for aterm not  
exceeding 16 years  
  
Dowf Penal Coe of Germans, Aricle 3921)-—Dangse  
he conduct of State tuters A reprevntative Wf the Pee  
Repubie of Germany'or of one of her States who dlioe  
‘or knowingly conducts x mute of State with foreign Coven  
‘mentor a Supra national oF international ineitaion to ihe  
detriment of his principal, shal be punished with coninemsnt  
ima pontenriry Upto Aces years  
  
‘Sweden Chapter 19, section 3—Ia person, who has received  
«4 comission to nepoiso witha foreign power or atherwe to  
Droicct the concer ofthe Realm. in Being with some one who  
Fepresens the nteress ofa foreign power misusce hs author  
{orrepresent the Real of otherwise his postion or rust an  
"hereby causes the Realm considerable harm he shall be sented  
for ailoyalty i napotntion with a Toregn power to impr.  
met Tors fed term of Vas co an a mt ten Jaro  
  
Some acts of disloyalty may possibly come under the wide  
  
cep of some ofthe provisions of the Oficial Secrets Ac. 1923  
  
‘ecms desirable to take this opporusiy of inserting  
‘ew prowsion penalsing disloyalty i negotiation  
  
ML, Dury To pxuvent THE COMMISION OF THE CRIME  
  
Under our penal law there are some provisions casting a  
uy on prs fo Be nfrmaton in pwn tothe  
proper authorities regarding the commision of or intention to  
Sommnitsome slfences. (See section 4 of the CrP Ce and  
Sauses 39 and 42 ofthe Bll). But there is no provision cast  
8 positive duty on a person to prevent the further progress  
the commision of any teasonable activity i he could prevent  
the same without danger to himlt n't few imtencen sec  
a5 sabotage espionage, ete: the mere giving of information to  
the appropriate authorities may not sulle  
  
‘The Austrian Penal Code, section 6. contains the fallowing  
inereing provision’ "He who intentionally fas To: preven  
the forther progress of sm nderaking which i incladed in  
the defirition of high treason, although he could have dane 0  
sly and without danger t0 Mimbelt his relatives oF to those  
[Perse who are by law-under hs proiction, becomes an estes  
Sory tothe felony tnd shall be punished by severe imprisonment  
Ot from five to ton years  
  
  
  
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may be useful to have a similar provision inthe proposed  
fit alto.” Tis tae that occasions fF provcuion of enon  
{or contravention of that. provinion may be vel) rare indeed  
Bat if'a person without danger to hitself or hs near relatives  
an prevent the commission ofan offence and yet fas to event  
the sm, there Is no reason why he shoud not be held pute  
under the lew for an ofence involving tational secur TS  
‘ean exteme casey supose am cxpett on caploves notices  
{that ime bom has bean Iaid by some unknown alps to  
Blow apn nian whisk i al nal sc.” At  
Present the only day cast on him by law isto report he matter  
fo the authorties ‘There is no duty on im Yo femove or dese  
the bomb of otherwise render iC harmles, shovgh he ould  
emily have done so. without danger to hilt i view of his  
‘expen Knowledge. The consequences muy be. very serious  
UE bythe te ite inne, eet the information,  
sh (0 the spot, the installation may be blown up. There i  
fo reason wit the Taw should not punsh that citien Tor his  
frievous sin of omission. tantanes"of this type san be piven  
for the offence of espionage alo,  
  
{notice that in the French Penal Code (Article 62) and in  
the Draft German Penal Code (Article 233) there te provisions  
‘making it penal if a person omits to preven the commission of  
Some offeces if such prevention could be done wi'hout danger  
{o his Tam not, however, in favour of extending this rule  
forall classes of offences under the Penal Code. It wil bes  
leat if this rigorous rule i appli for offences involving  
‘ational security alone,  
  
RL. NARASIMHAM  
  
  
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3S Using fuse oficial uniforms, documents and scals for purpose pre-  
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Bar to taking cogniance ater lapse of time.  
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Ontences by companies  
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THE NATIONAL SECURITY BILL, 1971  
aL  
to cotldate ond amend the oy relaig 10 offnces aga the  
tons scary he  
CHAPTER 1  
Pasunexany  
1. () This Act may be called the National Secury A  
wk 7 ai iy Act,  
(2) Ie extends to the whole of tna.  
0) 1 spl ao outside Indin—  
(© to ces of tai;  
  
4 (01 alens om any sip or raf registred io Ini:  
  
(6) w liens in the service ofthe Government  
2. In this Act, unless the contet otherwise requis  
  
military, aval and  
sd includes any other armed forse of the Uni  
  
() “foreign agent” means any person who is, or has  
‘been, erin respect of whom tappears that there ae reasonable  
{rounds for sunpocting him of tng, cr having besn, employed  
Dy a foreign State iter deci of indirectly, forthe purpose  
‘of commiting ant, either within or without Indi, prepa  
al to the maional secuniy, or who has, of Is reasonably  
‘Stapected of having, eter within or without India, commited  
‘or attempted to commit sich an act inthe interests of orig  
State:  
  
(0) “member”, in rsation to the armed forces, means  
1 person inthe armed forces other than a feo  
  
(@) “mode” includes éesign, pattern and specimen;  
  
(6) “mints of war” includes the whole or any past  
of 5 ara si," tank oe ar ape,  
Sim, ammunition, Yorpedo, aisle or mine inten  
  
{Edapied for use fo wats ad any other ariele, material or  
Seve, whetber actual Or proposed, intended for such we;  
  
2  
  
  
  
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9  
  
(yates in sion 0 the armed frs, mean 2  
  
son commision “orn puy aster oft  
Snel recs and dades 2 junior commisioned fer,  
i fauy alias ana a noweommSsioned ofc;  
  
pat? “Ptoemps” indus an undewtored fim 6  
  
() “psjuticial 19 the national security” means pre  
jdisal 16 the sovereignty and inert) of dia. or to the  
Mfg security of tia or any part tbeeo oF to Tins  
x with Toregn. Sates  
  
) “prohibited place” means.—  
  
(i) any armed force establishment  
sation camp:  
  
any work of defence, wireless or signal station  
telegraph or telephone installation. ena mine  
Ship of uircrat under the contol of ay of the arred  
ones  
  
(i) any factory, dockyard o¢ ether place belong  
ing to. or Occupied by oF 0m behalf, Governmert,  
i tied Tor the puspose of aking, repairing. oF  
  
Sorigg any munitions of war OF any sketches model,  
Sprtdacuments re ating thereto. of forthe. purpose of  
feng any metals of oF minerals of wwe fr time  
  
Civ) any place not belonging to Government where  
any Iai sar or any shew mode odo  
Sthents relating thereto. re Sing ade, cepted or  
Sd ter eink with oP tee om Eh  
  
(©) any othes place which is for the ime beige  
jected Sy the Central Government by natifeation  
the Oficial Gazete to be a prohibited place for the  
Purposes of this Act On the round that information  
Sik ressect thereto, or te, desteusion or abstace  
ton thereof, or inkeserense therewith, would te wseal  
{o'an enemy, ond at Woich @ Copy of such notiiat on  
18 Giplayed ‘for pubic ssformatica;  
  
shetck” clades any plan, photograph oc otter  
mod of representing. any lace oF thing  
  
(6) words and expressions used bot aot defied in this  
‘Act hi defined inthe Indian Penal Code have the meanings  
feapestily assigned t0 them in tht Codes  
  
(0) any reference to a lw which is got ia force in the  
state Jammu and Kashmic all i atom co that State,  
Iecomitoad ss 4 reference to. the. corresponding law  
‘dove in that Sate,  
  
HM ot tae  
  
  
  
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ee  
  
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rewrnn he  
Sere of  
Saya  
  
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CHAPTER 2  
Insurrection  
  
3. Whoever wages war against the Government of tn  
‘or attempt to wage such war, or abet the waging ef such cr  
Shall be ponishabe with death or imprisonment for Ue, and  
Stall also be Table 0 fine.  
  
CHAPTER 7  
Sumvinsive ASOCATION  
  
4. Whoever collects men, arms or ammunition oF otherwise  
pegs ae wat th he inten oh eer wasn or  
  
4 fo wage mar apni the Covernment of tnd  
Ra Sepia ath impnomenforeo agono  
imprisonment for a term not caccoding ten Year and shall  
‘tho be lable (0 fine. ne wee  
  
4 Whoever, by any act or ileal omison. conceals the  
ee ease ae ee Govern oF  
nen Concealment fo faite, or towing  
  
fo be ikely that sch conenimert wil faint the nag  
shal be ponshable wih vigorous eprsanent  
  
cf emt my aed on beat and Sal aa Se  
  
6, Whoever, conspires 19 overawe, by means of force or  
show of fore, the Parlument or Government of India or the  
Ueguature or Government of any Slate. shall be punishable  
‘sith imprisonment for Ife or ‘with rigorous mprsoniment for  
3 ey which may extend foe years and sal bo be Table  
  
Explanation —To constitute @ conspiracy under this section,  
ic ig not necessary that any act oF legal ommision shall take  
place in pursuance thereat  
  
7. Whoever, by means of force or show of free, prevents oF  
scott prevent any State om exercing te Mthory  
ny port of that State, with View to securing an alteration ct  
  
oundares of that Slate, oe in furtherance of a dispute  
between that Site and another State or the Union, shall be  
‘punishable with rigorous imprisonment for a term which may  
Extend to ten yer, and Shall also be Hiale'to ane  
  
8. (1) Whoever, with the intention of inducing or comp!  
ting any offectoider or 10 whom thi sexton apples to eter  
he or rf rom ekg ay marr any of i ol  
Powers, asauts, or wrongful restrains or oerawes by ai  
  
Er ores or show of fore, such offcr-holer, shall be punish  
fable with rigorous imprisonment for a term which may cxcad  
{0 seven years, and shall also be lable to fine.  
  
  
  
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9s  
  
@) The officeholders 19 whom this section applies  
(0 the President of India;  
  
the Vice-President of India;  
  
(i the Chief Justice of India;  
  
(iv) the Speaker of the House of the Peoplet:  
  
(©) the Governor of any State;  
  
(i) the Chief Justice of any High Court;  
  
(08) the Speaker of the Lepiie Asenbiy of any  
  
(ii) the Chairman of the Legislative Counct of any  
Sine  
  
CHAPTER 3  
Assigning THe Ener  
  
19, Whoever, assist in any manner am enemy at wat wilh  
toda," the dred forces of an county agus hom the  
‘ned. frees of India re engagté in boss, whether or  
fev sere tt ena Seto a oy edn  
Fe puniaie with rigorous imprisonment fora term which  
Tay extend to ten ent, and shal ano be table to fe  
  
10, Whoever, unlawfully enters into, or remains in, India  
for the purposs of committing an offence under thi Act, sll  
{punishable with rigorous imprisonment for aterm which may  
‘extend to ten years and shall aso be lable to ne.  
  
1, Woes, owing a ais any prone of war  
in xaping froth lawful hstody, on recoes ok alenps 9  
‘Esco iy) such. poner, or arbour or cones amy such  
Tone ha cape om fal et oe‘  
‘cmp to ofr any rearance to dhe rcaptre of such pion,  
Shall be ponbable with igor and shal imprsonmant Tor &  
iim which may extend to ten pets, ao be lable to fine.  
  
12, Whoever, being poblic servant and having the custody  
‘of any prisoncr of wan, voluntariy allows such pisonet to escape  
From yagi which mck prions cond, tal  
‘punishable with rigorous imprisonmeat fora term which may  
Extend totem yea and shal abo be bale to fine  
  
ed ame, in «pe evant nd avin th aso  
ny prisoner of war, flr uch prior to et  
ftom’ sng pace in which such pisonr i confind, stall be  
[Ponshable with imprisonment for term which may’extend 0  
Utes yeas, tnd shal ako be abl to fins.  
  
‘Shrew  
  
Pitt  
  
eagenthy  
  
  
Page 98:  
eas ot  
  
%  
CHAPTER 4  
  
RFLATIONS Witt FoneIoN Srarts  
  
14, Whoever wages, war agunst the Government of any  
foreign State at poate with Indi, or altomple to wage sich wat  
fr abies the waging of such wat, shall be punishable with op:  
Fisonment fora ttm which may extend to ten years, and shal  
‘ho be lable t fine.  
  
15, Whoever commis depredation, oF makes. preparation  
to commit depredaton, on the teritovies of any “oreign Siac  
at peace with India, shall be puaisbable with imprisonment foe  
{zt which may exlend to seven Years, and shal also be ible  
{gn and to Tr fete of any propery sed oiled tp  
  
‘sed in commiting Such depredtion or acquired by such  
predation.  
  
46, Whoever resivos any. property knowing the, same, (0  
‘have been taken inthe commision of an offense ender section  
1'oe section 15, shall be punishable wits imprisonment for a  
term which may extend to seven years, and Shall abo be Fable  
10 fine and 4 Frftre of the property so recived.  
  
17, (1) If in the interests of friendly relations with foreign  
States oe naiional securiy, the Central Goverament considers  
Fnecesiry 90 10 do, t may, by notation inthe Ofeal Gazette,  
Drohibig or impose conditions on,  
  
() recruiting for seve inthe armed Forces 3a specified  
forcign Sue:  
  
enlistment for such sevice  
  
(2) Whoever, ia contravention of such notifction,—~  
  
(a induces, or atemps to induce, any person to accept.  
  
ate i eed Sy lath  
fire of fotign Sener SPOTS  
  
(@) knowingly abs inthe engagement of any person so  
induced by forwarding or cooveying him er by ddvancing  
money of io any other way Whawowver, oF  
  
(6) alist hiesei with a viow 19 obtaining any comm  
sion‘GP employment in the armed forces of 4 fora  
  
@) knowingly aids in such enitment of any. person,  
shall be punishable with imprisonment for a tem whish may  
extend to three years, or with fine, or with both.  
  
  
Page 99:  
7  
CHAPTER  
(Orrences RELATING 10 rte ARMED Foes  
  
38 Whocver abets the commiting of tnutiny by an offer  
‘or member of any of be armed fortes Shall”  
  
(a) if mutiny. be committed in consequence of such  
abetment, be punishable with death, or with imprisonment  
for life, or with rigorous imprisonment fra ter which may  
texted to Fourteen yeas, aad shall aso be liable to ies ad  
  
(2) in any otter case, be punishable with rigorous inp:  
mea fo 2 in ob Ray ah ita  
shall ah Be Hable to Anes  
  
19. Whoever atiempts 10 seduce any offer or member of  
any of the armed forces trom ls allegance or his dey shall be  
PBuninhable with rigorous imprisonment for 2 ttm which mee  
‘xtend to ten years, and shall avo be Hable tone.  
  
32, snes ghana yan fis oman of  
ny ofthe armed forces on any sipeioroter Being fa the  
‘tection fhe shal? “PE ™  
  
(@) if such assault t0 be commited in consequence of  
that abetment, be punishable with imprisonment ete tase  
sl may exind f0 seven years, ands ase be fbi to  
  
(6) in any other ease, be punishable with imprisonment  
fora term which may extend to three years, and sie be  
Table to Be  
  
21. Whoever abets the desertion of any officer or member  
‘of any of the armed forces shall"  
  
(0) i the desertion be commited in consequence of that  
abetment, be punishable wih Imprisonment fora teri Which  
‘ay exted to five years, oF with ine, or with box  
  
(0) in any other case, be punishable with imprisonment  
  
fox term which may exiond fo two year or wit Bie ok  
swith bo \* i  
  
22, Whoever, knowing or having reason to belive that an  
‘ffir or rember of any of the armed forse hes detach,  
arbour such offiers'oF member, shall be ponshuble wah  
Imprisonment for aterm which my exleod 16 two Jeary oe  
‘with fine, oF with both  
  
Exception—This provision does not extend to. the cae in  
‘which the harbour is piven by a wie to her hesbend:  
  
Aen:  
  
rie  
  
  
Page 100:  
ation  
  
23, Whoever abets what he knows to be an act of insubor-  
dination by an oficet or member of any of the armed ors  
stall  
  
(@) if such act of insubordination te committed in  
ence of that abetmeot, be punishable with imprison~  
iment fora term which may exiend fo to Yeats, OF With Be,  
  
‘or with bothy aad  
  
(@) in any other case, be punishable with imprisonment  
for a teem which may extend To six months, oF math fine,  
‘or with both.  
  
24, Whoever makes or publishes or ciculates any statement,  
‘amour or report, with inten fo etuse, oF which i kay fo ease,  
{ny officer of member of any of the armed forces to mstiny of  
  
vise ‘or fll in his duty a such oficer or member,  
Shall be "with imprisonment fora term which may  
‘extend three years, oF with fie, of with both.  
  
Explination—A\_ persion making. publishing ot itculatine  
any such statement cour report who has reasonable ground  
{or beliving that suck siatemern, amour feport tue and  
Inakes,publshes or ciculates i in good faith and without any  
Buch invent as aforesaid, does not commit an oflence under ths  
25. Whocver-—  
with intent to aft adverely the recruitment of  
persons 1 ete the armed lores of the Union, dasandes  
  
Sr attempts to dissuade the public or any person from ene  
ing’ any Sueh ores, oF  
  
©) withour dissuading or auempsing to dissuade from  
suring st fo tat ep a pan So  
Ser eatocing any such fore, anything which © punishal  
  
{5 'mitiny of inaubordnation under te law reatag to hat  
Stmed force, shal be punishable with impriznment for 4  
term which ney ext do the years. ohh, or ih  
  
Explanation ~The provisions of clause a) do\_not extend 10  
convmenton or rhc of the poy ofthe ‘Goverment in  
Sonaecion withthe armed fren ade fa good fh wthost any  
Intention of dasoading rom entnent ot Yo advice pena pd  
{Eth forthe Benet ote ndvdul ivr pen, o of ay  
Imember of hs family, oc of say of hs dependants,  
  
26, No person subject to the Army Act 1950, the Navy  
Act lash Sh ir Fae Act 198, of uy ei i ating  
the armed forces ofthe Union sue to puashment unde te  
  
woyiions of th Chapter for"any of the ones  
Tisrein defeat  
  
  
  
Page 101:  
\*  
  
oes mab of he ae  
{wears any garb or cares any token rsembi  
  
en wed by suck an offer of meter with The intern  
ati ae lied iat es an ocr ot emer tal  
‘unishable With impraonment for aterm rend  
to six months, or wilt ine, or with both ~  
  
CHAPTER 6  
Sumversive Acrvrs  
  
28. Whowe: coms oa he commision of any di  
‘uptive activity, oF advocsies or advises an ive activity,  
‘Shall be punishable with imprisonment for 8 term which ha}  
‘extend seven years and shal also be lable to he  
  
Explanation —For the purpotes of this section,  
  
(@), “disruptive setiviy” means any. action taken,  
wheter by act dane, or by word spoken br writen, ot  
Siem or by visible epresenatio, or etree. =  
  
(which questions, disupts, oF is intended  
up, the sovereignty nnd territorial Integrity of Ind  
  
(which is imended to bring about, or supponts  
‘any claim for, the exssion of any part of india, oF the  
Secession of any part of India from the Union, ot  
  
{wich incites any person to being about such  
  
(6) “cession” includes the admission of claim of any  
foreign country to any part of India:  
  
(0) \*sesetion” includes the assertion of any claim to  
dglgmine wheter par of Tad wil enain win the  
  
Exeepion—Nothing in this section applis to any treaty,  
spseqer of peemion cnet na beter te Govereme  
‘ot nda and the Goverament of any other county of to any  
‘egotations therefor cared on by any person authorised i  
shal hy the Government of India  
  
29. Whoever organises, tains, muiniains or promotes any  
group the members of Which ae tained or equipped to we face  
for achieving te object and hich i organised  
  
{), for the purpose of usurping the function® of the  
armed orcs! oF  
  
(6) forthe purpose of committing acts of sabotage  
ponithable under Seton 32,00  
  
rn  
  
  
Page 102:  
Sato.  
  
Sone  
  
00  
  
(2, for amy oer purpose prejudicial to the national  
security shall be" push with rigorous. imprsorment  
Sea tim which muy extend toten years and sll abo be  
Hable thine:  
  
and whoever participates in, or belongs 10 any sah group as  
Tet Shall be posahuble wih rigors impisement for  
ie ich ay ened (0 Be er and sal ae Fe HB  
130, Whoever, for aay. purpose prejudicial to the rational  
ait reations wth {orig sate oc With ah  
SStSen organ pute Inc sl pate  
figorous mprfonmenc for aterm which may extend 10  
{en years, an shal as Be ible to fine ¥  
  
31, Whoever, for any purpose prejudicial to the rational  
secoiy, Intentionally rangnits to publi servant x fae report  
the conient of whichis Ikely to dntupt rations between Ind  
{ted fovegy State oran international institution, shall be putish=  
‘ble with igorousimyprsonment fora term which tray extend (0  
oven yearn or ith fine, or with both,  
  
232. (1) Whoever, for any purpose prejudicial to the coral  
secriy, des any act which compas the eee or impedes the  
‘working of or causes damage  
  
“pel 27 ried lace or any machinery or sopaaon  
  
(@) any means of public transportation, oF  
  
{0} any means of tlecommunication,  
shal be punishable with rigorous imprisonment fora erm which  
nay extend t0 fourteen years, and shall also be lable 10 fine  
  
12) A pecson shall not be guy of an offence wnder this  
section by reson only that he saps work asa result of an indus  
{eal Gspateas dened in cause (K) of ection 2 ofthe, ndustil  
[Baputes Act (947% but nothing fa this subsection shalt affect  
fis Tntliy 0 be prosecuted for any offence which he tay have  
Commited against the provisions of that Ac.  
  
33. Ifany person, fr any purpose predic tothe rstional  
  
secatiy,—  
  
() enters, inapects, passes over, approaches, of i in the  
vicinity of prohibited place! oF  
  
(6) makes any model, sketch or note whch is\_intended  
  
or likely To be, diecly or iinet, useful to an enemy: oF  
  
(6) oblains, collects or records any. such sketch, model  
co note as aforesaid, oF any article, doeument cr information  
‘Thich i Tatendedo¢ likly tobe. dvstly neti, wal  
ean enemy or reat 19 «mater the dsclonure of Which is  
Iikly £0 be prajedical to the national security; oF  
  
  
  
Page 103:  
(O,pabishes oF communicates to any other pessoa  
any Soe thing ot information ts aforesaid) nn  
be shall be punihable wih rigorous imprtonment fora ttm  
hich may een fo fuse Sear and sul ao be ale fo  
  
34.9 IF any peron, having in is possesion any oti  
  
(2) seit forthe benefit of any forsin Sate oF in an  
smannet prejudicial 1 the national scar or  
  
(6) willy communicates it to any perm other than  
4 person t0 whom he's authorised to communi f OF  
fon to. whom iti; in the daeren of Sate Me ty (0  
SSinmunicate, or a Court of Justice; or  
  
(6) retains. it when he has no right to do  
iti Sia” to i ty oo wy fal comp  
with any direction issued by Taw. authority sith regard 10  
iis tetura oF dipowal oF  
  
i ails to take reasonable eate of, or 30 cond  
himself as'to endanger the salty of, the fis ect  
Ie hall  
(0) A the official socret ig one specied in clause  
‘or clause (¢) of section 83, be punishable with rigorous  
Smmprsonment for a fem which may extend lesen  
years, and shall aso be able to hoe  
(i in other cases, be punishable with imprisonment  
for ‘thre ear, oF ith fines or mith both,  
  
2) Hany person receives any oficial scret knowing oF having  
seaton to behve that i i communscated to contra  
{Mon af sobsection (1 of tis econ or sation 3, hes  
0 i the oficial secret one specie in, ase () or  
clause (of seaton Sh be punnabie nth sigorows snp  
Smo fora erm which may een seven Yat, and sal  
‘tho te habe te;  
(i in other case, be punishable with imprisonment for  
Ahyee years, oF with fine, or ith both,  
  
(3) For the purposes of subsection (2), a person who isin  
‘possession of an ofa secret without Ine authority ma) he  
Became ul te contrary prove. to have ried kawing  
SGehaving reason to Beeve tat ie commansated fo him ie  
-Sontravertion of sub-section (I) of this section section 3 a  
the cove may be  
  
onli, ston “oa secre” means anything oF in  
  
4, ih sid in clase (0) or te) secon  
  
  
  
Page 104:  
ie  
  
pie  
  
or  
  
(8) which has been entrusted in confidence 10 the offen-  
  
derby any prion holding offs under Government, or  
(6 which the oflender has obtained o to which fe has  
ha Soke owing fo hs pontion asa person who Rolds OF  
Is eld fice under Government, of asa person who holds  
criae Eis cnr mado bao dover =  
or has doen crployed under © person Wo  
  
folds oe bas bed soch'anomce oe oneness  
  
435. (Q) Ikan, genon, forthe purpose of gaining assision  
oi tng eye eso ea aso a 3  
Bed place or Tor any purpose prea to the national  
seunty—  
  
(6) wes oc wage, without lawful autor, any armed  
orca pole oe ether ofa wnifor. oe any anor 80  
fey Poomblma the ame as Yo be calculated v0 deci.  
Dr taely spree hme to bea person who or has fen  
‘hated fo the or wear any Such uniform; oF  
  
() orally, or in any document signed by him or on his  
‘chal Kmowiagly macs of connives atthe miking of 05  
{abe statement or 8ny onion: or  
  
(0 forge, ater tapes wit any fit doemen,  
Teeame ee otal dosent or  
  
(@peronates, oF fly represents himself tte a  
person Heling oF in the emplosment of person” holing  
Bie under Govemmen. of fakely represen’ intel 10  
ior not fo be a purom to whom an effical document as  
Beco duty iawed Or commanioned oF  
  
(e) with intent fo obtain an ofial document, whether  
for Kime or ary other peron Knowingly makes any foe  
ovement or  
  
() withous lawful authori. wes, has in his posession  
cor wet contol, manufctaes or els any "oficial set  
&F any di seal or samp s0 nearly resembling an oftcal  
SE oe Slated to dace oF counterfeit sy OMA!  
‘eal  
  
th shall be punishable with rigorous imprisonment for term  
  
Mik mayfatend to thro yar, o wih ie, oF with Both  
  
{@) any person, for any purpose prejudicial tothe nation  
  
(@) rettns any official document, whether or ot completed  
  
coc Roted for ne wen he ha oo night to retain tor when  
  
ii contrary fo i ry fovea ily fay comply  
  
tuith any dtectons faved by, or under auhonty of, Govern=  
Tenth ropa to Ke etura or dsposal eco OF  
  
  
Page 105:  
103  
  
@ allows another person to have possession of, or co-  
rauniates to another Peron, ny ofc document ‘sted  
forhis we lone; or  
  
(©) without lawful authority or excuse, has in his poses  
jon dry offal document tnued forthe use of some penn  
‘ther thaa imal oF  
  
(4) on obtaining possesion of any offciat document, by  
finding oF otherwise, willy fails to restore It tothe person Ot  
Suthorty by whom or for whose weit was hued or Lo 2  
police “ofiee:  
  
‘he shall be punishable with imprisonment fora tem which ma  
  
tstend to thee years, oF ith ne, or with both "  
  
6) In this seston —  
  
(@) “oficial document” means any armed fore police  
‘or ofcal pas, permit ceric, lence or oh Jocuentor  
mar heater, and nde ay wrt of cade ot  
eweword,  
  
(@) “oft seal” means any de, sea, stamp of or be:  
Jonging oor usd, made or provided by aay department of  
Government or by any siplomaie or armed lores athosty  
Sppointed bor acing under the authority of, Gaverament  
  
36, If any person in the vciity of any prohibited place obs  
tract," knowhngly misleads or eterwie interferes” with oF  
Impedos, any pole oficer or any ofcer or member of the  
farmed. forces engaged on guard, scnzy, patrol, or other slur  
<dty in relation fo the prohibited place, he shall be punishable  
‘vith imprisonment which may extend to thiee year, oF with  
Tine, “oF with both  
  
37.10 any person fais  
  
() to give on demand to any member ofthe armed forces  
engaged on guard, sory, patrol or eter sila duty, to  
Sy Superintendent of pois, oc to any other police officer  
‘ot below the rank of subsinspezior empowered by an Inspec  
{orGonca or Comming of Paine inthis bea any  
‘Mlepe under section 33 or secon 34,9  
  
(it to, required, and upon tender of his reasonsble  
pc itera easnabi tre i lice ay  
especied Tor the. purpose of furnishing such information,  
  
‘be shale, punishable with imprisonment fora term which  
  
‘may be extend to three year, ox Wi fine wih Both  
  
28. (1) any pemon knowingly harbours any person whom he  
non has esenue promos tor supposing tes pon ho  
ETabout to commi or who has commie em oMlence under Se.  
tion 3 orecton 3, or knowingly permis ect or nsec  
  
  
  
Page 106:  
104  
  
{any premises in his ocupution of under his cnteol any such  
ersons, he shall be punishable with tmprigonment Tors ean  
hich may extend Yothre year, of with fine, or with iene  
  
6) ig nao honed ah eon se  
oh tat ena wel on at  
Ge reece anes Sas  
rls Cn Ss tS  
Sc Oa aaa ok  
  
3 , Whoever by words, either spoken of writen, or by signs,  
‘or by visible representation or others,  
  
excites, or attempts to excite, disaffection towacds the Con-  
{Bituton or ‘the, Governnent or Parlament of Indias oF the  
‘Government or Leglature of any Stale, or the admicnsatine  
cof unis, as by law established,  
  
intending 0: hoowing it o be likly therchy to endanger the  
FOREN and integrity of India or te suey on nese ot  
Todis cr any part thresh oF 1 ease pubis dade  
  
hall be punishable with rigorous imprisonment for 2 term  
hich may ettend to seven years and shall also be fale to fae  
  
Explanation 1.—The expression “disafection” includes fel  
Ings of enemity, hatred ‘of contemp,  
  
Explanation 2-—Comments expressing disapprobation of the  
zor ft Contin otha othe Gwen  
‘ent oF ofthe measures of Paament ora State Lepstaroe oy  
ofthe provisions Tor the administration of nice, tka eg fo  
baring thee aeration by lawful mean without excling 4  
tempting to excite diafection, do not contre, an aes  
Under thi ection.  
  
4.) If 4 metropoian magstiae, wagineate of the fest  
as or sub-dvsional magistrate fe satiied by Inferoeatae ce  
‘ath tha there i reasonable ground forsuspecing Taran aos  
ey ot eon 32 8 un on aout ob eae  
mitted, be may grant search warrant auinossing ane" page  
seer named therein nt Beng Ian The sank ae  
charge t's police sation,  
  
() 80 ener at any tie any premises or place named in  
the Sta ace a  
  
(9) serch the premises or pace and every person  
found terea, and ™  
  
  
  
Page 107:  
os  
  
(©) tosizeany sketch, mode, ante, note oF document  
‘or anything of like nature, or Aaything which evidence  
‘ofan offence under any of the. sald sections having been  
fr being about to be committed which he may find on the  
Dremises or place or sy such person and with regard to oth  
anection with which he has reasons ground for suspecting  
that an ofence under any of the sald setions has box 016  
about to be commited  
  
(2), Where i eppear 0 a plc oter. not bing below the  
sank auperinenden that te cse oo eietee  
jatar be Sinem tn a)  
ay, ya ween rd under hi ante Wo ay ole  
since tei wath a» maybe ven by She watat a  
smancete under this weton  
  
(2) Where action as bon taken by a plc oer ne  
sttrcin hh ale nr oer ch a,  
i's ettopottan sea oie chet mepalian mewn or  
uid sth area tothe Gases ot aedetonl aga  
  
4) The provision of the Code of Criminal Procedure, 197  
shall, so far a8 may be applicable, apply to any scare or scare  
under this section as they apply to any Search sere mide  
Under the authority ofa witrant issu nde seciton 9 of at  
ode  
  
cil Iain and wiht pce wo ny powers which  
' Coutt may possess o order the exclusion of the Public rom any  
oceedings, inthe course of any ingury into or tal Of any  
ee tn my der ay he eon 3 380 nt  
Sure of any procedings in appeal o revision Irom sich inguty  
‘tril, appiation In made BF the proseation. on the ground  
‘hat the publieation of ary evidence f0°be piven or of any Stee  
tment toe made in the course ofthe procesings would be pi.  
dia (6 the national security. that al or ant portion fhe  
‘able shall be excluded during aay part of the hearing. the Cort,  
Frye fri that bute psn of seal  
ny case tke place in publi  
  
42, Ina prosecution for an offence under any of the sections  
29 03s, sl not be aceiary to tow tat te seused pesos  
‘ras guy of any particular act tending to show a purpose pee  
Jd 1 the tinal security, an, aotwitanding tha  
Sich acts proved agaist him, be may be comited.if rom the  
Sircumstances oft ease oh condct of his now hart  
See apa th his puro mn «pre pda  
  
43. (1) tn any prosecution fora fence under section 38,  
it ay sen, maser aoe nvm ea  
4ating too used in any probibted place, or relating to anythin  
  
‘in sue a place is made, obtained, clleied, recorded, published  
  
erpuske  
ftom ee  
  
Prewpie  
  
  
Page 108:  
Deftions  
  
105  
  
‘or communicated by any person other than a person acting under  
  
wf author, and from the crcumancer ofthe case oF his  
ondact or his known character as proved i appears that his  
Purpose was a purpose prejudicial fo the national seu, sich  
Sketch, model, article, note, document, or information shall be  
‘Pieaied thave een made obtained, clested eordd, pub-  
lahed or communicated for & purpose prejudicial tothe nitonal  
security.  
  
2), In any prosecution of @ person for an offense under sc  
tion’ 33,  
  
(a) th fc hate ha bon in communication wih,  
Shin of without India, shall be relevant for he purpose of  
Proving thet he has Tor purpore predicate natonal  
Eeuriy, olined of stempeed to obuan information which  
[Sintended to be oF likely tobe, rely or indirectly, useful  
{olan enemy;  
  
(©) person may be presumed ihave been communi=  
‘witha foreign agent it —  
  
(he has, either within or without India, vised  
the address of foreign agent of consored oF associated  
‘witha foreign agents of  
  
i) siber within or without India, the name or  
auddest of anyother information regarding foreign  
‘gent has been found in bis posession, oF has been oF  
‘ined by him from any other Person  
  
(0) any address, whether within or without tndia, in  
respect of which it appears that there are reasonable grows  
for suspecting it of being am adéress used for the receipt of  
orouncaton tended orn get ora ares.  
[which a foreign aget resides, orto witch he resorts for  
Durpose of giving or receiving communications, or at which  
Frecarries on any business, may be presumed t Be the address  
‘of foreign agent, and communications addresed to Such 3"  
‘ladress to be communications with a foreign gent.  
  
CHAPTER 7  
Sunvensive ASsociATIOS  
44 In this Chapter,  
  
(a) “prescribed means prescribed by rules made under  
section 59!  
  
@) “subversive activity” meant any act punishable  
under section 3 46,7, 28,29, 30-07 32;  
  
  
Page 109:  
107  
  
(0, rabverive association” means any association  
whieh aor bite sbi acti ohh  
Sourages of ons to undertake sch’ at oro  
‘ice members andrabe sch acini:  
  
\* means the Tribunal constituted uncer  
  
45. (1) I the Cental Government is of opinion that aay  
‘sociation is or has become, «subversive asociation, it may. by  
otifcaton inthe oficial Cazzte delare such association fo be  
  
2) Every such notification shal speci the grounds on which  
ic Sed and sch oie cual she Ce Soest  
say comiger nes.  
  
Provided that nothing in this sub-sction shall require the  
{Central Government to disclose any fact which it conde to  
be tins the public intrent to dsclone,  
  
(G) No such notifeation shall have effect until the Tribunal  
has, by an order made under section 45, confirmed the declaration  
‘made therein and the order Is published inthe Official Gusti:  
  
Provided that ifthe Centeal Government is of opinion that  
siecumstances exist which render it nocesaty Tor that Govern,  
ment to declare an association to be a subversive msociation  
with immediate eft, t may, fr reasons to he sated in wet  
leet thatthe noietion shal subject to any otdet that may  
‘made under vection 46, have effet Irom the date of its bles  
tion in the Oficial Garett,  
  
4) Every such notieation shall, in addition to its publi  
inthe Oil arte be pablshed in ot Ios tah  
ing citcleion ia the State In whch  
of the association alee i Stated,  
4d shal also be served on such association, In such manner ss  
the Central Government may think ft and al'er any of the  
folowing modes "be followed in: efing. such” service  
amely  
(@) by afxing copy ofthe notietion 1 some conspicuovs  
at ofthe ofc, ian of the auccaions or  
  
(©) by serving a copy of the notification, where possible, or  
‘he principal ofee-bearers, if any," of the Assocation,  
  
©) By proclaiming by beat of drum oF by means of  
Sealers, the contents of the notieaton in ts area  
Gh the Stes of the sociation’ are erat  
  
0) in such other manner as may be prescribed  
  
  
Page 110:  
tos  
  
46. (1) Where any association has boen declared a subversive  
sssocation bya notification sued ender section. (1).  
Section 45, the Central Goveenment shall wicin thirty ays  
From the date of the publication ofthe aatiicaion urder the sat  
section, reer the notiheation Yo the Tribunal for ths purpose of  
Sdjudscating whether or mat there tse cause for dean  
the atovation as subversive ssrocation  
  
(2) On receipt of reference under sub-section (), the T  
‘banal shal ell upon the association affected, by nouce in writing  
1 show cause, wihis thirty days fromthe date of such "tie  
vehy the association should not by declared a subvenive asso  
  
(3) After considering the cause i any  
Aion or ihe offe- bearers of members taeent the 7  
  
calling for such furher Information ast ay eoradet necessary  
from the Central Gaversmeat of from any offce-earere met  
ber"ot the association, shal decide whether or not there  
‘SUthcien! cause for de‘lring the auvciation to be & aubverive  
‘Ssocaton and make, as expedciousy as pone and in any  
ase within a period of si months ror: the date ofthe sue ofthe  
Sltiation Under subsection (1) 0” section 48, such onder 35  
5 may deer it ctber contrming the declaration made in the  
noliteation or canceling the same  
  
4) The order of the Tribunai made under sub-section (3)  
shall be poblised in the Oficial Geaete  
  
47.1) The Central Government, may by notification in  
  
{be known as the “Suoversive Actives (Prevent oa) Teoma!  
‘Somiting of one person, "0 be appointed by the Cental Govern  
  
Provided that no perom shall be so appoint unless hei a  
judge of 2 High Com mee  
  
2) for ay reson, s vazaney (thet thes 3 teagorary  
absence) occurs the ofc ofthe presiding oficer of the Ts  
‘al then the Cenral Coverament shal appoint another etn  
‘naceaearce wth he poysion of intone waancy  
sd the proceedings may be continued before tse Tribunal from  
‘he stage ot which the vackacy Ts hie,  
  
(G) The Central Government shall make wvailable 10 the  
‘eibunal such sal as may be necesary for the discharge of Hs  
functions under this Act  
  
4) All expenses incurred in connection with the Tribuns  
stall be efrayee out ofthe Consclidated Fund cf Indi  
  
  
  
Page 111:  
109  
  
(5) Subjet to the provisions of section $1, the Tebunal  
sees ie emia eon pers a me  
ansing out Of the dicharge of is Yuncdons ieleding ters  
or places at which it wiold ts Sian  
  
{© The Tribunal shal, for the purpose of making an inguiry  
under this Act, have the'same: powers as are vested in 4 ee  
‘out under the Code of Civil Procedure, 1908, while tsisg b  
Sit in respect of the Following mates, namely  
  
(2) the summoning and enforcing the attendance of any  
witness and examining him on oaths  
  
(©) the dscovery and production of any document or other  
‘atcrial object produced a8 vidence;,  
  
(© the reception of endence on afd;  
(@ the reguisoning of any pole rcord fom any court or  
‘office; "  
  
(6) the issuing of any commission for the examination of  
  
(Any proceeding before the Tribunal shall be deemed to  
by 4 ud rocndiag witha the peanay of act BE aed  
228 ofthe Indian Penal Code and the Tribunal shall he deemed  
to bea til cout for purposes of section 196 und Chapter XXVT  
ofthe Code of Crimaal Procedure, 171  
  
48. (1) Subject to the provisions of subsection (2), noti-  
cation issued under section 48, shal i the decarsitoa tote  
{ersin is confirmed by the Tribunal by an‘ordet made sakes  
‘estion 46, remain in fore fora period of two Jears frome the  
‘dte'on which the notcation boComes effective  
  
Q) Nowwitstanding anything contained in sub  
She Geer Goverment ma  
  
pplication ot any person sggrieved  
aleation ued under set  
tion made therein has been confricd by the Tribute  
  
2. (1) Whete an association has been declared a subversive  
sscition by a noticationisued under scion 4S, wick he  
‘come eflectve under subsection () of shat scion ed is  
Seer Goreme i ee, fc ng ney  
thin i, thet any penton has custody of any moneys, cue  
‘or eredis which are being used or ae intended fo be sed rt  
Purpose ofthe subversive association, the Cetral Goversntne  
tna by ‘ones in wong. prohibit such person feo eae  
elven, "ansfering ‘ot theese dealing ip soy Page:  
shatsoeie with sich moneys, scarce or es of wae  
ther moneys, securities or credits. which may coe Te he  
Sindy after ihe making of the order, nave a accordant  
Mot tans  
  
Peri of  
  
  
Page 112:  
10  
  
the writen orders ofthe Central Government and a copy of such  
‘order shall be served. upon the person so prohibited in the  
Imanper specie in subsection (3).  
  
(2) The Central Government may endorse a copy of the  
prohibitory order made under sub-section (1) for vestigation  
BDany gutted officer ofthe Goverament may select and such  
Copy thal bea warrant whereuader such ofcer may enter in ot  
‘pon any premises of the person to whom the order's directed,  
‘hamine the books of sve person, scare for moneys, securities  
‘Srevedits, and make angus from such person or any ofce,  
‘Agent or servant of sch person, touching the origin cf any deal  
‘Mg any moneys, secuniies oe feds which the investigating  
fficer may suspect are being wsed or are Intended to be used for  
the purpose of the subversive association.  
  
{@) A copy of an order made under this section shall be served  
in the manner provided in the Code of Criminal Procedure,  
Ibriafor the sie ofa summon, or whee the perso, 10 Be  
served Js a! corporation, company, bank oF other association,  
[hall be served on any secretary. director or other officer of  
‘Petion concered with the management theret, or By leaving i  
Breending iby. post addresed to the corporation, company,  
bank of other asocation at is registered oie, or where thee  
Fao repstered ofc, atthe place cartes on business,  
  
(4) Any perion agrcvd bya prhibitory order made under  
sus ZchQ8 ify iin en ays from the date of The  
Serie of rach ors, make  
  
Bat Tage mh ie “  
person voluaily resides or carries on busines or personally  
onset ena the mone cai rea  
In respect st which the prohbitory order has been made are not  
Moingased or re not ended tote sed forthe purpose ofthe  
Mince ssccatton. ane hat Court shall ese toc ues  
  
(6) Except so far as it is necessary for the purposes of any  
proszedings "under this section. 90 information obtained in the  
‘fay vegan deen obo) al  
Sons of tbe Cenual Government.  
  
(6 a hs, set, “scury” ines a dora whereby  
any person acknowledges that he is Unde alta nb to pay  
‘money, or whereunde? any person obtains a Teal right to the  
payment of money.  
  
$0. (1) Where an association has been declared a sub-  
verve assocaton by 2 notification issued under section 45,  
‘Whiek bus become efactive under st-section (3) of that section,  
the Central Government may, by ‘otieation in the Official  
Geet, otity any place which Yo. opinion is used for the  
purpose of such subversive association.  
  
  
Page 113:  
uu  
  
Explmation For thé purpose of this subsection, “pace  
inctades "hows or builing of ar tarot a tent ond a Ses  
  
(2) On the isue ofa notification under subsection (1), the  
istet magistrate within the local ints of whose juriiuon  
Such noied place is situate or any offcee authorised By im it  
writing in this behalf shall make a ht ofall movable propertice  
Gergen weang apa coking tel fan bine  
  
of arisas, implements or Misbandr. cate, gram apd  
fost and such other artles av he considers to be of  
‘evil matre) Found in the nated plas in the presence of tho  
respectable witnesses  
  
) Hin the opinion of the district magistrate, any articles  
specified ‘in the Ist are or may be used for the purpose oF the  
‘verve association, fhe may make an order prohibling ang  
Berson from using the arictes save i accordance with the Write  
brders of the dtrst mapstate  
  
(4) The disict magistrate may thereupon make an order  
that no perion wo atthe date of the nation was ott  
Fesden nthe noted place shal, without the persion ofthe  
Sine magistrate, enter, oF boon ort, the need place  
  
Provided that nothing in this subsection shall apply to any  
near relative of any person who was a resident In the noted  
place atthe dite ofthe noifeaion  
  
(5) Where in pursuance of sub-section (4, any person is  
ranted perission to enter, oF to be on or i the noted place  
thar person abst, while acting under such permission, comply  
With Soch orders for regulating hin conduct 8 may be even by  
the district magistrate  
  
(6) Any police ofcer, aot Below the rank ofa subvinspecor  
ony other pesion authorised In thi Beal by tie Central  
Government may search any person entering or secking to ent  
or beng norte led place and ay dan yc  
Bron for the purpose of searching hn  
  
Provided that no female shall be searched in pursuance of  
this subsection excep by 8 female  
  
(2) A any pecson isin the notified place in contravention of  
‘an onder made under sub-section (4), then without prejudice 10  
i ae oeting ick may be ake auth he may  
‘cemoved therefrom by any offcer or by any othe person  
suthorsed in this Beall by the Cental’ Government  
  
8) Any person agrived by a notiction ied in respect  
of dune ube ues (ot Up anaes made ue  
Sect (yor sub-section (2) may within tity days from the  
ste of the notieation or order asthe ease may Be, make 28  
BM of taw  
  
  
Page 114:  
application to the Court of the Distict Judge within the local  
limits of whose jurisdiction such notied place is slvate—  
  
(@) for declaration that che place has aot been used for the  
‘urpose of the subversive atsociation; cr  
  
(©) for setting aside the order made under sub-section (3)  
‘of sub-ttiom (and on receipt of the application the  
{Court of the Distict Judge shall after giving the paris  
‘an opportunity of bai heard, desige the question.  
  
Sse ap ty a hcp,  
epic nth aye cae  
eesiicece Sarauets nya eat ae  
in acai cate hah nN  
Siw pommocl Sex Sarco a tha tee,  
Bir SO eetieten lute Sat de Ge oe  
ashe aa? ebay  
See  
  
‘52 Whocver is and continues to be & member of an sesocia-  
ion declared to be subversive association by a notification issued  
‘er secon 4 whch hay tse elvan steacton  
{G)ot thar section, or takes part in meetings of any such subversive  
sociation, or contributes to, or receives or sols any conte  
bution for the purpose of, any such subversive assecaton o  
any way asi the operations of any such subversive tacit,  
Sal be punishable with rigorous imprisonment for & frm mick  
‘ua extend to five years, and tall sso We table one  
  
53. any person on whom a prohibitery order has been  
served under subsection (1) of section 49 ia respect of any  
‘money, securities of credits, pays, livers, translers or other-  
sig yin any marae whatorir wt ie same ia com  
‘eation of the prohibitory order he shall be punchable with  
Imprisonment for tem which nay extend fo" thce jean of  
‘with Sine with Both, and notwithtanding anything contained  
In the Code of Crimina! Procedure, 1971, the eoutt Trying such  
contravention may aso impese on ike perc conviced un sdah,  
tonal fine t0 recover from him the smovnt of the moneys or  
edits of the market value of the securities in respect of hich,  
the prohibitary order has Been contravened or suck Part theteo  
as the court may deem fi  
  
‘54. (1) Whoever uses any article in contravention of pro-  
bibitory order in respect thereor made under subsection (3) of  
‘ction 50 shall be panihable with imprisooment for a terry  
‘whic may extend to one ear, and shall ao be lable to fin.  
  
2) Whoever knowingly and wilful is. ia, of effects of  
attempts to eet entry ino, a Dotted place in contravention oF  
  
  
Page 115:  
ry  
  
‘an order made under sub-section (4) of section 0 shall be pnish-  
bie with imprisonment fora teem which may extend lo ote Year,  
find shall also be lable fo Se  
  
Ss, An section sal tbe deme ne ced 1  
ext by ran oly of any formal act of te Soltion  
‘Siam but tab decd fo continue so fog a ny aa  
ombnstion for the purposc of sah asocation sonnucs  
‘etwoen any members there  
  
‘56. Save as otherwise expressly provided inthis Chapter,  
no proceeding taken under this Chapien by the Cental Gover  
‘met or the district magistrate or any offer authorised in this  
‘chulfty the Central Goverament or the Gsrict magistrate shall,  
‘be called in question in any court in any sit or application or by  
‘way of appeal of revision, and-no tjunction shall be granted  
Dy any court or other authority in respect of any action taken oF  
{arbe taken in pursuance of any power conferred by or under ths  
Chapter  
  
‘5. (1) No suit of other te ing shale against  
tne Govkranant resp’ fan toe ox tanga euted orfily  
{0 be caused by anything which im good faith done OF intd  
‘2h10 be done m pursuanes ofthis Chaper oF any Tues or orders  
tnade thereunder  
  
(2) No suit, prosecution ot other lpal proceeding shall ie  
again the dsr magistrate or any ofcer authorised fa this,  
tEhalf bythe Government or the district magistrate in respect of  
“njthing which i im good luith done or intended to be Gove in  
pumuance of this Chapter or any rues or orders made thee:  
Under  
  
A he Gamma yy man in he  
ntl Bea et  
oe rc an Se oat satan  
Set estan ves games  
enacts eensttcrmtes iste  
ESS meas  
Schee So yarns  
  
$9. (1) The Central Government may, by notification inthe  
ficial Gazeite, make rules 10 carry out the purposes of this  
Chapies,  
  
conti  
sr  
  
raceion  
  
a  
  
reento  
  
poner  
  
  
Page 116:  
‘Moe  
  
Thecus ote Ce PE: Bi, 7  
  
1  
  
(2) tn particular, and without prejudice to the generality  
‘ofthe foregoing per, such rules may provide for all or any OF  
the following mattgrs namely  
  
(@) the sevice of notices of orders assed oF made under  
this Chapter und the manner in which soch nics of ores  
‘nay be ved, where the pets tebe served is corporation,  
company. bank of other association:  
  
) the procedure tobe flloned by the Tibusal. or &  
itt See hod any Hnguy oe Gone any  
{pplstion der ths Chapter:  
  
() any other matter which has to be, oF may be. pres-  
cribs y hen  
  
(3) Every cule made by the Central Gove  
section shal be lid, as Soon as may be ate it  
feet Towte of Parament while in seston fra oa  
  
thity dayt which may be compre tn one setton fw two  
Stocenive seasons and if, before the expt) of the session mk  
Sich is so laid or the session immotately fllowing. both  
Houses agree ip making any modification nthe rule or Both  
Houses apres that the rule should not be made. the rule shal  
thereafter have effct only in nich modied form of be of no  
‘fect asthe eave may be, s0 however, thst any such medica.  
tion or annulment shall be without prejudice to the vay af  
“anything previously done under that rake  
  
CHAPTER &  
Mascattastous  
  
6, (1),No Court shall take cognizance of any offence  
‘under thi Act easep withthe previous sanction of the Cer  
Government‘ ot the State Government  
  
(2) The, Cental Goverment th Sate Gonrnment  
tefore granting sanction under subaction (I may order pre=  
Tar nvestaton by a ple ie not eine elo he ak  
OF Inspector, i which cide such police offer shal have the  
Dower referred to in subsection (3) of Seton 127 of the Code  
BF Csmina Procedure"  
  
G61, (1) No Court shall ake cognizance of am offence punish-  
able nde sstons 24,28, 38, $9 84, aller the expiry of ne  
yer  
  
12) The provisions of sections $13 to S16? of the Indian  
Penal Code shal appl for the purpose of computing the period of  
Heaton indivi {1 ty spay ft the reo  
‘rrcomputing the period of Hetiation for Taking cognizance of  
the offences under that Code,  
  
2 Atresommendd in he dnd Report see para, 2430  
  
  
Page 117:  
ns  
  
2. Nowithtanding enything contained in the Cade of  
{Criminal Procedure. 1941, any offence under this Act ma be  
inquired into and tried by any court within wow urchclign  
the offence wis commitied or the acetsed persone foun  
  
63. Notwithstand  
(Criminal Procedure, 19  
  
(a) offences under sections 21, 22, 23 and 27 shall be  
cognizable;  
  
anything contained in the Code of  
  
sag (0) 88 ole under ection 39 shall be non-<opnizable:  
  
(0 oflences under sections 15, 16 and 39 shall be triable  
‘only by the Court of Sesion  
  
lt te prion commiting a oa ander hs Act.  
‘i a company, every person who atthe tie the oflence ua vase  
  
rg of and was responsible to: the company  
for the conduct ofthe business ofthe company. as wall eth  
gBmpany, shal be deemed to be gully the eience and Net  
belinble 10 be proceeded against and punished avcondiney  
  
Provided that nothing, contained in this sub-section. shall  
‘render any such person able o sch punishment provided ia this  
ActiT he proves that the offence was commited wilhout hs now  
ledge or that he exercised all due diligence ta prevent te Coots  
mmission of sich offence  
  
(2) Notwithstanding anything contained in subsection (1),  
‘cre an fence under this Act hasbeen committed bya company’  
nd tis proved that the offence has been committed. Wilk the  
{onsent oF connivance of of ie attibuable to any neatoenee oe  
the part of any director, manager certary of ther eer or  
‘the Compay, such direcion, manager seeray ot tbee sic  
stall sio be deemed co be guilty of that offence and shal be hs,  
‘le to be proceeded against and punished accordingly.  
  
‘Explanation —For the purposes of this section —  
  
() “company” means # body corporate and includes «  
fm or other acto of ingiealeas  
  
(0) “sitetor", in ela  
‘he tr,  
  
means a partner in  
  
65, (1) The following enactments are. hereby repeat  
namely  
  
(a) chapters 6 and 7 of the Indian Penal Code  
(6) the Foreign Recruitment Act, 1874;  
(©) the Oftcial Secrets Act, 1923;  
  
Pact  
  
Shee  
  
cca  
Ed  
  
  
  
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16  
yg) st ofthe Ceninl Law Amendment Act 196  
  
(6) the Unlawful Activites (Prevention) Act, 1967.  
@) The British Statute ended the Foreign Ealistment  
‘Act, 1870 (33 34 vec. 90) in 90 far as it entends oy and  
  
‘Operates as part of the law of India any pat thereat is hereby  
repealed.  
  
{@) Transitional provisions.  
  
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(D) InomN Peat, Cove  
  
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(2) Omnia Secrets Act, 1923  
  
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(4) Forsion Exustwenr Act, 1870 (ENG)  
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(5) Ustawrur Actes (Paevrenon) Act, 1967  
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APPENDIX 2  
CONSEQUENTIAL AMENDWENTS I CENTRAL ACS  
1. Tae tyouan Pex Cone  
  
1. In section S24, the words and figure “and in section 130 inthe  
25, which the harbour given by the we or tusbund ot the fercea  
IRitbocve soll be omited  
  
2 In section 94, forthe words “ofenesagsist the Sate, the words  
tnd fre “ofenes gaia ihe Naina scanty Act 971" hall bes  
  
UW. THe Cove oF Crise, Procenuns?  
  
1, In section 42, subsection (eles (a)  
  
0 the words and figues “121, 121A, 122, 123, 124, 124A,  
26, 130" Tall be omiteds  
  
Mic the won, gues and brackets 436 to 40 (oth in  
aus) te wordoand reso sora a se  
  
a0'He Natoral Scuny Cy taney ee  
oa 5 a  
  
2. An section 95, subscetion (1), for she words and igre “ander section  
1244 or, the words and figures “undee section 39 ofthe Nations! Secutty  
‘Act 1971, cr under shall be subtitled  
  
3 In section 10%, gubssetion (1), clause (a), for the words and ure  
“under section 126A or" the words ana feures “onder socoon 99 of the  
‘National Security Ac, 1971, of under" shall be wubstittes  
  
i sexton 197, cle (the word and figure “Chapier VI" sat  
  
wo  
  
5. tn seston 446, in subsection (3), she word and figue “Chapter  
vr, Shall 8 omized'S :  
  
4. Inthe First Schedule the entries relating to offences uncer Chapters  
4 VU ofthe Indian Penal Code shal be omited  
  
2, ssp etn a ess ade, Char VI. of te Jed Rl Coe  
oe tad ined he Nate Sts Ae nue 7  
‘Seven sea ttm, ad aretiarcio cond Wives ee  
  
  
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iP  
  
7. Inthe Second Schedule, in Form No.3, Part  
  
(in item No  
‘of the Indian Penal Code” the words and  
the National Security At, O71 shal fe su  
  
{iin item No. (2, fr the words und figure “under section 1  
‘of the Indian Penal Code the words and figures “under seciton Bt  
the Nationa Seeruity Act, 1971" shat he substuced.  
  
re "unde section 124  
es onder section 3  
  
UL Tae Cuumat Law Autsouent Act, 1961  
  
In gection 4, sub-section 1). Fo the words, gures and brackets “onder  
tion 2 or sulpsetion (2) of section 3 the words, gures and. Bracks  
inde section 28 of the National Secuity Act. 1971 of sub-section (3) oF  
section 3 oF this Act” shal be subuted,  
  
MGUPRRND—34 M of Law 7S 1 (NS)—212-7-20m