

CHAPTER P4 - PENAL CODE LAW

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Establishment of Penal Code.
3. Punishment of offences committed in Kwara State.
4. Offences against laws of Kwara State.
5. Civil remedies.
6. Contempt of court.

SCHEDULE

PENAL CODE LAW

A Law to establish a penal code for Kwara State.

[NN 1963, Cap. 89, NN 11 of 1964, NN 13 of 1965, NN 19 of 1966, Act 7 of 1976,
KWS 6 of 1969, KWS 10 of 1991, KWS LN 1 of 1992, No. 4 of 2006.]

[Date of commencement: *30th September, 1960*]

1. Short title

This Law may be cited as the Penal Code Law.

2. Establishment of Penal Code

The provisions contained in the Schedule to this Law shall be the Law of the State with respect to the several matters therein dealt with and the said Schedule may be cited as, and is hereinafter called, the Penal Code.

3. Punishment of offences committed in the State

(1) Every person shall be liable to punishment under the Penal Code for every act or omission contrary to the provisions thereof of which he shall be guilty within the State.

(2) After the commencement of this Law no person shall be liable to punishment under any customary law.

4. Offences against laws of the State

(1) Where by the provisions of any law of the State the doing of any act or the making of any omission is made an offence, those provisions shall apply to every person who is in the State at the time of his doing the act or making the omission.

(2) Where any such offence comprises several elements and any acts, omissions or events occur which, if they all occurred in the State, would constitute an offence, and any of such acts, omissions or events occur in the State, although the other acts, omissions or events, which if they occurred in the State would be elements of the offence, occur elsewhere than in the State then—

(*a*) if the act or omission, which in the case of an offence committed wholly in the State would be the initial element of the offence, occurs in the State, the person who does that act or makes that omission is guilty of an offence of the same kind and is liable to the same punishment as if all the subsequent elements of the offence occurred in the State; and

(*b*) if that act or omission occurs elsewhere than in the State, and the person who does that act or makes that omission afterwards enters the State, he is by such entry guilty of an offence of the same kind, and is liable to the same punishment, as if that act or omission had occurred in the State and he had been in the State when it occurred.

(3) Notwithstanding the provisions of subsection (2) it shall be a defence to the charge in any such case to prove that the person accused did not intend that the act or omission should have effect in the State.

(4) The provisions of subsection (2) do not extend to a case in which the only material event that occurs in the State is the death of a person whose death is caused by an act or omission at a place outside, and at a time when that person was outside the State.

5. Civil remedies

(1) When by the Penal Code any act is declared to be lawful, no action shall be brought in respect thereof.

(2) Except as aforesaid, the provisions of this Law shall not affect any right of action which any person would have had against another if this Law had not been passed; nor shall the omission from the Penal Code of any penal provision in respect of any act or omission which before the time of the coming into operation of the Penal Code constituted an actionable wrong affect any right of action in respect thereof.

6. Contempt of court

Nothing in this Law or in the Penal Code shall affect the authority of courts of record to punish a person summarily for the offence commonly known as contempt of court; but a person cannot be so punished and also punished under the provisions of the Penal Code for the same act or omission.

SCHEDULE

CHAPTER 1

General Explanations and Definitions

SECTION

1. Sense of expression once explained.
2. Gender.
3. Number.
4. Man, woman.
5. Person.
6. Public.
7. Magistrate.
8. Court of Justice.
9. Judicial proceedings.
10. Public servant.
11. Military forces, military affairs.
12. Movable property.
13. Wrongful gain.
14. Wrongful loss.
15. Gaining wrongfully, losing wrongfully.
16. Dishonestly.
17. Fraudulently.
18. Reason to believe.
19. Likely, probable.
20. Property in possession of wife, clerk or servant.

21. Counterfeit.
22. Writing, document.
23. Document of title.
24. Words referring to acts include illegal omissions.
25. Act, omission.
26. Effect caused partly by act and partly by omission.
27. Voluntarily.
28. Offence.
29. Illegal.
30. Legally bound to do.
31. Injury.
32. Life, death.
33. Animal.
34. Vessel.
35. Year, month.
36. Oath.
37. Good faith.
38. Provocation.
39. Invalid consents.
40. Harbour.
41. Government.

42. Foreign government.

CHAPTER II

Criminal Responsibility

43. Common knowledge.

44. Presumption of knowledge of an intoxicated person.

45. Act done by person justified by law.

46. Act of Court of Justice.

47. Act done pursuant to the judgment or order of Court.

48. Accident in doing a lawful act.

49. Act likely to cause injury, but done without criminal intent and to prevent other injury or to benefit person injured.

50. Act of child.

51. Act of a person of unsound mind.

52. Involuntary intoxication.

53. Act not intended to cause death or grievous hurt done by consent.

54. Act not intended to cause death done by consent for a person's benefit.

55. Correction of child, pupil, servant or wife.

56. Communication made in good faith.

57. Act to which a person is compelled by threats.

58. Act causing slight harm.

The Right of Private Defence

- 59. Things done in private defence.
- 60. Right of private defence.
- 61. Right of private defence against act of a person of unsound mind, etc.
- 62. General limit of right of private defence.
- 63. No right of private defence when protection of public authorities available.
- 64. Limitation of right of private defence against act of public servant.
- 65. When right of private defence of the body extends to causing death.
- 66. When right of private defence of property extends to causing death.
- 67. Right of private defence against deadly assault when there is risk of harm to innocent person.

CHAPTER III

Punishments and Compensation

- 68. Punishments.
- 69. Limitation on punishments.
- 70. Fractions of terms of punishment.
- 71. Special provision for juvenile offenders.
- 72. Amount of fine.
- 73. Sentence of imprisonment for non-payment of fine.
- 74. Imprisonment in default of payment of fine.

- 75. Fine not discharged by death or service of sentence in default of payment.
- 76. Limit of punishment when act within definition of more than one offence or when offence made up of several offences.
- 77. Caning.
- 78. Compensation.

CHAPTER IV

Joint Acts

- 79. Acts done by several persons in furtherance of common intention.
- 80. When such an act is criminal by reason of its being done with a criminal knowledge or intention.
- 81. Co-operation by doing one of several acts constituting an offence.
- 82. Persons concerned in criminal act may be guilty of different offences.

CHAPTER V

Abetment

- 83. Abetment defined.
- 84. Abetment of offence defined.
- 85. Abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.
- 86. Abetment if person abetted does act with different intention from that of abettor.
- 87. Liability of abettor when one act abetted and different act done.
- 88. Abettor when liable to cumulative punishment for act abetted and for

act done.

- 89. Liability of abettor for an effect caused by the act abetted different from that intended by abettor.
- 90. Abettor present when offence committed liable as principal.
- 91. Abetment of offence punishable with death or imprisonment for life if offence not committed.
- 92. Abetment of offence punishable with imprisonment if offence is not committed.
- 93. Abetting commission of offence by the public or by more than ten persons.
- 94. Administering unlawful oath.

CHAPTER VI

Attempts to Commit Offences

- 95. Attempting to commit offences punishable with imprisonment.

CHAPTER VII

Criminal Conspiracy

- 96. Criminal conspiracy defined.
- 97. Punishment for criminal conspiracy.
- 97A. Unlawful society defined.
- 97B. Management or membership of unlawful society.

CHAPTER VIII

Breach of Official Trust

98. Breach of official trust defined.

99. Punishment for breach of official trust.

CHAPTER IX

Offences against the Public Peace

100. Unlawful assembly defined.

101. Member of unlawful assembly defined.

102. Punishment for membership of unlawful assembly.

103. Joining unlawful assembly armed with deadly weapon.

104. Joining or continuing in unlawful assembly knowing it has been commanded to disperse.

105. Rioting defined.

106. Punishment for rioting.

107. Rioting armed with deadly weapon.

108. Every member of unlawful assembly guilty of offence committed in prosecution of common object.

109. Promoter of an unlawful assembly liable as a member.

110. Joining or continuing in assembly of five or more persons knowing that it has been commanded to disperse.

111. Wearing and carrying of emblem, flag, etc.

112. Assaulting or obstructing public servant when suppressing riot, etc.

113. Disturbance of public peace.

114. Inciting disturbances.

CHAPTER X

Offences by or relating to Public Servants

- 115. Public servants taking gratification in respect of official act.
- 116. Taking gratification in order to influence public servant.
- 117. Abetment by public servant of offence mentioned in section 116.
- 118. Offering or giving gratification to public servant.
- 119. Public servant obtaining valuable thing without consideration from person concerned in proceedings or business transacted by such public servant.
- 120. Offering or giving valuable thing without consideration.
- 121. Third person profiting by gratification.
- 122. Public servant dishonestly receiving money or property not due.
- 123. Public servant disobeying direction of law with intent to cause injury or to save person from punishment or property from forfeiture.
- 124. Public servant framing incorrect document with intent to cause injury.
- 125. Public servant in judicial proceeding acting contrary to law.
- 126. Wrongful committal or confinement by public servant.
- 127. Public servant omitting to arrest or aiding escape.
- 128. Public servant omitting to arrest or permitting to escape.
- 129. Public servant causing danger by omitting to perform duty.
- 130. Abandonment of duty by public servant.
- 131. Public servant unlawfully purchasing property.

132. Personating a public servant.

133. Wearing dress or carrying token used by public servant.

CHAPTER XI

Contempt of the Lawful Authority of Public Servants

134. Absconding to avoid service of summons, notice or order.

135. Preventing service or publication of summons, etc.

136. Failure to attend in obedience to an order from public servant.

137. Failure to produce document to public servant.

138. Failure to give notice or information to public servant.

139. Furnishing false information.

140. False information with intent to mislead public servant.

141. Refusing oath or affirmation when duly required by public servant to make it.

142. Refusing to answer public servant authorised to question.

143. Refusing to sign statement.

144. Resistance to taking of property by lawful authority of public servant.

145. Obstructing sale of property offered for sale by authority of public servant.

146. Removing property under lawful seizure.

147. Illegal purchase or bid for property offered for sale by authority of public servant.

148. Obstructing public servant in discharge of functions.

- 149. Obstructing public servant in discharge of duty under any written law.
- 150. Failing to assist public servant when bound by law to assist.
- 151. Contravention of residence order.
- 152. Disobedience to order duly promulgated by public servant.
- 153. Threat of injury to public servant.
- 154. Threat of injury to induce person to refrain from applying for protection to public servant.
- 155. Intentional insult or interruption to public servant sitting in judicial proceeding.

CHAPTER XII

False Evidence and Offences relating to the Administration of Justice

Offences relating to Evidence

- 156. Giving false evidence defined.
- 157. Fabricating false evidence defined.
- 158. Punishment for false evidence.
- 159. Giving false evidence to procure conviction of capital offence.
- 160. Giving false evidence to procure conviction of offence punishable with imprisonment.
- 161. Using evidence known to be false.
- 162. Issuing or signing false evidence.
- 163. Using as true a certificate known to be false.
- 164. False statement in declaration which is by law receivable as evidence.

165. False translation.

166. Destruction of document to prevent its production as evidence.

Screening of Offenders

167. Causing disappearance of evidence of offence or giving false information to screen offender.

168. Taking gratification to screen an offender from punishment.

169. Offering gratification in consideration of screening offender.

170. Penalty for harbouring robber or brigand.

Resistance to Arrest, and Escape

171. Resistance or obstruction to lawful arrest of another person.

172. Resistance or obstruction by a person to his lawful arrest or escape.

173. Resistance or obstruction to lawful arrest or escape, in cases not provided for by section 172.

Fraudulent Dealings with Property

174. Fraudulent removal of property to prevent lawful seizure or execution.

175. Fraudulently suffering decree for sum not due.

176. Fraudulently obtaining decree for sum not due.

177. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.

Miscellaneous

178. Giving false information respecting an offence.

179. False personation.

- 180. False charge of offence made with intent to injure.
- 181. Taking gift to help to recover stolen property.
- 182. Influencing course of justice.

CHAPTER XIII

Public Nuisance

- 183. Public nuisance defined.
- 184. Adulteration of food or drink intended for sale.
- 185. Sale of food or drink not corresponding to description.
- 186. Sale of adulterated food or drink.
- 187. Sale of noxious food or drink.
- 188. Adulteration of drugs.
- 189. Sale of adulterated drugs.
- 190. Sale of drug as a different drug or preparation.
- 191. Fouling water of public well or reservoir.
- 192. Making atmosphere noxious to health.
- 193. Exhibition of false light, mark or buoy.
- 194. Obstruction in public way or line of navigation.
- 195.
- 196. Negligent conduct causing danger to person or property.
- 197. Negligent conduct with respect to animal.
- 198. Punishment for public nuisance in cases not otherwise provided for.

- 199. Continuance of nuisance after injunction to discontinue.
- 200. Obscene or indecent acts.
- 201. Keeping a brothel.
- 202. Sale of obscene books, etc.
- 203. Obscene songs, etc.

CHAPTER XIV

Lotteries and Gaming Houses

- 204. Definitions in Chapter XIV.
- 205. Keeping gaming house or lottery office.
- 206. Offences relating to lotteries.

CHAPTER XV

Cruelty to Animals

- 207. Ill-treatment of domestic animals.
- 208. Over-riding and neglect of animal.
- 209. Power to order temporary custody or destruction of animal.

CHAPTER XVI

Offences relating to Religion

- 210. Insulting or exciting contempt of religious creed.
- 211. Injuring or defiling place of worship.
- 212. Disturbing religious assembly.
- 213. Committing trespass on place of worship or burial.

CHAPTER XVII

Offences relating to Ordeal, Witchcraft and Juju

- 214. Trial by ordeal.
- 215. Unlawful juju.
- 216. Offences relating to witchcraft and juju.
- 217. Criminal charms.
- 218. Cannibalism.
- 219. Unlawful possession of human head.

CHAPTER XVIII

Offences affecting the Human Body

Offences affecting Life

- 220. Culpable homicide defined.
- 221. Culpable homicide punishable with death.
- 222. When culpable homicide is not punishable with death.
- 223. Culpable homicide by causing death of person other than person whose death was intended.
- 224. Culpable homicide not punishable with death.
- 225. Death caused when intention is to cause hurt only.
- 226. Death caused in act of committing offence.
- 227. Abetment of suicide of child or insane person.
- 228. Abetment of suicide.

229. Attempts to commit culpable homicide.

230. Attempt to commit culpable homicide not punishable with death.

231. Attempt to commit suicide.

*Causing Miscarriage, Injuries to Unborn Children, Exposure of Infants,
Cruelty to Children and Concealment of Births*

232. Causing miscarriage.

233. Death caused by act done with intent to cause miscarriage.

234. Causing miscarriage unintentionally.

235. Act done with intent to prevent child being born alive or to cause it to die after birth.

236. Causing death of quick unborn child by act amounting to culpable homicide.

237. Abandonment of child under twelve years.

238. Cruelty to children.

239. Concealment of birth.

Hurt

240. Hurt defined.

241. Grievous hurt defined.

242. Voluntarily causing hurt defined.

243. Voluntarily causing grievous hurt defined.

244. Voluntarily causing hurt on provocation.

245. Voluntarily causing grievous hurt on provocation.

- 246. Voluntarily causing hurt without provocation.
- 247. Voluntarily causing grievous hurt without provocation.
- 248. Voluntarily causing hurt or grievous hurt by dangerous means.
- 249. Causing hurt by means of poison with intent to commit an offence.
- 250. Voluntarily causing hurt to extort property or to constrain to an illegal act.
- 251. Voluntarily causing hurt to extort confession or to compel restoration of property.
- 252. Voluntarily causing hurt or grievous hurt to deter public servant from his duty.
- 253. Causing hurt by act endangering life or personal safety of others.

Wrongful Restraint and Wrongful Confinement

- 254. Wrongful restraint defined.
- 255. Wrongful confinement defined.
- 256. Wrongful restraint.
- 257. Wrongful confinement.
- 258. Wrongful confinement after warrant or order or writ issued for production or liberation.
- 259. Wrongful confinement in secret.
- 260. Wrongful confinement to extort property or constrain to illegal act.
- 261. Wrongful confinement to extort confession or compel restoration of property.

Criminal Force and Assault

- 262. Force defined.
- 263. Criminal force defined.
- 264. Assault defined.
- 265. Punishment for assault or criminal force without provocation.
- 266. Punishment for assault or criminal force with provocation.
- 267. Assault or criminal force to deter public servant from discharge of his duty.
- 268. Assault or criminal force to woman with intent to outrage modesty.
- 269. Assault or criminal force in attempt to commit theft of property carried by a person.
- 270. Assault or criminal force in attempt wrongfully to confine a person.

Kidnapping, Abduction and Forced Labour

- 271. Kidnapping defined.
- 272. Abduction defined.
- 273. Punishment for kidnapping.
- 274. Kidnapping or abducting in order to commit culpable homicide.
- 275. Procuration of minor girl.
- 276. Importation of girl from foreign country.
- 277. Concealing or keeping in confinement kidnapped or abducted person.
- 278. Buying or selling minor for immoral purpose.
- 279. Buying or disposing of slave.

280 Unlawful compulsory labour.

281 Traffic in women.

Rape and Unnatural and Indecent Offences against the Person

282. Rape defined.

283. Punishment for rape.

284. Unnatural offences.

285. Acts of gross indecency.

CHAPTER XIX

Offences against Property

Theft

286. Theft defined.

287. Punishment for theft.

288. Theft in dwelling-house, etc.

289. Theft by clerk or servant of property in possession of master.

289. Theft after preparing to cause death, hurt or restraint in order to commit theft.

Extortion

291. Extortion defined.

292. Punishment for extortion.

293. Putting person in fear of injury in order to commit extortion.

294. Extorting by putting a person in fear of death or grievous hurt.

295. Extortion by threat of accusation of an offence punishable with death.

Robbery and Brigandage

296. Robbery defined.

297. Brigandage defined.

298. Punishment for robbery.

299. Punishment for attempted robbery.

300. Voluntarily causing hurt in committing robbery.

301. Brigandage.

302. Brigandage with culpable homicide punishable with death.

303. Robbery or brigandage with deadly weapon or with grievous hurt.

304. Attempt to commit brigandage.

305. Belonging to gang of brigands.

306. Belonging to gang of thieves.

307. Assembling for purpose of committing brigandage.

Criminal Misappropriation

308. Criminal misappropriation defined.

309. Punishment for criminal misappropriation.

310. Criminal misappropriation of property possessed by deceased person at the time of his death.

Criminal Breach of Trust

311. Criminal breach of trust defined.

- 312. Punishment for criminal breach of trust.
- 313. Criminal breach of trust by carrier, etc.
- 314. Criminal breach of trust by clerk or servant.
- 315. Criminal breach of trust by public servant or by banker, merchant or agent.

Receiving Stolen Property

- 316. Stolen property defined.
- 317. Dishonestly receiving stolen property.
- 318. Dishonestly receiving property stolen in the commission of brigandage.
- 319. Possession of thing reasonably suspected of being stolen.
- 319A. Possession of thing reasonably suspected of having been stolen.

Cheating

- 320. Cheating defined.
- 321. Cheating by personation defined.
- 322. Punishment for cheating.
- 323. Cheating person whose interest offender is bound to protect.
- 324. Cheating by personation.
- 325. Cheating and dishonestly inducing delivery of property.

Mischief

- 326. Mischief defined.
- 327. Punishment for mischief.

- 328.
- 329. Mischief by killing or maiming animal.
- 330. Mischief by killing or maiming cattle, etc.
- 331. Mischief in relation to water supply.
- 332. Mischief by injury to public road, bridge, river or channel.
- 333. Mischief by inundation or obstruction to public drainage.
- 334. Mischief in relation to electricity, telegraphs and telephones.
- 335. Mischief by destroying or moving a public landmark.
- 336. Mischief by fire or explosive with intent to cause damage.
- 337. Mischief by fire or explosive with intent to destroy house, etc.
- 338. Mischief to vessel.
- 339. Mischief by fire to vessel.
- 340. Running vessel aground or ashore with intent to commit theft.
- 341. Mischief committed after preparation made for causing death or hurt.

Criminal Trespass

- 342. Criminal trespass defined.
- 343. House trespass defined.
- 344. Lurking house trespass defined.
- 345. Lurking house trespass by night defined.
- 346. House breaking defined.
- 347. House breaking by night defined.

- 348. Punishment for criminal trespass.
- 349. Punishment for house trespass.
- 350. House trespass to commit offence punishable with death.
- 351. House trespass to commit offence punishable with fourteen years imprisonment.
- 352. House trespass to commit offence punishable with imprisonment.
- 353. Lurking house trespass or house breaking.
- 354. Lurking house trespass or house breaking in order to commit offence punishable with imprisonment.
- 355. Lurking house trespass or house breaking by night.
- 356. Lurking house trespass or house breaking by night to commit offence punishable with imprisonment.
- 357. Joint liability for lurking house trespass or house breaking by night where death or grievous hurt caused.
- 358. Breaking open receptacle containing property.
- 359. Breaking open receptacle by person entrusted with custody.
- 360. Lurking with house breaking implements.
- 361. Fabrication of false key or instrument.

CHAPTER XX

Forgery

- 362. Making a false document defined.
- 363. Forgery and forged document defined.

- 364. Punishment for forgery.
- 365. Forgery of public seals, etc.
- 366. Using as genuine a forged document.
- 367. Making or possessing counterfeit seal with intent to commit forgery.
- 368. Possession of forged record.
- 369. Counterfeiting device or mark used for authenticating documents.
- 370. Fraudulent cancellation or destruction of document of title.
- 371. Falsification of accounts.

Property and Other Marks

- 372. Property mark defined.
- 373. Using a false property mark defined.
- 374. Punishment for using a false property mark.
- 375. Counterfeiting a property mark used by another.
- 376. Counterfeiting a mark used by a public servant.
- 377. Making or possession of any instrument for counterfeiting a property mark.
- 378. Making a false mark upon any receptacle containing goods.
- 379. Making use of any such false mark.
- 380. Tampering with property mark.

CHAPTER XXI

Criminal Breach of Contracts of Service

381.

382.

CHAPTER XXII

Offences relating to Marriage and Incest

383.

384.

385.

386.

387. Adultery by a man.

388. Adultery by a woman.

389. Enticing or taking away or detaining with criminal intent a married woman.

390. Incest.

CHAPTER XXIII

Defamation

391. Defamation defined.

393. Injurious falsehood.

394. Printing or engraving matter known to be defamatory.

395. Sale of printed or engraved substance containing defamatory matter.

CHAPTER XXIV

Criminal Intimidation, Insult and Annoyance and Drunkenness

- 396. Criminal intimidation defined.
- 397. Punishment for criminal intimidation.
- 398. Criminal intimidation by an anonymous communication.
- 399. Use of insulting or abusive language, etc.
- 400. Word, gesture or act intended to insult the modesty of a woman.
- 401. Drunkenness in a public place.
- 402. Drunkenness in private place.
- 403. Drinking alcoholic drink.
- 404. Effect of previous convictions under sections 401, 402 or 403.

CHAPTER XXV

Vagabonds

- 405. Definitions in Chapter XXV.
- 406. Penalty on conviction as idle person.
- 407. Penalty on conviction as vagabond.
- 408. Penalty on conviction as incorrigible vagabond.
- 409. Evidence of intent to commit an offence.

PENAL CODE LAW

CHAPTER 1

General Explanations and Definitions

- 1. **Sense of expression once explained**

Every expression, which is explained in any part of this Penal Code, is used in every part of this Penal Code in conformity with the explanation, unless the subject or sense of the context otherwise requires.

2. Gender

The pronoun "he" and its derivatives are used of any person whether male or female.

3. Number

Unless the contrary appears from the context, words importing the singular number include the plural number and words importing the plural number include the singular number.

4. Man, woman

The word "man" denotes a male human being of any age and the word "woman" denotes a female human being of any age.

5. Person

(1) The word "**person**" includes any company or association or body of persons, whether incorporated or not.

(2) A child becomes a person when it has been born alive whether it has breathed or not, and whether the umbilical cord is severed or not.

6. Public

The words "**the public**" include any class or section of the public.

7. Magistrate

The word "**magistrate**" denotes a magistrate under the Criminal Procedure Code.

[Cap. C23.]

8. Court of Justice

"Court of Justice" includes every civil or criminal court established by any Act or Law or deemed to be so established and every person or body of persons exercising judicial functions in the State by virtue of any Act or Law and shall also include every court martial held in the State under the military law in force in the State.

9. Judicial proceedings

"Judicial proceedings" includes any proceeding in the course of which it is lawful to take evidence on oath.

10. Public servant

The words "**public servant**" denote a person falling under any of the descriptions hereinafter following, that is to say—

- (a) every person appointed by the Government or the Government of the Federation or of a State while serving in the State or by any local government council and every person serving in the State appointed by a servant or agent of any such Government or council for the performance of public duties whether with or without remuneration or for the performance of a specific public duty while performing that duty;
- (b) every person not coming within the description set forth in paragraph (a) who is in the service of the Government or of any local government council in a judicial or quasi-judicial, executive, administrative or clerical capacity;
- (c) every commissioned officer of the Nigeria armed forces;
- (d) every assessor or other person assisting a court of justice or a public servant exercising judicial or quasi-judicial

functions, while acting in that capacity;

- (e) every arbitrator or other person to whom any cause or matter has been referred for decision or report by any court of justice or by any other competent public authority, while acting in that capacity;
- (f) every officer or other person not being a member who is appointed to perform any duty in connection with the discharge of its functions by any body forming part of the Legislature of the State;
- (g) every person who is in the service of any public corporation established by any Act or Law.

Explanation 1. In this section "**public duties**" include duties to be performed for the protection, preservation or promotion of the public health, order, safety or convenience and duties to be performed for the protection of the pecuniary interests of or for carrying on the work of the Government or of any local government council.

Explanation 2. The expression "**public servant**" applies to every person who is in actual occupation of the post of a public servant whatever legal defect there may be in his right to hold such post.

[NS LN 6 of 1989.]

11. **Armed forces, military affairs**

The term "armed forces" includes army, naval and air forces and the term "**military affairs**" includes affairs relating to naval and air forces and defences.

12. **Movable property**

The words "**movable property**" include corporeal property of every description except land and things attached to the earth or permanently

fastened to anything which is attached to the earth.

13. Wrongful gain

"Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

14. Wrongful loss

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

15. Gaining wrongfully, losing wrongfully

A person is said to gain wrongfully when such person retains wrongfully as well as when such person acquires wrongfully, and a person is said to lose wrongfully when such person is wrongfully kept out of any property as well as when such person is wrongfully deprived of property.

16. Dishonestly

A person is said to do a thing "**dishonestly**" who does that thing with the intention of causing a wrongful gain to himself or another or of causing wrongful loss to any other person.

17. Fraudulently

A person is said to do a thing "**fraudulently**" or "**with intent to defraud**" who does that thing with intent to deceive and by means of such deceit to obtain some advantage for himself or another or to cause loss to any other person.

18. Reason to believe

A person is said to have "**reason to believe**" a thing if he has sufficient cause to believe that thing but not otherwise.

19. Likely, probable

(1) An act is said to be "likely" to have a certain consequence or to cause a certain effect if the occurrence of that consequence or effect would cause no surprise to a reasonable man.

(2) An effect is said to be a "probable" consequence of an act if the occurrence of that consequence would be considered by a reasonable man to be the natural and normal effect of the act.

20. Property in possession of wife, clerk or servant

When property is in the possession of a person's wife, clerk or servant on account of that person, it is in that person's possession within the meaning of this Penal Code.

Explanation. A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

21. Counterfeit

A person is said to "**counterfeit**" who causes one thing to resemble another thing intending by means of that resemblance to practise deception or knowing it to be likely that deception will thereby be practised.

Explanation 1. It is not essential to counterfeiting that the resemblance should be exact.

Explanation 2. When a person causes one thing to resemble another thing and the resemblance is such that a person might be deceived thereby, it shall be presumed until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.

22. Writing document

The word "**writing**" denotes any marks made upon paper or other

substance to express words or ideas, and includes marks made by printing, lithography, photography, engraving or any other process; and the word "**document**" signifies any writing intended to be used or which may be used as evidence of the matter thereby expressed.

23. Document of title

The words "**document of title**" denote a document which is or purports to be a document whereby a legal right is created, extended, transferred, restricted, extinguished or released, or whereby the existence or the extinction of a legal right is acknowledged or established.

24. Words referring to acts include illegal omissions

In every part of this Penal Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

25. Act, omission

The word "**act**" denotes a series of acts as well as a single act and the word "**omission**" denotes a series of omissions as well as a single omission.

26. Effect caused partly by act and partly by omission

Wherever the causing of a certain effect or an attempt to cause that effect by an act an omission is an offence, it is to be understood that the causing of that effect or the attempt to cause that effect partly by an act and partly by an omission is the same offence.

27. Voluntarily

A person is said to cause an effect "**voluntarily**" when he causes it by means whereby he intended to cause it or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration. *A person sets fire by night to an inhabited house for the purpose of facilitating a robbery and thus causes the death of a person in the house. Here, A may not have intended to cause death and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.*

28. Offence

Except where otherwise appears from the context, the word "**offence**" includes an offence under any law for the time being in force.

29. Illegal

Everything which is prohibited by law and which is an offence or which furnishes ground for a civil action is said to be "**illegal**".

30. Legally bound to do

A person is said to be "**legally bound to do**" not only whatever he is bound by law to do but also everything the omission to do which by him is an offence or furnishes ground for a civil action.

31. Injury

The word "**injury**" denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.

32. Life, death

The words "**life**" and "**death**" denote the life or death of a human being unless it otherwise appears from the context.

33. Animal

The word "**animal**" does not include a human being.

34. Vessel

The word "**vessel**" denotes anything made for the conveyance by water of human beings or of property.

35. Year, month

Whenever the word "**year**" or the word "**month**" is used, it is to be understood that the year or the month is to be reckoned according to the Gregorian calendar.

36. Oath

The word "**oath**" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.

37. Good faith

Nothing is said to be done or believed in good faith which is done or believed without due care and attention.

38. Provocation

Such grave and sudden provocation as under any section of this Penal Code modifies the nature of an offence or mitigates the penalty which may be inflicted shall not be deemed to include—

- (i) provocation sought or voluntarily provoked by the offender as an excuse for committing an offence;
- (ii) provocation given by anything done in obedience to the law or by a public servant in the lawful exercise of the powers of such public servant;
- (iii) provocation given by anything done in the lawful exercise of the right of private defence.

Illustrations. (a) *A is lawfully arrested by Z, a police officer. A, excited to sudden and violent passion by the arrest kills Z. A is not protected by subsection (1) of section 222.*

(b) *A appears as a witness before Z, a magistrate. Z says that he does not believe a word of A's evidence. A provoked thereby causes hurt to Z. He is punishable under 246 and not under section 244.*

(c) *A attempts to pull Z's nose. Z in self defence lays hold of A. A provoked thereby attacks Z and causes him grievous hurt. A is punishable under section 247 and not under section 245.*

39. Invalid consents

A consent is not such a consent as is intended by any section of this Penal Code, if the consent is given—

- (a) by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or
- (b) by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or
- (c) by a person who is under fourteen years of age.

40. Harbour

A person is said to "**harbour**" another person who has committed or intends to commit an offence or who is seeking to evade arrest when he supplies that other with shelter, food, drink, money, clothes, arms, ammunition, or means of conveyance, or assists that other in any way to evade arrest.

41. Government

The word "**Government**" means the Government of the State.

42. Foreign government

The words "**foreign government**" mean any government other than any government within the Federation of Nigeria.

[NS LN 6 of 1989.]

CHAPTER II

Criminal Responsibility

43. Common knowledge

A person is presumed, unless the contrary is proved, to have knowledge of any material fact is a matter of common knowledge.

44. Presumption of knowledge of an intoxicated person

A person who does an act in a state of intoxication is presumed to have the same knowledge as he would have had if he had not been intoxicated.

45. Act done by person justified by law

Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be justified by law in doing it.

Illustrations, (a) A an officer of a court of justice being ordered by that court to arrest Y and after due enquiry believing Z to be Y arrests Z. A has committed no offence.

(b) A sees Z commit what appears to A to be culpable homicide. A in the exercise to the best of his judgment exerted in good faith of the power which the law gives to all persons of arresting murderers seizes Z in order to bring him before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

46. Act of Court of Justice

Nothing is an offence which is done by a person when acting judicially as a Court of Justice or as a member of a Court of Justice in the exercise of any power which is or which in good faith he believes to be given to him by law.

47. Act done pursuant to the judgement or order of Court

Nothing which is done in pursuance of or which is warranted by the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding that the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

48. Accident in doing a lawful act

Nothing is an offence which is done by accident or misfortune and without any criminal intention or knowledge in the course of doing a lawful act in a lawful manner by lawful means and with proper care and caution.

49. Act likely to cause injury, but done without criminal intent and to prevent other injury or to benefit person injured

(1) Nothing is an offence by reason of an injury which it may cause or be intended by the doer to cause or be known by the doer to be likely to cause, if it be done without any criminal intention to cause injury and in good faith for the purpose of preventing or avoiding other injury to person or property or of benefiting the person to whom injury is or may be caused:

Provided—

- (i) that, having regard to all the circumstances of the case, the doing of the thing was reasonable; and
- (ii) that, where the circumstances so require, the thing is done

with reasonable care and skill.

(2) This section shall not apply to the intentional causing of death or to the attempting to cause death in order to prevent or avoid injury to property only except as is provided for in section 66.

(3) The death of a person shall under no circumstances be deemed to be for the benefit of that person.

(4) Mere pecuniary benefit is not benefit within the meaning of this section.

Illustrations, (a) *A passenger train travelling at a high speed is approaching a stationary passenger train upon the same line of rails. A railway employee, as the only means of preventing a collision which would probably involve the lives of many passengers, switches the moving train into a siding. The employee is not guilty of an offence if in all the circumstances his act was reasonable, although a fatal though less serious accident will probably result and a fatal accident in fact occurs.*

(b) *A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property—*

Here, if it is found that in the circumstances A's act was reasonable, A is not guilty of an offence.

(c) (i) *A surgeon knowing that a particular operation is likely to cause the death of Z, who suffers from a painful complaint, but not intending to cause Z's death and intending in good faith Z's benefit performs that operation. Z dies in consequence of the operation. If the operation is one which in all the circumstances it was reasonable for A to perform and it is performed with reasonable care and skill, A has committed no offence.*

(ii) *If through drunkenness the operation is performed unskillfully, A is not protected by this section.*

(iii) *Whether Z (or some competent person on his behalf) has consented to the operation or not, is a material circumstance in judging whether it was reasonable to perform the operation.*

(d) *Z is seized by a crocodile. A fires at the crocodile not intending to kill Z and in good faith intending Z's benefit. In fact A kills Z. A has committed no offence.*

50. Act of child

No act is an offence which is done—

(a) by a child under seven years of age; or

(b) by a child above seven years of age but under twelve years of age who has not attained sufficient maturity of understanding to judge the nature and consequence of such act.

51. Act of a person of unsound mind

Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

52. Involuntary intoxication

Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication caused by something administered to him without his knowledge or against his will, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law.

53. Act not intended to cause death or grievous hurt done by consent

(1) No act is an offence by reason of the injury it has caused to the person or property of any person who, being above the age of eighteen years, has voluntarily and with understanding given his consent express or implied to that act.

(2) This section shall not apply to acts which are likely to cause death or grievous hurt, nor to acts which constitute offences independently of any injury which they are capable of causing to the person who has given his consent or to his property.

54. Act not intended to cause death done by consent for a person's benefit

Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

55. Correction of child, pupil, servant or wife

(1) Nothing is an offence which does not amount to the infliction of grievous hurt upon any person and which is done—

- (a) by a parent or guardian for the purpose of correcting his child or ward such child or ward being under eighteen years of age;
- (b) by a schoolmaster for the purpose of correcting a child under eighteen years of age entrusted to his charge; or
- (c) by a master for the purpose of correcting his servant or apprentice such servant or apprentice being under eighteen years of age; or
- (d) by a husband for the purpose of correcting his wife such

husband and wife being subject to any native law or custom in which such correction is recognised as lawful.

(2) No correction is justifiable which is unreasonable in kind or in degree, regard being had to the age and physical and mental condition of the person on whom it is inflicted; and no correction is justifiable in the case of a person who, by reason of tender years or otherwise, is incapable of understanding the purpose for which it is inflicted.

56. Communication made in good faith

No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration. A, a surgeon in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

57. Act to which a person is compelled by threats

Except culpable homicide and offences against the state punishable with death, no act is an offence which is done by a person who is compelled to do it by threats which at the time of doing it reasonably cause the apprehension that instant death to that person will otherwise be the consequence:

Provided that the person doing the act did not, of his own accord or from apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such compulsion.

58. Act causing slight harm

Nothing is an offence by reason that it causes or that it is intended to cause or that it is likely to cause any injury if that injury is so slight that no person of ordinary sense and temper would complain of such injury.

The Right of Private Defence

59. Things done in private defence

Nothing is an offence which is done in the lawful exercise of the right of private defence.

60. Right of private defence

Every person has a right, subject to the restrictions hereinafter contained, to defend—

- (a) his own body and the body of any other person against any offence affecting the human body;
- (b) the property whether movable or immovable of himself or of any other person against any act, which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass or which is an attempt to commit theft, robbery, mischief or criminal trespass.

61. Right of private defence against act of a person of unsound mind, etc.

When an act, which would otherwise be a certain offence is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations, (a) *Z under the influence of madness attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.*

(b) *A enters by night a house which he is legally entitled to enter. Z, in good faith taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of*

private defence against Z, which he would have if Z were not acting under that misconception.

62. General limit of right of private defence

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

63. No right of private defence when protection of public authorities available

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

64. Limitation of right of private defence against act of public servant

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done or attempted to be done—

- (a) by a public servant doing an act justifiable in law and in good faith; or
- (b) by the direction of a public servant acting lawfully and in good faith.

Explanation. A person is not deprived of the right of private defence against an act done or attempted to be done—

- (a) by a public servant as such unless he knows or has reason to believe that the person doing that act is such public servant; or
- (b) by the direction of a public servant, unless he knows or has reason to believe that the person doing the act is acting by such direction or unless such person states the authority under which he acts or, if he has authority in writing,

unless he produces such authority if demanded.

65. When right of private defence of the body extends to causing death

The right of private defence of the body extends, under the restrictions mentioned in sections 62 and 63, to the voluntary causing of death only when the act to be repelled is of any of the following descriptions, namely—

- (a) an attack which causes reasonable apprehension of death or grievous hurt; or
- (b) rape or an assault with the intention of gratifying unnatural lust; or
- (c) abduction or kidnapping.

66. When right of private defence of property extends to causing death

The right of private defence of property extends, under the restrictions mentioned in sections 62 and 63, to the voluntary causing of death only when the act to be repelled is of any of the following descriptions, namely—

- (a) robbery; or
- (b) house-breaking by night; or
- (c) mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling or as a place for the custody of property; or
- (d) theft, mischief, or house-trespass in such circumstances as may reasonably cause apprehension that, if such right of private defence is not exercised, death or grievous hurt will be the consequence.

67. Right of private defence against deadly assault when there is risk of harm to innocent person

If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration. *A is attacked by a mob which attempts to kill him. He cannot effectually exercise his right of private defence without firing on the mob and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.*

CHAPTER III

Punishments and Compensation

68. Punishments

(1) The punishments to which offenders are liable under the provisions of this Penal Code are—

- (a) death;
- (b) forfeiture of property;
- (c) imprisonment;
- (d) detention in a reformatory;
- (e) fine;
- (f) caning.

(2) Offenders who are of the Muslim faith may in addition to the punishments specified in subsection (1) be liable to the punishment of Haddi lashing as prescribed by Islamic law for offences contrary to sections 387, 388, 392, 393, 401, 402, 403 and 404 of this Penal Code.

(3) Nothing in this section shall prevent a court dealing with an

offender in accordance with the Probation of Offenders Law.

[Cap. P9.]

69. Limitation on punishments

No sentence of imprisonment shall be passed on any person who in the opinion of the Court is under fourteen years of age.

70. Fractions of terms of punishment

In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years.

71. Special provision for juvenile offenders

When an accused person who has completed his seventh but not completed his eighteenth year of age is convicted by a court of any offence the court may, instead of passing the sentence prescribed by law, deal with such accused person in accordance with the provisions of the Children and Young Persons Law.

[Cap. C10.]

72. Amount of fine

Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited but shall not exceed the jurisdiction of the court imposing it and shall not be excessive.

73. Sentence of imprisonment for non-payment of fine

Whenever an offender is sentenced to a fine whether with or without imprisonment under this Penal Code the court which sentences the offender may direct by the sentence that, in default of payment of the fine, the offender shall be committed to prison for a certain term, which term shall be in excess of any other term of imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

74. Imprisonment in default of payment of fine

If an offence is punishable with fine or with imprisonment and fine the court may direct that in default of payment the offender be imprisoned for any term not exceeding the maximum fixed in the following scale, that is to say—

Where the fine— period of im-	The prisonme nt shall not exceed—
does not exceed one thousand naira.....	one month;
exceeds one thousand naira and does not exceed two thousand naira	three months;
exceeds two thousand naira and does not exceed five thousand naira	six months;
exceeds five thousand naira and does not exceed ten thousand naira	nine months;
exceeds ten thousand naira and does not exceed twenty thousand naira	one year;
exceeds twenty thousand naira and does not exceed forty thousand naira	two years;
exceeds forty thousand naira.....	three years.

[No. 4 of 2006.]

75. Fine not discharged by death or service of sentence in default of payment

Where a fine or any part thereof remains unpaid the offender or his estate, if he is dead, is not discharged from liability to pay the fine or the

unpaid part thereof notwithstanding that he has served a term of imprisonment in default of payment of the fine.

76. Limit of punishment when act within definition of more than one offence or when offence made up of several offences

When the same act falls within the definition of more than one offence or when an offence consists of a series of acts each of which or any one or more of which constitutes the same or some other offence, the offender shall not, unless it be otherwise expressly provided, be punished with a more severe punishment than the court which tries him could award for any one of such offences.

Illustrations, (a) A gives Z fifty strokes with a stick. Here A can be punished for one beating only, although each blow may by itself constitute an offence.

(b) But, if while A is beating Z, Y interferes and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z and to another for the blow given to Y.

77. Caning

(1) A sentence of caning may be passed by any court whether trying a case summarily or otherwise on any male offender in lieu of or in addition to any other punishment to which he might be sentenced for any offence not punishable with death.

(2) Without prejudice to the provisions of this Law, a sentence of caning shall not be passed on a female offender.

78. Compensation

Any person who is convicted of an offence under this Penal Code may be adjudged to make compensation to any person injured by his offence and such

compensation may be either in addition to or in substitution for any other punishment.

CHAPTER IV

Joint Acts

79. Acts done by several persons in furtherance of common intention

When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

80. When such an act is criminal by reason of its being done with a criminal knowledge or intention

Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

81. Co-operation by doing one of several acts constituting an offence

When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations, (a) A and B agree to kill Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to kill Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of culpable homicide and, as each of them does one or more of the several acts by which death is caused, they are both guilty of the offence, though their acts are separate and though the acts of one without the

acts of the other would not have caused death.

(b) A and B are joint jailors and as such have the charge of Z a prisoner alternately for six hours at a time. A and B intending to cause Z's death knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of culpable homicide.

(c) A, a jailor, has the charge of Z a prisoner. A intending to cause Z's death illegally omits to supply Z with food; in consequence of which Z is much reduced in strength but the starving is not sufficient to cause his death. A is dismissed from his office and B succeeds him. B without collusion or co-operation with A illegally omits to supply Z with food, knowing that he will probably thereby cause Z's death. Z dies of hunger. B is guilty of culpable homicide; but as A did not co-operative with B, A is guilty only of an attempt to commit culpable homicide.

82. Persons concerned in criminal act may be guilty of different offences

Where several persons are engaged or concerned in the commission of a criminal act each person may be guilty of a different offence or offences by means of that act.

Illustration. *A attacks Z in such circumstances of grave provocation that his killing of Z would be only culpable homicide not punishable with death. B, having ill-will towards Z and intending to kill him and not having been subject to provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of culpable homicide punishable with death and A is guilty only of culpable homicide not punishable with death.*

CHAPTER V

Abetment

83. Abetment defined

A person abets the doing of a thing, who—

- (a) instigates any person to do that thing; or
- (b) engages with one or more other person or persons in any conspiracy for the doing of that thing; or
- (c) intentionally aids or facilitates by any act or illegal omission the doing of that thing.

Explanation. A person who by wilful misrepresentation or by wilful concealment of a material fact which he is bound to disclose voluntarily causes or procures or attempts to cause or procure a thing to be done instigates the doing of that thing within the meaning of this chapter.

Illustrations, (a) *A is authorised by a warrant from a court of justice to arrest Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z and thereby intentionally causes A to arrest C Here B abets by instigation the arrest of C*

(b) *A, a policeman, bound as such to give information of all designs to commit robbery and knowing that Z intends to commit a robbery illegally omits to give information of Z's intention, knowing that the commission of the robbery is likely to be thereby facilitated. Here A has abetted the robbery.*

84. Abetment of offence defined

A person abets an offence who abets either the commission of an offence or the commission of an act which would be an offence, if committed with the same intention or knowledge as that of the abettor by a person capable by law of committing an offence.

Explanation 1. The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2. To constitute the offence of abetment, it is not necessary that the act abetted should be committed or that the effect requisite to constitute the offence should be caused.

Illustrations, *(a) A instigates B to kill C. B refuses to do so. A is guilty of abetting B to commit culpable homicide.*

(b) A instigates B to kill D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit culpable homicide.

Explanation 3. It is not necessary that the person abetted should be capable by law of committing an offence or that he should have the same guilty intention or knowledge as that of the abettor or any guilty intention or knowledge.

Illustrations, *(a) A, with a guilty intention, abets a child or a lunatic in committing an act which would be an offence, if committed by a person capable by law of committing an offence and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.*

(b) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession in good faith believing it to be A's property. B acting under this misconception does not take dishonestly and therefore does not commit theft. But A is guilty of abetting theft and is liable to the same punishment as if B had committed theft.

Explanation 4. The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration. *A instigates B to instigate C to kill Z. B accordingly instigates C to kill Z and C kills Z in consequence of B's instigation. B is liable to be punished for his offence with the punishment for culpable homicide; and, as A instigated B to commit the offence, A is also liable to the same punishment.*

Explanation 5. It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it; it is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration. *A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison but without mentioning A's name. C agrees to procure the poison and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been killed, C has therefore committed the offence defined in this section and is liable to the punishment for culpable homicide.*

85. Abetment if the act abetted is committed in consequence and where no express provision is made for its punishment

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment and no express provision is made by this Penal Code or by any other law for the time being in force for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation. An act or offence is said to be committed in consequence of abetment when it is committed in consequence of the instigation or in pursuance of the conspiracy or with the aid which constitutes the abetment.

Illustrations, *(a) A instigates B to give false evidence. B in consequence of the instigation commits that offence. A is guilty of abetting that offence and is liable to the same punishment as B.*

(b) A and B conspire to poison Z. A in pursuance of the conspiracy procures the poison and delivers it to B in order that he may administer it to Z. B in pursuance of the conspiracy administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of culpable homicide. A is guilty

of abetting that offence by conspiracy and is liable to the punishment for culpable homicide.

86. Abetment if person abetted does act with different intention from that of abettor

Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

87. Liability of abettor when one act abetted and different act done

When an act is abetted and a different act is done and the act done was a probable consequence of the abetment and was committed under the influence of the instigation or in pursuance of the conspiracy or with the aid which constitutes the abetment, the abettor is liable for the act done in the same manner and to the same extent as if he had directly abetted it.

Illustrations, (a) A instigates a child to put poison into the food of Z and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation and the act done was in the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery and provides them with arms for that purpose. B and C break into the house and being resisted by Z, one of the inmates, kill Z. Here, if that killing was the probable consequence of the abetment, A is liable to the punishment provided for culpable homicide.

88. Abettor when liable to cumulative punishment for act abetted and for

act done

If the act for which the abettor is liable under section 87 is committed in addition to the act abetted and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

89. Liability of abettor for an effect caused by the act abetted different from that intended by abettor

When an act is abetted with the intention on the part of the abettor of causing a particular effect and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Explanation. The abettor shall not be liable under this section to be sentenced to death, unless he knew that death would be the probable effect of the act abetted.

Illustration. *A instigates B to cause grievous hurt to Z. B in consequence of the instigation causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for culpable homicide.*

90. Abettor present when offence committed liable as principal

Whenever any person who if absent would be liable to be punished as an abettor is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

91. Abetment of offence punishable with death or imprisonment for life if offence not committed

(1) Whoever abets the commission of an offence punishable with

death or imprisonment for life shall, if that offence be not committed in consequence of the abetment and no express provision is made by this Penal Code or by any other Act or Law for the time being in force for the punishment of such abetment, be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(2) If the abettor is a public servant whose duty it is to prevent the commission of such offence, he shall be liable to imprisonment for a term which may extend to fifteen years and shall also be liable to fine.

[No. 4 of 2006.]

Illustration. *A instigates B to kill Z. The offence is not committed. If B had killed Z, B would have been liable to the punishment of death. Therefore A is liable to imprisonment for a term which may extend to seven years or, if he is a public servant whose duty it is to prevent the killing, to ten years and also in any event to a fine.*

92. Abetment of offence punishable with imprisonment if offence is not committed

(1) Whoever abets an offence punishable with imprisonment shall, if that offence is not committed in consequence of the abetment and no express provision is made by this Penal Code or by any other Act or Law for the time being in force for the punishment of such abetment, be punished with imprisonment for a term which may extend to one fourth part of the longest term provided for that offence or with such fine as is provided for that offence or with both.

(2) If the abettor is a public servant whose duty it is to prevent the commission of such offence, he shall be punished with imprisonment for a term which may extend to one half of the longest term provided for that offence or with such fine as is provided for the offence or with both.

Illustration. *A, a policeman, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is*

liable to one half of the longest term of imprisonment provided for that offence and also to fine.

93. Abetting commission of offence by the public or by more than ten persons

Whoever abets the commission of an offence by the public generally or by any member thereof or class of persons exceeding ten, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

94. Administering unlawful oath

Whoever administers, or takes, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence shall be punished—

- (a) with imprisonment for a term which may extend to seven years or with fine or with both; and
- (b) if the offence is an offence punishable with death, with imprisonment for life or for any less term or with fine or with both.

CHAPTER VI

Attempts to Commit Offences

95. Attempting to commit offences punishable with imprisonment

Whoever attempts to commit an offence punishable with imprisonment or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence shall, where no express provision is made by this Penal Code or by any other Act or Law for the time being in force for the punishment of such attempt, be punished with imprisonment for a term which may extend to one half of the longest term provided for that offence or with such fine as is provided for the offence or with both.

Illustrations, (a) *A makes an attempt to steal some jewels by breaking open a box and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft and therefore is guilty under this section.*

(b) *A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.*

CHAPTER VII

Criminal Conspiracy

96. Criminal conspiracy defined

(1) When two or more persons agree to do or cause to be done—

(a) an illegal act; or

(b) an act which is not illegal by illegal means,

such an agreement is called a criminal conspiracy.

(2) Notwithstanding the provisions of subsection (1), no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation 1. It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

Explanation 2. This section shall not apply to an agreement of two or more persons to do or cause to be done any act in contemplation or furtherance of a trade dispute if such act committed by one person would not be punishable as an offence.

Explanation 3. Nothing in this section shall exempt from punishment

any persons guilty of a conspiracy for which a punishment is provided by any Act or other Law.

97. Punishment for criminal conspiracy

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death or with imprisonment shall where no express provision is made in this Penal Code for the punishment of such a conspiracy be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment for a term not exceeding one year or with fine or with both.

[No. 4 of 2006.]

97A. Unlawful society defined

A society is an unlawful society if declared by an order of the Governor to be a society dangerous to the good government of the State or any part thereof.

97B. Management or membership of unlawful society

Whoever manages or is a member of an unlawful society shall be punished with imprisonment for a term which may extend to ten years or with fine or with both.

[No. 4 of 2006.]

CHAPTER VIII

Breach of Official Trust

98. Breach of official trust defined

Whoever, by reason or by means of his employment as a public servant acquires any information in respect of which he is under an obligation of

secrecy express or implied and at any time communicates or attempts to communicate such information to any person to whom the same ought not in the public interest to be communicated at that time, is said to commit a breach of official trust.

99. Punishment for breach of official trust

Whoever commits a breach of official trust shall—

- (a) if the communication is made or attempted to be made to the agent of a foreign government, be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine; and
- (b) in any other case shall be punished with imprisonment for a term which may extend to two years and fine.

[No. 4 of 2006.]

CHAPTER IX

Offences against the Public Peace

100. Unlawful assembly defined

An assembly of five or more persons is designated an unlawful assembly if the common object of the persons composing that assembly is—

- (a) to over-awe by criminal force or show of criminal force the Government or the Government of the Federation or any Government of Nigeria or any public servant in the exercise of his lawful powers; or
- (b) to resist the execution of any law or of any legal process; or
- (c) to commit any mischief or criminal trespass or other

offence of any kind whatsoever; or

- (d) by means of criminal force or show of criminal force to enforce any right or supposed right; or
- (e) by means of criminal force or show of criminal force to compel any person to do what he is not legally bound to do or to omit to do what he is legally entitled to do.

Explanation. An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

[NN 13 of 1965.]

101. Member of unlawful assembly defined

Whoever being aware of facts which render any assembly an unlawful assembly intentionally joins that assembly or continues in it is said to be a member of an unlawful assembly.

102. Punishment for membership of unlawful assembly

Whoever is a member of an unlawful assembly shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

103. Joining unlawful assembly armed with deadly weapon

Whoever being a member Of an unlawful assembly is armed with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

104. Joining or continuing in unlawful assembly knowing it has been commanded to disperse

Whoever joins or continues in an unlawful assembly knowing that such

unlawful assembly has been lawfully commanded to disperse, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

105. Rioting defined

Whenever force or violence is used by an unlawful assembly or by any member thereof in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

106. Punishment for rioting

Whoever is guilty of rioting shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

107. Rioting armed with deadly weapon

Whoever is guilty of rioting being armed with a deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

[No. 4 of 2006.]

108. Every member of unlawful assembly guilty of offence committed in prosecution of common object

If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, every person, who at the time of the committing of that offence is a member of the assembly, is guilty of that offence.

109. Promoter of an unlawful assembly liable as a member

Whoever promotes or does any act with intent to assist the promotion of an unlawful assembly, shall be punishable as a member of such unlawful assembly and for any offence which may be committed by any member thereof in the same manner as if he had himself been a member of such unlawful

assembly.

110. Joining or continuing in assembly of five or more persons knowing that it has been commanded to disperse

Whoever joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace knowing that such assembly has been lawfully commanded to disperse, shall be punished with imprisonment for a term which may extend to one month or with fine not exceeding one thousand naira.

[No. 4 of 2006.]

Explanation. If the assembly is an unlawful assembly within the meaning of section 100, the offender will be punishable under section 104.

111. Wearing and carrying of emblem, flag, etc.

Whoever wears, carries or displays in public any emblem, flag, article of clothing or other token or device in such manner or on such occasion or in such circumstances as—

- (a) to constitute an offence under any other section of this Penal Code, or of any other subsisting Act or Law; or
- (b) to cause or to be likely to cause annoyance to the public or any section thereof, or a breach of the peace, or disturbance of the public peace, or the commission of an offence,

shall be punished with imprisonment for a term which may extend to six months or with fine or with both, and in addition the emblem, flag, article of clothing or other token or device in respect of which an offence under this section has been committed shall be liable to forfeiture.

112. Assaulting or obstructing public servant when suppressing riot, etc.

Whoever assaults or threatens to assault or obstructs or attempts to obstruct any public servant in the discharge of his duty as such public servant

in endeavouring to disperse an unlawful assembly or to suppress a riot or affray, or uses or threatens or attempts to use criminal force to such public servant, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

113. Disturbance of public peace

Whoever in a public place disturbs the public peace shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to two thousand naira or with both.

[NN 11 of 1964, No. 4 of 2006.]

114. Inciting disturbance

Whoever does any act with intent to cause or which is likely to cause a breach of the peace or disturb the public peace shall be punished with imprisonment which may extend to three years or with fine which may extend to five thousand naira or with both.

[NN 11 of 1964, No. 4 of 2006.]

CHAPTER X

Offences by or relating to Public Servants

115. Public servants taking gratification in respect of official act

Whoever being or expecting to be a public servant accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatever whether pecuniary or otherwise, other than lawful remuneration, as a motive or reward—

- (a) for doing or forbearing to do any official act; or
- (b) for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person; or
- (c) for rendering or attempting to render any service or

diservice to any person with any department of the public service or with any public servant as such,

shall be punished—

- (i) with imprisonment for a term which may extend to seven years or with fine or with both;
- (ii) if such public servant is a public servant in the service of the Government of the State or of the Government of the Federation acting in a judicial capacity or carrying out the duties of a police officer, with imprisonment for a term which may extend to fourteen years or with fine or with both.

Explanation 1. If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office and that he will serve them, he may be guilty of cheating but he is not guilty of an offence under this section.

Explanation 2. A public servant who receives a gratification as a motive for doing what he does not intend to do or as a reward for doing what he has not done, is guilty of an offence under this section.

Illustrations, (a) *A, an Area Court Judge obtains from Z a merchant a situation in Z's office for A's brother as a reward to A for deciding a suit in favour of Z. A has committed an offence under this section.*

(b) *A, a Local Government Officer, accepts a sum of money from a large land-owner. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act or for rendering or attempting to render any particular service to the land-owner. But it does appear that A accepted the sum as a motive or reward for showing general favour in the exercise of his official functions to the land owner. A has committed an offence under this section.*

(c) A, a public servant, induces Z erroneously to believe that A 's influence with the Government has obtained for Z the position of messenger and thus induces Z to give A money as a reward for this service. A has committed an offence under this section.

116. Taking gratification in order to influence public servant

Whoever accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatever whether pecuniary or otherwise as a motive or reward for inducing by corrupt or illegal means any public servant—

- (a)* to do or forbear to do any official act; or
- (b)* in the exercise of the official functions of such public servant to show favour or disfavour to any person; or
- (c)* to render or attempt to render any service or disservice to any person with any department of the public service or with any public servant as such,

shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

117. Abetment by public servant of offence mentioned in section 116

Whoever being a public servant, in respect of whom an offence under section 116 is committed, abets the offence, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

118. Offering or giving gratification to public servant

Whoever offers or gives or agrees to give any gratification whatever whether pecuniary or otherwise in the circumstances and for any of the purposes mentioned in sections 115 and 116 shall be punished with imprisonment which may extend to three years or with fine or with both.

119. Public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant

Whoever being a public servant accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person any valuable thing without consideration or for a consideration which he knows to be inadequate—

- (a) from any person whom he knows to have been or to be or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant or having any connection with the official functions of himself or of any public servant to whom he is subordinate; or
- (b) from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

[No. 4 of 2006.]

Illustrations. (a) *A, a local government officer hires a house of Z, who has a boundary case pending before him. It is agreed that A shall pay twenty naira a month the house being such that, if the bargains were made in good faith, A would be required to pay fifty naira a month. A has obtained a valuable thing from Z without adequate consideration.*

(b) *Z's brother is arrested and taken before A an Area Court Judge on a charge of perjury. A sells to Z an old cow for twenty naira when its market value is only five naira. The money so obtained by A is a valuable thing obtained by him without adequate consideration.*

120. Offering or giving valuable thing without consideration

Whoever in any of the circumstances mentioned in section 119 offers or

gives or agrees to give to any public servant or to any person, in whom a public servant is interested or to whom he is related, any valuable thing without consideration or for a consideration which he knows to be inadequate, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

121. Third person profiting by gratification

Whoever knowingly profits by any gratification or benefit obtained in any of the circumstances mentioned in section 115, 116 or 119 but does not take any active part in obtaining such gratification or benefit, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

[No. 4 of 2006.]

122. Public servant dishonestly receiving money or property not due

Whoever being a public servant in his capacity as such dishonestly receives from any person any money or other property which he is not authorised to receive or which is in excess of the amount which he is authorised to receive, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

123. Public servant disobeying direction of law with intent to cause injury or to save person from punishment or property from forfeiture

Whoever being a public servant knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant intending thereby or knowing himself to be likely thereby—

- (a) to cause injury to any person or to the public; or
- (b) to save any person from legal punishment or to subject him to a less punishment than that to which he is liable or to delay the imposition on any person of any legal

punishment; or

- (c) to save any property from forfeiture or from any seizure or charge to which it is liable by law or to delay the forfeiture or seizure of any property or the imposition or enforcement of any charge upon any property,

shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

124. Public servant framing incorrect document with intent to cause injury

Whoever, being a public servant, and being as such public servant charged with the preparation or translation of any document, frames or translates that document in a manner which he knows and believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

125. Public servant in judicial proceeding acting contrary to law

Whoever being a public servant knowing that he is likely to cause injury to any person or intending unlawfully to give any person an advantage makes or pronounces in any stage of a judicial proceeding any report, order, judgment or decision which he knows to be contrary to law, shall be punished with imprisonment for a term which may extend to ten years.

[No. 4 of 2006.]

126. Wrongful committal or confinement by public servant

Whoever, being a public servant authorised by law to commit persons for trial or to confinement or to keep persons in confinement, commits any person for trial or to confinement or keeps any person in confinement—

- (a) knowing that he is acting contrary to law; and
- (b) knowing that he is likely to cause injury to any person or intending unlawfully to give any person an advantage,

shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

127. Public servant omitting to arrest or aiding escape

Whoever, being a public servant whose duty it is as such public servant to arrest any person or to keep any person in confinement or custody, intentionally omits to arrest such person or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement or custody, shall be punished as follows, that is to say—

- (a) with imprisonment for a term which may extend to fourteen years with or without fine, if such person is under sentence of death; or
- (b) with imprisonment for a term which may extend to seven years with or without fine, if such person is under sentence of imprisonment for a term of ten years or upwards or is charged with or liable to be arrested for an offence punishable with death; or
- (c) with imprisonment for a term which may extend to three years or with fine or with both, if such person is under sentence of imprisonment for a term not extending to ten years or is charged with or liable to be arrested for an offence punishable with imprisonment for a term which

may extend to ten years; or

- (d) with imprisonment for a term which may extend to two years or with fine or with both, in any case not above specified.

128. Public servant omitting to arrest or permitting to escape

Whoever, being a public servant whose duty it is as such public servant to arrest any person or to keep any person in confinement or custody, negligently omits to arrest that person or negligently suffers that person to escape from confinement or custody, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

129. Public servant causing danger by omitting to perform duty

Whoever being a public servant wilfully omits to perform any duty pertaining to his office which he is legally bound to perform shall, if such omission causes or tends to cause danger to human life, health or safety or causes or tends to cause a riot, be punished with imprisonment for a term which may extend to two years or with fine or with both.

130. Abandonment of duty by public servant

Whoever being a public servant wrongfully abandons his duties in pre-arranged agreement with two or more other such public servants shall, if the intention or effect of such abandonment is to interfere with the performance of a public service to an extent which will cause injury or damage or grave inconvenience to the community, be punished with imprisonment for a term which may extend to two years or with fine or with both.

131. Public servant unlawfully purchasing property

Whoever, being a public servant and being legally bound as such public servant not to purchase or bid for certain property, purchases or bids for that property in his own name or in the name of another or jointly or in shares

with others, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

132. Personating a public servant

Whoever pretends to hold any particular office as a public servant knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

133. Wearing dress or carrying token used by public servant

Whoever not belonging to a certain class of public servant wears any dress or carries any token resembling any dress or token used by that class of public servant with the intention that it may be believed that he belongs to that class of public servant, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

CHAPTER XI

Contempt of the Lawful Authority of Public Servants

134. Absconding to avoid service of summons, notice or order

Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent as such public servant to issue such summons, notice or order, shall be punished—

- (a) with imprisonment for a term which may extend to one month or with fine which may extend to one thousand naira or with both; or
- (b) if the summons or notice or order is to attend in person or by agent or to produce a document in a court of justice,

with imprisonment for a term which may extend to three months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

135. Preventing service or publication of summons, etc.

Whoever in any manner—

- (a) intentionally prevents the serving on himself or on any other person of any summons, notice or order proceeding from any public servant legally competent as such public servant to issue such summons, notice or order; or
- (b) intentionally prevents the lawful affixing to any place of any such summons, notice or order; or
- (c) intentionally removes any such summons, notice or order from any place to which it is lawfully affixed; or
- (d) intentionally prevents the lawful making of any proclamation under the authority of any public servant legally competent as such public servant to direct such proclamation to be made, shall be punished—
 - (i) with imprisonment for a term which may extend to one month or with fine which may extend to one thousand naira or with both; or
 - (ii) if the summons, notice, order or proclamation is to attend in person or by agent or to produce a document in a court of justice with imprisonment for a term which may extend to three months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

136. Failure to attend in obedience to an order from public servant

Whoever, having been required by a summons, notice, order or proclamation proceeding from any public servant legally competent as such public servant to issue the same to attend in person or by agent at a certain time and place, intentionally and without reasonable cause refuses or omits to attend at the place and time or departs from that place before the time at which it is lawful for him to depart, shall be punished—

- (a) with imprisonment for a term which may extend to one month or with fine which may extend to one thousand naira or with both; or
- (b) if the summons, notice, order or proclamation is to attend in person or by agent in a court of justice, with imprisonment for a term which may extend to three months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

137. Failure to produce document to public servant

Whoever, having been required by a summons, notice, order or proclamation proceeding from a public servant legally competent as such public servant to issue the same to produce or deliver up any document or other thing, intentionally omits so to produce or deliver up the same, shall be punished—

- (a) with imprisonment for a term which may extend to one month or with fine which may extend to one thousand naira or with both; or
- (b) if the document is to be produced or delivered up to a court of justice, with imprisonment for a term which may extend to three months or with fine which may extend to two

thousand naira or with both.

[No. 4 of 2006.]

138. Failure to give notice or information to public servant

Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished—

- (a) with imprisonment for a term which may extend to one month or with fine which may extend to two thousand naira or with both; or
- (b) if the notice or information required to be given is in respect of the commission of an offence or is required for the purpose of preventing the commission of an offence or in order to arrest an offender, with imprisonment for a term which may extend to three months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

139. Furnishing false information

Whoever, being legally bound to furnish information on any subject to any public servant as such, furnishes as true information on the subject which he knows or has reason to believe to be false, shall be punished—

- (a) with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both; or
- (b) if the information which he is legally bound to give is in respect of the commission of an offence or is required for the purpose of preventing the commission of an offence or in order to arrest an offender, with imprisonment for a

term which may extend to two years or with fine or with both.

[No. 4 of 2006.]

140. False information with intent to mislead public servant

Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause such public servant—

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

shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

Illustrations, (a) A informs a police officer that Z a policeman subordinate to such police officer has been guilty of neglect of duty or misconduct knowing such information to be false and knowing it to be likely that the information will cause the police officer to dismiss Z. A has committed an offence under this section.

(b) A falsely informs a public servant that Z has contraband goods in a secret place knowing such information to be false and knowing that it is likely that the consequence of the information will be a search of Z's premises attended with annoyance to Z. A has committed an offence under this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants but knows it to be likely that in

consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

141. Refusing oath or affirmation when duly required by public servant to make it

(1) Whoever refuses to bind himself by an oath or affirmation to state the truth when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

(2) The provisions of this section shall not apply to a witness in a judicial proceeding who, having been called upon to take an oath or make a solemn affirmation that he will speak the truth under subsection (1) of section 229 of the Schedule to the Criminal Procedure Code Law, refuses to take such oath or make such affirmation under the provisions of section 230 of the Schedule to the Criminal Procedure Code Law.

[Cap. C23.]

142. Refusing to answer public servant authorised to question

Whoever, being legally bound to answer questions put to him on any subject by any public servant in the exercise of the lawful powers of such public servant, refuses to answer any such question, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

143. Refusing to sign statement

Whoever refuses to sign any statement made by him when required to sign that statement by a public servant legally competent to require that he shall

sign that statement, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand naira or with both.

[No. 4 of 2006.]

144. Resistance to taking of property by lawful authority of public servant

Whoever offers any resistance to the taking of any property by the lawful authority of any public servant knowing or having reason to believe that he is such public servant, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

145. Obstructing sale of property offered for sale by authority of public servant

Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to one thousand naira or with both.

[No. 4 of 2006.]

146. Removing property under lawful seizure

Whoever, when any property has been attached or taken by the lawful authority of any public servant, knowingly and with intent to hinder or defeat the attachment or process receives, removes, retains, conceals, or disposes of such property, shall be punished with imprisonment for three years or with fine or with both.

147. Illegal purchase or bid for property offered for sale by authority of public servant

Whoever at any sale of property held by the lawful authority of a public servant as such purchases or bids for any property on account of any person

whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to one thousand naira or with both.

[No. 4 of 2006.]

148. Obstructing public servant in discharge of functions

Whoever voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

149. Obstructing public servant in discharge of duty under any written law

Whoever voluntarily obstructs any public servant in the discharge of his public functions under any written law or voluntarily obstructs any person engaged in the discharge of any duty imposed on him by any written law shall be punished with imprisonment which may extend to two years or with fine or with both.

150. Failing to assist public servant when bound by law to assist

Whoever, being legally bound to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

151. Contravention of residence order

Whoever being legally prohibited from residing in any district, or being legally ordered to reside in any district, intentionally disobeys any such

prohibition or order shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five thousand naira or with both.

[No. 4 of 2006.]

152. Disobedience to order duly promulgated by public servant

Whoever, knowing that by an order promulgated by a public servant legally empowered to promulgate such order he is directed to abstain from a certain act, or to take certain action with respect to certain property in his possession or under his management, disobeys such direction, shall—

- (a) if such disobedience causes or tends to cause obstruction, annoyance or injury or risk of obstruction, annoyance or injury to any person lawfully employed, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two thousand naira or with both;

[No. 4 of 2006.]

- (b) if such disobedience causes or tends to cause danger to human life, health or safety or causes or tends to cause a riot or affray, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five thousand naira or with both.

[No. 4 of 2006.]

153. Threat of injury to public servant

Whoever holds out any threat of injury to any public servant or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of the public functions of such public servant, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

154. Threat of injury to induce person to refrain from applying for protection to public servant

Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from applying for protection against any injury to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

155. Intentional insult or interruption to public servant sitting in judicial proceeding

Whoever intentionally offers any insult or causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

CHAPTER XII

False Evidence and Offences relating to the Administration of Justice

Offences relating to Evidence

156. Giving false evidence defined

Whoever, being legally bound by an oath or by any express provision of law to state the truth or being bound by law to make a declaration upon any subject, makes any statement, verbally or otherwise, which is false in a material particular and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1. A false statement as to the belief of the person attesting is within the meaning of this section and a person may be guilty of giving false

evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Explanation 2. A material particular within the meaning of this section means a particular which is material to any question then in issue or intended to be raised in that proceeding.

Illustrations, *(a) A, in support of a just claim which B has against Z for fifty naira, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.*

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief and is true as to his belief and therefore although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

157. Fabricating false evidence defined

Whoever causes any circumstance to exist or makes any false entry in any book or record or makes any document containing a false statement intending that such circumstance, false entry or false statement may appear in evidence or be used in a judicial proceeding or in a proceeding taken by law before a public servant as such or before an arbitrator and that such circumstance, false entry or false statement so appearing in evidence or so

used may cause any person, who in such proceeding is to form an opinion upon the circumstance, entry or statement, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said to fabricate false evidence.

Illustrations. *(a) A puts jewels into a box belonging to Z with the intention that they may be found in that box and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.*

(b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a court of justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting purporting to be addressed to an accomplice in such criminal conspiracy and puts the letter in a place which he knows that the police are likely to search. A has fabricated false evidence.

158. Punishment for false evidence

(1) Whoever intentionally gives false evidence in any stage of a judicial proceeding or fabricates false evidence for the purpose of its being used in any stage of a judicial proceeding shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

(2) Whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Illustration. *A, in an inquiry before a magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, A has given false evidence.*

159. Giving false evidence to procure conviction of capital offence

(1) Whoever gives or fabricates false evidence intending thereby to cause or knowing it to be likely that he will thereby cause any person to be convicted of an offence which is punishable with death shall be punished with imprisonment for a term which may extend to imprisonment for life and shall also be liable to fine.

(2) If an innocent person is convicted and executed in consequence of such false evidence, the person who gave or fabricated such false evidence shall be punished with death.

160. Giving false evidence to procure conviction of offence punishable with imprisonment

Whoever gives or fabricates false evidence intending thereby to cause or knowing it to be likely that he will thereby cause any person to be convicted of an offence which is not punishable with death but is punishable with imprisonment for a term of seven years or upwards shall be punished as a person convicted of that offence would be liable to be punished.

161. Using evidence known to be false

Whoever uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

162. Issuing or signing false evidence

Whoever issues or signs any certificate required by law to be given or signed or relating to any fact of which such certificate is legally admissible in evidence knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

163. Using as true a certificate known to be false

Whoever uses or attempts to use any certificate mentioned in section

162 as a true certificate knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

164. False statement in declaration which is by law receivable as evidence

(1) Whoever in any declaration made or subscribed by him, which declaration any court of justice or any public servant or other person is bound or authorised by law to receive as evidence of any fact, makes any statement, which is false and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

(2) Whoever uses or attempts to use as true any such declaration knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation. A declaration, which is admissible merely upon the ground of some informality, is a declaration within the meaning of this section.

165. False translation

Whoever knowingly makes a false translation of the evidence of a witness or of the statement of an accused person or of a party to a civil suit or makes a false translation or copy of any document with the intention that such translation or copy shall be used in any manner in any judicial proceeding or knowing that it is likely to be so used, and whoever knowingly uses such translation or copy in any manner in any judicial proceeding, shall be punished in the same manner as if he gave false evidence.

166. Destruction of document to prevent its production as evidence

Whoever secretes or destroys any document, which he may be lawfully compelled to produce as evidence in a court of justice or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the

same from being produced or used as evidence before such court or public servant as aforesaid or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Screening of Offenders

167. Causing disappearance of evidence of offence or giving false information to screen offender

Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of the offence to disappear with the intention of screening the offender from legal punishment, or with a like intention of intending to prevent his arrest gives any information respecting the offence which he knows or believes to be false or harbours or conceals a person whom he knows or has reason to believe to be the offender, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

Explanation. In this section the word "**offence**" includes any act done outside the State which if done in the State would be an offence and the punishment for the offence shall be deemed to be the same as the punishment would be if the act were done in the State.

Illustration. *A, knowing that B has murdered Z, assists Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment for five years and also to fine.*

168. Taking gratification to screen an offender from punishment

(1) Whoever accepts or attempts to obtain or agrees to accept any gratification for himself or any other person or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence or of his not

proceeding against any person for the purpose of bringing him to legal punishment, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

(2) This section shall not extend to any case in which the offence may lawfully be compounded.

Explanation. In this section the word "**offence**" includes any act done outside the State which if done in the State would be an offence and the punishment for the offence shall be deemed to be the same as the punishment would be if the act were done in the State.

169. Offering gratification in consideration of screening offender

(1) Whoever gives or causes or offers or agrees to give or cause any gratification to any other person or to restore or cause the restoration of any property to any other person, in consideration of that other person's concealing an offence or of his screening any person from legal punishment for any offence or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(2) This section shall not extend to any case in which the offence may lawfully be compounded.

Explanation. In this section the word "**offence**" includes any act done outside the State which if done in the State would be an offence and the punishment for the offence shall be deemed to be the same as the punishment would be if the act were done in the State.

170. Penalty for harbouring robber or brigand

Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or brigandage, harbours them or any of them with the intention of facilitating the commission of such robbery or brigandage or of screening them or any of them from punishment,

shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

[No. 4 of 2006.]

Explanation. For the purposes of this section it is immaterial whether the robbery or brigandage is intended to be committed or has been committed within the State or elsewhere.

Resistance to Arrest, and Escape

171. Resistance or obstruction to lawful arrest of another person

Whoever intentionally offers any resistance or illegal obstruction to the lawful arrest of any other person or rescues or attempts to rescue any other person from any confinement or custody in which that person is lawfully detained, shall be punished—

- (a) with imprisonment for a term which may extend to seven years or with fine or with both; and
- (b) if such other person is under sentence of death, shall be punished with imprisonment which may extend to imprisonment for life and shall also be liable to fine.

172. Resistance or obstruction by a person to his lawful arrest or escape

Whoever intentionally offers any resistance or illegal obstruction to the lawful arrest of himself for any offence with which he is charged or of which he has been convicted or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

173. Resistance or obstruction to lawful arrest or escape, in cases not provided for by section 172

Whoever in any case not provided for in section 172 intentionally offers

any resistance or illegal obstruction to the lawful arrest of himself or escapes or attempts to escape from any custody in which he is lawfully detained, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Fraudulent Dealings with Property

174. Fraudulent removal of property to prevent lawful seizure or execution

Whoever, with intent to prevent any property of himself or any other person or any interest therein—

- (a) from being taken as a forfeiture or in satisfaction of a fine under a sentence which has been pronounced or which he knows to be likely to be pronounced by a court of justice or other competent authority; or
- (b) from being taken in execution of a decree or order, which has been made or which he knows to be likely to be made by a court of justice; or
- (c) from being distributed according to law amongst the creditors of himself or such other person; or
- (d) from being available according to law for payment of the debts of himself or such other person,

dishonestly or fraudulently removes or conceals or assists in removing or concealing such property or dishonestly or fraudulently transfers, delivers or releases such property or any interest therein to any person or practices any deception touching the same or accepts or dishonestly or fraudulently accepts, receives or claims such property or any interest therein, knowing that he has no right or rightful claim thereto, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

Explanation. In this section "**property**" includes rights of action and property of every other description whether movable or immovable and whether corporeal or incorporeal.

175. Fraudulently suffering decree for sum not due

Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied or for anything in respect of which it has been satisfied, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

Illustration. *A institutes a suit against Z. Z knowing that A is likely to obtain a decree against him fraudulently suffers a judgment to pass against him for a large amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.*

176. Fraudulently obtaining decree for sum not due

Whoever fraudulently obtains a decree or order against any person for a sum not due or for a larger sum than is due or for any property or interest in property to which he is not entitled or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

177. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration

Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument, which purports to transfer or subject to any charge any property or any interest therein and which contains any false statement relating to the consideration for such transfer or charge or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Miscellaneous

178. Giving false information respecting an offence

Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

179. False personation

Whoever falsely personates another, whether that other is an actual or fictitious person, and in such assumed character makes any admission or statement, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

180. False charge of offence made with intent to injure

Whoever with intent to cause injury to any person institutes or causes to be instituted any criminal proceeding against that person or falsely charges any person with having committed an offence knowing that there is not just or lawful ground for such proceeding or charge against that person, shall be punished—

(a) with imprisonment for a term which may extend to two

years or with fine or with both; and

- (b) where such criminal proceeding is instituted on a false charge of an offence punishable with death or imprisonment for seven years or upwards, with imprisonment for a term which may extend to seven years or with fine or with both.

181. Taking gift to help to recover stolen property

Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence, shall, unless he uses all means in his power to cause the offender to be brought to justice, be punished with imprisonment for a term of not less than seven years, and not less than seven strokes of the cane.

Explanation. In this section the word "offence" includes any act done outside the State which if done in the State would be an offence.

182. Influencing course of justice

Whoever with intent to influence the course of justice in any civil or criminal proceeding does any act whereby the fair hearing, trial or decision of any matter in that proceeding may be prejudiced shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

CHAPTER XIII

Public Nuisance

183. Public nuisance defined

(1) A person is guilty of a public nuisance who does an act or is guilty of an illegal omission which causes any common injury, danger or annoyance

to the public or to the people in general who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

(2) Where premises on which a public nuisance has occurred are occupied by two or more persons in common each of such persons shall be liable to conviction on account of the nuisance in the absence of sufficient evidence that he has not been guilty of the offence.

Explanation 1. A public nuisance does not cease to be an offence because it causes some convenience or advantage.

Explanation 2. Whether an act or omission is a public nuisance is a matter of fact, which may depend on the character of the neighbourhood.

Illustration. *A powerful steam whistle sounded at intervals during the day, which might be a public nuisance in a residential quarter, may not be a public nuisance in a manufacturing quarter.*

184. Adulteration of food or drink intended for sale

Whoever adulterates any article of food or drink or abstracts from any article of food or drink any part thereof so as to affect injuriously the quality, substance or nature, intending to sell such article as food or drink without notice to the purchaser or knowing that it is likely that the same will be sold as food or drink without notice to the purchaser, shall be punished with imprisonment for a term which may extend to two years or with fine not exceeding ten thousand naira.

[No. 4 of 2006.]

185. Sale of food or drink not corresponding to description

Whoever sells any article of food or drink which is not of the nature, substance and quality demanded by the purchaser or the article which the seller represents it to be, shall be punished with fine which may extend to five thousand naira.

[No. 4 of 2006.]

186. Sale of adulterated food or drink

Whoever sells or offers or exposes for sale any article of food or drink, with which any admixture has been fraudulently made to increase the bulk, weight or measure of such article or to conceal the inferior quality thereof, or any article of food or drink, from which any part has been intentionally abstracted so as to affect injuriously its quality, substance or nature, without notice to the purchaser, shall be punished with imprisonment for a term which may extend to one year or with fine not exceeding ten thousand naira or with both.

[No. 4 of 2006.]

187. Sale of noxious food or drink

Whoever sells or offers or exposes for sale as food or drink any article which has been rendered or has become noxious or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as or unfit for food or drink, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

188. Adulteration of drugs

Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation or to make it noxious, intending that it shall be sold or used for or knowing it to be likely that it will be sold or used for any medicinal purpose as if it had not undergone such adulteration, shall be punished with imprisonment for a term which may extend to five years or with fine which may extend to ten thousand naira or with both.

[No. 4 of 2006.]

189. Sale of adulterated drugs

Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy or change its operation or render it noxious, sells the same or offers or exposes it for sale or issues it from any dispensary for medicinal purposes as unadulterated or causes it to be used for medicinal purposes as unadulterated or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment for a term which may extend to five years or with fine which may extend to ten thousand naira or with both.

[No. 4 of 2006.]

190. Sale of drug as a different drug or preparation

Whoever knowingly sells or offers or exposes for sale or issues from a dispensary for medicinal purposes any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment for a term which may extend to five years or with fine which may extend to ten thousand naira or with both.

[No. 4 of 2006.]

191. Fouling water of public well or reservoir

Whoever voluntarily corrupts or fouls the water of any public well or reservoir or other public water supply so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment for a term which may extend to five years and with fine.

[No. 4 of 2006.]

192. Making atmosphere noxious to health

Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with imprisonment for a term which may extend to two years and with fine.

[No. 4 of 2006.]

193. Exhibition of false light, mark or buoy

Whoever exhibits any false light, mark or buoy intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

194. Obstruction in public way or line of navigation

Whoever by doing any act or by omitting to keep in order any property in his possession or under his charge causes obstruction to any person in any public way or public line of navigation, shall be punished with imprisonment which may extend to two years or with fine or with both.

195.

[No. 7 of 1976.]

196. Negligent conduct causing danger to person or property

Whoever does any act in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any person or property, or knowingly or negligently omits to take such order with any property or substance in his possession or under his control or with any operations under his control as is sufficient to guard against probable danger to human life from such property, substance or operations, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand naira or with both.

[No. 4 of 2006.]

197. Negligent conduct with respect to animal

Whoever knowingly or negligently omits to control any animal in his possession sufficiently to guard against any probable danger to human life or any probable danger of grievous hurt from such animal, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to five thousand naira or with both.

[No. 4 of 2006.]

198. Punishment for public nuisance in cases not otherwise provided for

Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with imprisonment for one year or with fine or with both.

199. Continuance of nuisance after injunction to discontinue

Whoever repeats or continues a public nuisance, having been ordered by any public servant who has lawful authority to give such order not to repeat or continue such nuisance, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

200. Obscene or indecent acts

Whoever to the annoyance of others does any obscene or indecent act in a public place, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

201. Keeping a brothel

Whoever keeps or manages a brothel shall be punished with imprisonment which may extend to two years or with fine or with both.

[No. 4 of 2006.]

202. Sale of obscene books, etc.

Whoever sells or distributes, imports or prints or makes for sale or hire or wilfully exhibits to public view any obscene book, pamphlet, paper, gramophone record, video recording or similar article, drawing, painting, representation or figure or attempts or offers so to do or has in his possession any such obscene book or other thing for the purpose of sale, distribution or public exhibition, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

[No. 4 of 2006.]

203. Obscene songs, etc.

Whoever to the annoyance of others sings, recites, utters or reproduces by any mechanical means any obscene song or words in or near any public place, shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

[No. 4 of 2006.]

CHAPTER XIV

Lotteries and Gaming Houses

204. Definitions in Chapter XIV

In this chapter—

"**lottery**" includes any game, method or device whereby money or money's worth is distributed or allotted in any manner depending upon or to be determined by chance or lot;

"**lottery ticket**" includes any paper, ticket, token or other article whatsoever, which either expressly or tacitly entitles or purports to entitle any person to receive any money or money's worth on the happening of any event or contingency connected with any public lottery;

"**public lottery**" means a lottery to which the public or any class of the public has, or may have, access, and every lottery shall, until the contrary is proved, be deemed to be a public lottery.

205. Keeping gaming house or lottery office

(1) Whoever keeps any house or place to which the public are admitted for the purpose of betting or playing any game of chance or keeps any office or place for the purpose of drawing any lottery or assists in the conduct of any such house or place or office shall be punished with imprisonment which may extend to two years or with fine or with both.

Provided always that nothing herein contained shall make illegal the use of a totalisator by a race club recognised by the Government at a race meeting, with the approval of the Commissioner.

(2) In this section the word "**totalisator**" means the instrument, machine or contrivance,' commonly known as a totalisator, and any other instrument, machine or contrivance of a like nature, or any scheme for enabling any number of persons to make bets with one another on the like principles.

206. Offences relating to lotteries

(1) Whoever—

- (a) gives or sells or offers for sale or delivers any lottery ticket or pays or receives directly or indirectly any money or money's worth for or in respect of any chance in or event or contingency connected with a public lottery; or
- (b) draws, throws, declares or exhibits expressly or otherwise the winner or winning number, ticket, lot, figure, design, symbol or other result of any public lottery; or
- (c) writes, prints, publishes, or causes to be written, printed, or published any lottery ticket or any announcement relating to a public lottery; or
- (d) advances, furnishes or receives money for the purpose of a public lottery,

shall be punished with imprisonment which may extend to six months or with fine or with both.

(2) Nothing in this section shall apply—

- (a) to the sale by raffle or lottery of articles exposed for sale at any gathering held for the purpose of raising funds in aid

of any institution of a public character where permission for such sale have been given in writing by the Governor;

- (b) to any lottery or sweepstake organised or controlled at or in connection with any race meeting held under the auspices of any race club or association in the State which has been exempted from the provisions of this section by the Governor by notice in the *State Gazette*;
- (c) to any club to which the Governor has granted a licence authorising a lottery to be promoted as an incident of entertainment by members of the club on the premises of the club and subject to any conditions contained in the licence;
- (d) to any lottery or sweepstake organised and controlled by any race club in the State to which the Governor may by notice in the *State Gazette* extend the provisions of this section, at or in connection with any race meeting held under the auspices of any such club or association.

CHAPTER XV

Cruelty to Animals

207. Ill-treatment of domestic animals

Whoever cruelly beats, tortures or otherwise wilfully illtreats any tame or domestic animal or any wild animal which has previously been deprived of its liberty or arranges, promotes or organises fights between cocks, rams or other domestic animals shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand naira or with both.

[No. 4 of 2006.]

208. Over-riding and neglect of animal

Whoever wantonly over-rides, over-drives or over-loads any animal or wantonly employs any animal, which by reason of age, sickness, wounds or infirmity is not in a condition to work, or neglects any animal in such a manner as to cause it unnecessary suffering, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

209. Power to order temporary custody or destruction of animal

On conviction of an offence under section 207 or section 208 the court may in addition to or in substitution for any other penalty make an order for the temporary custody by the police of the animal in respect of which such offence has been committed and may order the person convicted to pay such sum meanwhile as the court thinks fit for the maintenance and treatment of such animal and such sum shall be recoverable in the same manner as a fine inflicted under this Code; or, if such animal is suffering from incurable disease or injury, may order it to be destroyed.

CHAPTER XVI

Offences relating to Religion

210. Insulting or exciting contempt of religious creed

Whoever by any means publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of the peace, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

211. Injuring or defiling place of worship

Whoever destroys, damages or defiles any place of worship or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to

their religion, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

212. Disturbing religious assembly

Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

[No. 4 of 2006.]

213. Committing trespass on place of worship or burial

Whoever, with the intention of wounding the feelings of any person or of insulting the religion of any person or with the knowledge that the feelings of any person are likely to be wounded or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of burial or offers any indignity to any human corpse or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

CHAPTER XVII

Offences relating to Ordeal, Witchcraft and Juju

214. Trial by ordeal

Whoever presides or is present at any unlawful trial by ordeal shall be punished—

- (a) with imprisonment which may extend to ten years or with fine or with both; and
- (b) if such trial results in the death of any party to the proceeding shall be punished with death.

Explanation. The trial by any ordeal which is likely to result in the death of or bodily injury to any party to the proceeding is unlawful.

215. Unlawful juju

The Governor may by order declare the worship or invocation of any juju to be unlawful.

216. Offences relating to witchcraft and juju

Whoever—

- (a) by his statements or actions represents himself to be a witch or to have the power of witchcraft; or
- (b) accuses or threatens to accuse any person with being a witch or with having the power of witchcraft; or
- (c) makes or sells or uses, or has in his possession or represents himself to be in possession of any juju, drug or charm which is intended to be used or reported to possess the power to prevent or delay any person from doing an act which such person has a legal right to do, or to compel any person to do an act which such person has a legal right to refrain from doing, or which is alleged or reported to possess the power of causing any natural phenomenon or any disease or epidemic; or
- (d) presides at or is present at or takes part in the worship or invocation of any juju which has been declared unlawful under the provisions of section 215; or
- (e) is in possession of or has control over any human remains which are used or are intended to be used in connection with the worship or invocation of any juju; or
- (f) makes or uses or assists in making or using, or has in his

possession anything whatsoever the making, use or possession of which has been declared unlawful under the provisions of section 215,

shall be punished with imprisonment which may extend to two years or with fine or with both.

217. Criminal charms

Whoever knowingly has in his possession any fetish or charm which is pretended or reputed to possess power to protect a person in the committing of any offence shall be punished with imprisonment which may extend to five years or with fine or with both.

218. Cannibalism

Whoever knowingly eats or receives for the purpose of eating any part of a human corpse shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

219. Unlawful possession of human head

Whoever receives or has in his possession a human head or skull within six months of the same having been separated from the body or skeleton with the intention that such head or skull shall be possessed by any person as a trophy, juju or charm shall be punished with imprisonment which may extend to ten years or with fine or with both.

[No. 4 of 2006.]

Explanation. Where it is proved that a person received or had in his possession such human head or skull proof that he received or had such human head or skull in his possession for a lawful purpose shall lie on that person.

CHAPTER XVIII

Offences affecting the Human Body

Offences affecting Life

220. Culpable homicide defined

Whoever causes death—

- (a) by doing an act with the intention of causing death or such bodily injury as is likely to cause death; or
- (b) by doing an act with the knowledge that he is likely by such act to cause death; or
- (c) by doing a rash or negligent act,

commits the offence of culpable homicide.

Illustrations, (a) *A lays sticks and turf over a pit with the intention of thereby causing death or with the knowledge that death is likely to be thereby caused. Z believing the ground to be firm treads on it, falls in and is killed. A has committed the offence of culpable homicide.*

(b) *A knows Z to be behind a bush. B does not know it. A intending to cause or knowing it to be likely to cause Z's death induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.*

(c) *A, by shooting at a fowl with intent to kill and steal it kills B, who is behind a bush, A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide as he did not intend to kill B or cause death by doing an act that he knew was likely to cause death, but he may be guilty of culpable homicide not punishable with death if, in shooting at the fowl, he acted rashly or negligently.*

Explanation 1. A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity and thereby accelerates

the death of that other, shall be deemed to have caused his death.

Explanation 2. Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3. The causing of the death of a child in the mother's womb is not homicide; but it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, although the child may not have breathed or been completely born.

221. Culpable homicide punishable with death

Except in the circumstances mentioned in section 222 culpable homicide shall be punished with death—

- (a) if the act by which the death is caused is done with the intention of causing death; or
- (b) if the doer of the act knew or had reason to know that death would be the probable and not only a likely consequence of the act or of any bodily injury which the act was intended to cause.

Explanation. Whether death was the probable or only a likely consequence of an act or of any bodily injury, is a question of fact.

Illustrations. (a) *In illustrations (a) and (b) to section 220, if A's act is done with the intention of causing death the offence is culpable homicide punishable with death. If it is done with the knowledge that death is likely to be thereby caused, the offence may or may not be punishable with death according to whether death was the probable consequence or only a likely consequence of A's act.*

- (b) *A, knowing that Z is labouring under such a disease that a*

blow would probably cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of culpable homicide punishable with death, although the blow might not have been sufficient to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not ordinarily kill a person in a sound state of health, here A is not guilty of culpable homicide punishable with death unless he intended to cause death or such bodily injury as would probably cause death.

(c) A fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of culpable homicide punishable with death, although he may not have had a premeditated design to kill any particular individual.

222. When culpable homicide is not punishable with death

(1) Culpable homicide is not punishable with death if the offender whilst deprived of the power of self control by grave and sudden provocation causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

Explanation. Whether the provocation was grave and sudden enough to prevent the offence from amounting to culpable homicide punishable with death is a question of fact.

Illustrations. *(a) A, under the influence of passion excited by grave and sudden provocation given by Z, intentionally kills the child of Z. This is culpable homicide punishable with death, inasmuch as the provocation was not given by the child.*

(b) Y gives grave and sudden provocation to A. A on this provocation fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him but out of sight. A kills Z. Here A has committed culpable homicide not punishable with death.

(c) Z gives grave and sudden provocation to B who is thereby

excited to violent rage. A a bystander intending to take advantage of B's rage and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with his knife. Here B has committed culpable homicide not punishable with death but A is guilty of culpable homicide punishable with death.

(2) Culpable homicide is not punishable with death if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

(3) Culpable homicide is not punishable with death if the offender, being a public servant acting for the advancement of public justice or being a person aiding a public servant so acting exceeds the powers given to him by law and causes death by doing an act which he in good faith believes to be lawful and necessary for the due discharge of his duty as such public servant or for assisting such public servant in the due discharge of such duty and without ill will towards the person whose death is caused.

(4) Culpable homicide is not punishable with death if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation. It is immaterial in such cases which party first provokes the other or commits the first assault.

(5) Culpable homicide is not punishable with death when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

(6) Culpable homicide is not punishable with death where a woman intentionally causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind

was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child.

(7) Culpable homicide is not punishable with death when a person causes the death of another by doing any rash or negligent act.

223. Culpable homicide by causing death of person other than person whose death was intended

If a person by doing anything which he intends or knows to be likely to cause death commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

224. Culpable homicide not punishable with death

Whoever commits culpable homicide not punishable with death, shall be punished with imprisonment for life or for any less term or with fine or with both.

225. Death caused when intention is to cause hurt only

Whoever causes the death of any person by doing any act not amounting to culpable homicide but done with the intention of causing hurt or grievous hurt, shall be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

226. Death caused in act of committing offence

Whoever causes the death of any person by doing any act not amounting to culpable homicide which constitutes an offence punishable with imprisonment for one year or with any greater punishment or by any act done in committing such an offence, shall be punished with imprisonment for a

term which may extend to ten years or with fine or with both.

227. Abetment of suicide of child or insane person

If any person under eighteen years of age, any insane person, any delirious person, any idiot or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide shall be punished with death.

228. Abetment of suicide

If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

229. Attempts to commit culpable homicide

(1) Whoever does any act not resulting in death with such intention or knowledge and in such circumstances that if he by that act caused death, he would be guilty of culpable homicide punishable with death shall be punished with imprisonment for life or for any less term or with fine or with both.

(2) When any person being under sentence of imprisonment for life commits an offence under this section, he shall, if hurt is caused, be punished with death.

Illustrations. *(a) A shoots at Z with intention to kill him, in such circumstances that, if death ensued, A would be guilty of culpable homicide punishable with death. A is liable to punishment under this section.*

(b) A with the intention of causing the death of a child of tender years exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to kill Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section.

(d) *A intending to kill Z by poison, purchases poison and mixes it with food which remains in A's keeping; A has not yet committed the offence in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.*

230. Attempt to commit culpable homicide not punishable with death

Whoever does any act with such intention or knowledge and in such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not punishable with death, shall be punished—

- (a) with imprisonment for a term which may extend to five years or with fine or with both; or
- (b) if hurt is caused to any person by such act with imprisonment which may extend to ten years or with fine or with both.

[No. 4 of 2006.]

231. Attempt to commit suicide

Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

[No. 4 of 2006.]

*Causing Miscarriage, Injuries to Unborn Children, Exposure of Infants,
Cruelty to Children and Concealment of Births*

232. Causing miscarriage

Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

Explanation. A woman, who causes herself to miscarry, is within the

meaning of this section.

233. Death caused by act done with intent to cause miscarriage

Whoever with intent to cause the miscarriage of a woman whether with child or not does any act which causes the death of such woman, shall be punished—

- (a) with imprisonment for a term which may extend to fourteen years and shall also be liable to fine; and
- (b) if the act is done without the consent of the woman, with imprisonment for life or for any less term and shall also be liable to fine.

Explanation. It is not essential for an offence under this section that the offender should know that the act is likely to cause death.

234. Causing miscarriage unintentionally

Whoever uses force to any woman and thereby unintentionally causes her to miscarry, shall be punished—

- (a) with imprisonment for a term which may extend to three years or with fine or with both; and
- (b) if the offender knew that the woman was with child, he shall be punished with imprisonment for a term which may extend to five years and with fine.

[No. 4 of 2006.]

235. Act done with intent to prevent child being born alive or to cause it to die after birth

Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth and does by such act prevent that child from being born alive or causes it

to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

236. Causing death of quick unborn child by act amounting to culpable homicide

Whoever does any act in such circumstances that, if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment for life or for any less term and shall also be liable to fine.

Illustration. *A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured but does not die; but the death of a quick unborn child with which she is pregnant is thereby caused. A is guilty of an offence under this section.*

237. Abandonment of child under twelve years

Whoever being the father or mother or having the care of a child under the age of twelve years exposes or leaves such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment for a term which may extend to ten years or with fine or with both.

[No. 4 of 2006.]

Explanation. This section does not prevent the trial of the offender for culpable homicide if the child dies in consequence of the exposure or abandonment.

238. Cruelty to children

Whoever having the charge or care of a child under the age of fifteen years or being in a position of authority over him wilfully illtreats or neglects him in such a way as to cause him unnecessary suffering, shall be punished—

- (a) with imprisonment for a term which may extend to two years or with fine or with both; and
- (b) if the illtreatment or neglect results in serious injury to the health of such child, the offender shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

239. Concealment of birth

Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child dies before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

[No. 4 of 2006.]

Hurt

240. Hurt defined

Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

241. Grievous hurt defined

The following kinds of hurt only are designated as grievous—

- (a) emasculation;
- (b) permanent deprivation of the sight of an eye, of the hearing of an ear or the power of speech;
- (c) deprivation of any member or joint;
- (d) destruction or permanent impairing of the powers of any member or joint;

- (e) permanent disfiguration of the head or face;
- (f) fracture or dislocation of a bone or tooth;
- (g) any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain or unable to follow his ordinary pursuits.

242. Voluntarily causing hurt defined

Whoever does any act with the intention of thereby causing hurt to any person or with the knowledge that he is likely thereby to cause hurt to any person and does thereby hurt to any person is said voluntarily to cause hurt.

243. Voluntarily causing grievous hurt defined

Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt and if the hurt which he causes is grievous hurt, is said voluntarily to cause grievous hurt.

Explanation. A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if intending or knowing himself to be likely to cause grievous hurt of one kind he actually causes grievous hurt of another kind.

Illustration. *A, intending or knowing himself, to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.*

244. Voluntarily causing hurt on provocation

Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment for a term which may extend to three months or with fine

which may extend to two thousand naira or with both.

[No. 4 of 2006.]

245. Voluntarily causing grievous hurt on provocation

Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to three thousand naira or with both.

[No. 4 of 2006.]

246. Voluntarily causing hurt without provocation

Whoever, except in the case provided for by section 244, voluntarily causes hurt, shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to five thousand naira or with both.

[No. 4 of 2006.]

247. Voluntarily causing grievous hurt without provocation

Whoever, except in the case provided for by section 245, voluntarily causes grievous hurt, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

248. Voluntarily causing hurt or grievous hurt by dangerous means

(1) Whoever, except in the case provided for by section 244, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting or any instrument, which used as a weapon of offence is likely to cause death, or by means of fire or any heated substance or by means of electricity or by means of any corrosive or explosive substance or by the administration of any poisonous or deleterious substance or by means of any animal, shall be punished with imprisonment for a term which may extend to three years and with fine.

[No. 4 of 2006.]

(2) Whoever, except in the case provided for by section 245, voluntarily causes grievous hurt by any of the means mentioned in subsection (1) shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

249. Causing hurt by means of poison with intent to commit an offence

Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug or thing with intent to cause hurt to that person or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

250. Voluntarily causing hurt to extort property or to constrain to an illegal act

(1) Whoever voluntarily causes hurt for the purpose of extorting from the person hurt or from any person interested in the person hurt any property or document of title or of constraining the person hurt or any person interested in the person hurt to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

(2) Whoever for the like purpose voluntarily causes grievous hurt, shall be punished with imprisonment for a term which may extend to fourteen years and shall be liable to fine.

251. Voluntarily causing hurt to extort confession or to compel restoration of property

(1) Whoever voluntarily causes hurt for the purpose of extorting from the person hurt or any person interested in the person hurt any confession or any information which may lead to the detection of an offence

or misconduct or for the purpose of constraining the person hurt or any person interested in the person hurt to restore or to cause the restoration of any property or document of title or to satisfy any claim or demand or to give information which may lead to the restoration of any property or document of title, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(2) Whoever for the like purpose voluntarily causes grievous hurt, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

252. Voluntarily causing hurt or grievous hurt to deter public servant from his duty

(1) Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

(2) Whoever in the like circumstances with the like intent or for like reason voluntarily causes grievous hurt to any person being a public servant, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

253. Causing hurt by act endangering life or personal safety of others

(1) Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

(2) Whoever in like manner causes grievous hurt to any person, shall

be punished with imprisonment for a term which may extend to two years or with fine or with both.

Wrongful Restraint and Wrongful Confinement

254. Wrongful restraint defined

(1) Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said to restrain that person wrongfully.

(2) The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not within the meaning of this section.

Illustration. A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

255. Wrongful confinement defined

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said to confine that person wrongfully.

Illustrations, (a) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

256. Wrongful restraint

Whoever wrongfully restrains any person, shall be punished with imprisonment for a term which may extend to one month or with fine which

may extend to two thousand naira or with both.

[No. 4 of 2006.]

257. Wrongful confinement

Whoever wrongfully confines any person, shall be punished—

- (a) with imprisonment for a term which may extend to one year or with fine which may extend to five thousand naira or with both; and
- (b) if the wrongful confinement continues for three days or more with imprisonment for a term which may extend to three years or with fine or with both.

[No. 4 of 2006.]

258. Wrongful confinement after warrant or order or writ issued for production or liberation

Whoever keeps any person in wrongful confinement knowing that a warrant or order or writ for the production or liberation of that person has been duly issued, shall be punished with imprisonment for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this chapter.

259. Wrongful confinement in secret

Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined or to any public servant or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

260. Wrongful confinement to extort property or constrain to illegal act

Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any property or document of title or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

261. Wrongful confinement to extort confession or compel restoration of property

Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause (he restoration of any property or document of title or to satisfy any claim or demand or to give information which may lead to the restoration of any property or document of title, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Criminal Force and Assault

262. Force defined

A person is said to use force to another if he causes motion, change of motion or cessation of motion to that other or if he causes any substance to come into contact with any part of that other's body or with anything which that other is wearing or carrying or with anything so situated that such contact affects that other's sense of feeling where the person causing any effect above-mentioned, causes it—

(a) by his own bodily power; or

(b) by disposing any substance in such a manner that the effect

takes place without any further voluntary act on his part or on the part of any other person; or

(c) by means of any animal.

Illustrations. (a) *A unfastens the moorings of a boat in which Z is sitting so that the boat drifts down the river. A has caused motion to Z.*

(b) *A lashes the horse on which Z is riding so that the horse quickens his pace. A has caused change of motion to Z.*

(c) *A seizes the rein of Z's horse and stops the horse. A has caused cessation of motion to Z.*

(d) *A pushes against Z in the street. A has caused his own body to come into contact with Z.*

(e) *A throws a stone at Z and hits him.*

(f) *A rides past Z on a muddy road and splashes him.*

(g) *A pulls up the veil of Z, a woman.*

(h) *A pours boiling water into the bath in which Z is bathing. A has caused the boiling water to come into contact with the water in the bath, so as to affect Z's sense of feeling.*

In all the above cases, A has used force on Z.

263. Criminal force defined

Whoever intentionally uses force to any person without that person's consent—

(a) while preparing to commit any offence; or

(b) in the course of committing any offence; or

(c) intending by the use of such force to cause or knowing it to

be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used,

is said to use criminal force to that other.

264. Assault defined

Whoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation. Mere words do not amount to assault, but the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Illustrations. *(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault*

(b) A begins to untie the lead of a ferocious dog intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick saying to Z "I will give you a beating ". Here, though the words used by A could in no case amount to assault and though the mere gesture unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

265. Punishment for assault or criminal force without provocation

Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished—

- (a)* with imprisonment for a term which may extend to one year or with fine or with both; and

- (b) if grievous hurt is caused to any person by such assault or criminal force with imprisonment which may extend to three years or with fine or with both.

266. Punishment for assault or criminal force with provocation

Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

267. Assault or criminal force to deter public servant from discharge of his duty

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant or with intent to prevent or deter that person from discharging his duty as such public servant or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

268. Assault or criminal force to woman with intent to outrage modesty

Whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

269. Assault or criminal force in attempt to commit theft of property carried by a person

Whoever assaults or uses criminal force to any person in attempting to commit theft of any property which that person is then wearing or carrying, shall be punished with imprisonment for a term which may extend to three

years or with fine or with both.

270. Assault or criminal force in attempt wrongfully to confine a person

Whoever assaults or uses criminal force for any person in attempting wrongfully to confine that person, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Kidnapping, Abduction and Forced Labour

271. Kidnapping defined

Whoever takes or entices any person, under fourteen years of age if a male or under sixteen years of age if a female, or any person of unsound mind out of the keeping of the lawful guardian of such person without the consent of such guardian or conveys any such person beyond the limits of the State without the consent of someone legally authorised to consent to such removal is said to kidnap such person.

Explanation. The words "**lawful guardian**" in this section include any person lawfully entrusted with the care or custody of such person and authorised to consent to the taking.

272. Abduction defined

Whoever by force compels or by any deceitful means induces any person to go from any place, is said to abduct that person.

273. Punishment for kidnapping

Whoever kidnaps or abducts any person shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

274. Kidnapping or abducting in order to commit culpable homicide

Whoever kidnaps or abducts any person in order that such person may

be killed or may be so disposed of as to be put in danger of being killed, shall be punished—

- (a) with imprisonment for a term of not less than fifteen years; and
- (b) if the kidnapping or abduction results in the death of such person, with death.

275. Procuration of minor girl

Whoever, by any means whatsoever, induces any girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punished with imprisonment which may extend to ten years and shall also be liable to fine.

276. Importation of girl from foreign country

Whoever imports into the State from any country outside Nigeria any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punished with imprisonment which may extend to ten years and shall also be liable to fine.

277. Concealing or keeping in confinement kidnapped or abducted person

Whoever knowing that any person has been kidnapped or has been abducted wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person.

278. Buying or selling minor for immoral purpose

Whoever buys, sells, hires, lets to hire or otherwise obtains possession or disposes of any person under the age of eighteen years with intent that such person shall be employed or used for the purpose of prostitution or for any unlawful or immoral purpose or knowing it to be likely that such minor will

be employed or used for any such purpose, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

279. Buying or disposing of slave

Whoever imports, exports, removes, buys, sells, disposes, traffics or deals in any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

280. Unlawful compulsory labour

Subject to the provisions of the Trade Unions Act, whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

[No. 4 of 2006.]

281. Traffic in women

Whoever, in order to gratify the passions of another person, procures, entices or leads away, even with her consent, any woman or girl for immoral purposes shall be punished with imprisonment which may extend to seven years and shall also be liable to fine.

Rape and Unnatural and Indecent Offences against the Person

282. Rape defined

(1) A man is said to commit rape who, save in the case referred to in subsection (2), has sexual intercourse with a woman in any of the following circumstances—

- (a) against her will;
- (b) without her consent;

- (c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt;
- (d) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married;
- (e) with or without her consent, when she is under fourteen years of age or of unsound mind.

(2) Sexual intercourse by a man with his own wife is not rape, if she has attained to puberty.

Explanation. Mere penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

283. Punishment for rape

Whoever commits rape, shall be punished with imprisonment for life or for any less term and shall also be liable to fine.

284. Unnatural offences

Whoever has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

Explanation. Mere penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

285. Acts of gross indecency

Whoever commits an act of gross indecency upon the person of another without his consent or by the use of force or threats compels a person to join with him in the commission of such act, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Provided that a consent given by a person below the age of sixteen years to such an act when done by his teacher, guardian or any person entrusted with his care or education shall not be deemed to be a consent within the meaning of this section.

CHAPTER XIX

Offences against Property

Theft

286. Theft defined

(1) Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to take it is said to commit theft.

(2) Whoever dishonestly abstracts, diverts, consumes or uses any electricity or electric current is said to commit theft.

Explanation 1. A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2. A moving effected by the same act which effects the severance may be a theft.

Explanation 3. A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing as well as by actually moving it.

Explanation 4. A person, who by any means causes an animal to move, is said to move that animal and to move everything which in consequence of the motion so caused is moved by that animal.

Explanation 5. The consent mentioned in the definition may be express or implied and may be given either by the person in possession or by any

person having for that purpose authority either express or implied.

Illustrations. (a) *A cuts down a tree on Z's ground with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here as soon as A has severed the tree in order to take it, he has committed theft.*

(b) *A puts a bait for dogs in his pocket and thus induces Z's dog to follow him. Here, if A's intention is dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.*

(c) *A meets a camel carrying a box of treasure. He drives the camel in a certain direction in order that he may dishonestly take the treasure. As soon as the camel begins to move, A has committed theft of the treasure.*

(d) *Z going on a journey entrusts jewellery to A till Z shall return. A carries the jewellery to the market and sells it. Here the jewellery was not in Z's possession. It could not therefore be taken out of Z's possession and A has not committed theft, though he may have committed criminal breach of trust.*

(e) *A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession and if A dishonestly removes it A commits theft.*

(f) *A finds a ring lying on the road not in the possession of any person. A by taking it commits no theft, though he may commit criminal misappropriation of property.*

(g) *A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A at the time of first moving the ring commits theft.*

(h) A delivers a jewel to Z a jeweller to be re-set. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the jewel as a security, enters the shop openly, takes his jewel by force out of Z's hand and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft inasmuch as what he did was not done dishonestly.

(i) If A owes money to Z for re-setting the jewel and if Z retains the jewel lawfully as a security for the debt and A takes the jewel out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft inasmuch as he takes it dishonestly.

(j) A takes an article belonging to Z out of Z's possession without Z's consent with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(k) A, being on friendly terms with Z, goes into Z's house in Z's absence and takes away a cooking pot without Z's express consent with the intention of returning it after use. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's cooking pot. If this was A's impression, A has not committed theft.

(l) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorised to give away alms. If this was A's impression, A has not committed theft.

(m) A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to her husband Z and to be such property as she has not authority for Z to give. If A takes the property dishonestly, he commits theft.

(n) A in good faith, believing property belonging to Z to be A's own property, takes that property out of Z's possession. Here, as A does not

take dishonestly, he does not commit theft.

287. Punishment of theft

(1) Whoever commits theft shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

(2) Where—

(a) the value of the property stolen is below the sum of 100.00 naira; and

(b) the theft is not committed in any building or dwelling house,

the punishment shall be twelve strokes of the cane for the first offence and a fine of two thousand naira for subsequent offences.

[No. 4 of 2006.]

288. Theft in dwelling house, etc.

Whoever commits theft in or from any building, tent or vessel, which building, tent or vessel is used as a human dwelling or used for the custody of property, or in or from any railway carriage, lorry, omnibus or aircraft used for the conveyance of passengers or goods shall be punished with imprisonment for a term which may extend to ten years.

289. Theft by clerk or servant of property in possession of master

Whoever, being a clerk or servant or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

290. Theft after preparing to cause death, hurt or restraint in order to commit theft

Whoever commits theft having made preparation for causing death or hurt or restraint or fear of death or of hurt or of restraint to any person in order to commit such theft or in order to effect his escape after the committing of such theft or in order to retain property taken by such theft, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

Illustrations. *(a) A commits theft on property in Z's possession; while committing this theft he has a loaded pistol under his garment having provided this pistol for the purposes of hurting Z in case Z should resist. A has committed an offence under this section.*

(b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist or should attempt to arrest A. A has committed an offence under this section.

Extortion

291. Extortion defined

Whoever intentionally puts any person in fear of any injury to that person or to any other and thereby dishonestly induces the person so put in fear to deliver to any person any property or document of title or anything signed or sealed which may be converted into a valuable security, commits extortion.

Illustrations. *(a) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.*

(b) A threatens Z that he will keep Z's child in wrongful confinement unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send men to pull up Z's crops unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A by putting Z in fear of grievous hurt dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

(e) A, not pretending to be a judicial officer, usurps the functions of a court by unlawfully using his position in the community to force Z to pay a fine to him under threat of injury. A has committed extortion.

292. Punishment for extortion

Whoever commits extortion shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

293. Putting person in fear of injury in order to commit extortion

Whoever in order to commit extortion puts any person in fear or attempts to put any person in fear of any injury to that person or to any other, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

294. Extortion by putting a person in fear of death or grievous hurt

Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

295. Extortion by threat of accusation of an offence punishable with death

Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed or attempted

to commit any offence punishable with death or with imprisonment for a term which may extend to ten years or having attempted to induce any other person to commit such offence, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

Robbery and Brigandage

296. Robbery defined

(1) In all robbery there is either theft or extortion.

(2) Theft is robbery if, in order to commit the theft or in committing the theft or in carrying away or attempting to carry away property obtained by the theft, the offender for that end voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt or of instant wrongful restraint.

(3) Extortion is robbery, if the offender at the time of committing the extortion is in the presence of the person put in fear and commits the extortion by putting that person in fear of instant death, of instant hurt or of instant wrongful restraint to that person or to some other person and by so putting in fear induces the person so put in fear then and there to deliver up the thing extorted.

Explanations. The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt or of instant wrongful restraint.

Illustrations. *(a) A holds Z down and takes Z's money and jewels from Z's clothes without Z's consent. Here A has committed theft and in order to commit that theft has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.*

(b) A meets Z on the road, shows a pistol and demands Z's purse. Z in consequence surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt and being at the time of

committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the river bank. A takes the child and threatens to fling it into the river, unless Z delivers his purse. Z in consequence delivers his purse. Here A has extorted the purse from Z by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying—"Your child is in the hands of my gang and will be put to death unless you send us fifty pounds ". This is extortion and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

297. Brigandage defined

When five or more persons conjointly commit or attempt to commit a robbery or where the whole number of persons conjointly committing or attempting to commit a robbery and persons present and aiding such commission or attempt amount to five or more, every person so committing, attempting or aiding is said to commit brigandage.

298. Punishment for robbery

Whoever commits robbery shall be punished—

- (a)* with imprisonment for a term of not less than twenty one years with or without fine and caning; and
- (b)* if the robbery is committed by any person armed with any dangerous or offensive weapon or instrument, with imprisonment for life with or without fine and caning.

[KWS 6 of 1969.]

299. Punishment for attempted robbery

Whoever attempts to commit robbery shall be punished with imprisonment for a term of not less than fourteen years, with or without

caning or fine.

[KWS 6 of 1969.]

300. Voluntarily causing hurt in committing robbery

If any person in committing or in attempting to commit robbery voluntarily causes hurt, such person and any other person jointly concerned in committing or attempting to commit such robbery shall be punished with imprisonment for a term of not less than twenty one years, with or without fine and caning.

[KWS 6 of 1969.]

301. Brigandage

Whoever commits brigandage shall be punished with imprisonment for a term of not less than twenty-one years, with or without fine and caning.

[KWS 6 of 1969.]

302. Brigandage with culpable homicide punishable with death

If any one of five or more persons, who are conjointly committing brigandage, commits culpable homicide punishable with death in so committing brigandage, every one of these persons shall be punished with death.

303. Robbery or brigandage with deadly weapon or with grievous hurt

(1) If, at the time of committing or attempting to commit robbery or brigandage—

- (a) the offender uses any deadly weapon or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, then such offender shall be punished with death;

[No. 4 of 2006.]

- (b) the offender—

- (i) *With service uniform or equipment.*—wears any article of clothing or equipment, or uses or bears any article of equipment being or resembling an article of clothing or equipment supplied to any of the uniformed services; or
- (ii) *With service weapon.*—uses or attempts or offers to use, or bears any weapon being or resembling a weapon supplied to any of the uniformed services; or
- (iii) *With firearm.*—uses or attempts or offers to use, or bears any firearm or anything resembling a firearm; or
- (iv) *With explosives.*—uses or attempts or offers to use, or bears any explosive material,

then such offender shall be punished with death.

[No. 4 of 2006.]

(2) In this section—

"**article of equipment**" includes vehicle;

"**explosive material**" includes grenade;

"**firearm**" means any barrelled weapon of any description from which any shot, bullet or other missile can be discharged;

"**the uniformed services**" include the Nigeria Army, the Nigeria Navy, the Nigeria Air Force and any police force.

304. Attempt to commit brigandage

Whoever attempts to commit brigandage shall be punished with imprisonment for a term of not less than fourteen years, with or without fine and caning.

[KWS 6 of 1969, No. 4 of 2006.]

305. Belonging to gang of brigands

Whoever belongs to a gang of persons associated for the purpose of habitually committing brigandage, shall be punished with imprisonment for a term of not less than fourteen years with or without fine and caning.

[KWS 6 of 1969, No. 4 of 2006.]

306. Belonging to gang of thieves

Whoever belongs to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery and not being a gang of brigands, shall be punished with imprisonment for a term of not less than ten years, with or without fine and caning.

[No. 4 of 2006.]

307. Assembling for purpose of committing brigandage

Whoever is one of five or more persons assembled for the purpose of committing brigandage, shall be punished with imprisonment for a term of not less than ten years, with or without fine and caning.

[KWS 6 of 1969, No. 4 of 2006.]

Criminal Misappropriation

308. Criminal misappropriation defined

Whoever dishonestly misappropriates or converts to his own use any movable property, commits criminal misappropriation.

Illustrations, (a) A takes property belonging to Z out of Z's possession, in good faith believing at the time when he takes it that the property belongs to himself A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of criminal misappropriation.

(b) A being on friendly terms with Z goes into Z's house in Z's absence and takes away a cooking pot without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the cooking pot for the purpose of using it, A has not committed theft. But, if A afterwards sells the cooking pot for his own benefit he is guilty of criminal misappropriation.

(c) A and B being joint owners of a horse, A takes the horse out of B's possession intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of criminal misappropriation.

Explanation. A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration. A having borrowed Z's property pledges it as a security for a loan intending at a future time to restore it to Z. A has committed criminal misappropriation.

Explanation. A person, who finds property not in the possession of any other person and takes such property for the purpose of protecting it for or restoring it to the owner, does not take or misappropriate it dishonestly and is not guilty of an offence; but he is guilty of criminal misappropriation if he appropriates it to his own use, when he knows or has the means of discovering the owner or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case is a question of fact.

It is not necessary that the finder should know who is the owner of the property or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property or

does not believe in good faith that the real owner cannot be found.

Illustrations. (a) *A finds a coin on the road, not knowing to whom the coin belongs. A picks up the coin. Here A has not committed criminal misappropriation.*

(b) *A finds a letter on the road containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of criminal misappropriation.*

(c) *A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of criminal misappropriation.*

(d) *A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z but afterwards appropriates it to his own use. A has committed criminal misappropriation.*

(e) *A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z and appropriates it to his own use. A is guilty of criminal misappropriation.*

(f) *A finds a valuable ring not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of criminal misappropriation.*

309. Punishment for criminal misappropriation

Whoever commits criminal misappropriation shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

310. Criminal misappropriation of property possessed by deceased person at

the time of his death

Whoever commits criminal misappropriation of property knowing that the property so misappropriated was in the possession of a deceased person at the time of that person's death and has not since been in the possession of any person legally entitled to such possession shall be punished—

- (a) with imprisonment for a term which may extend to three years and shall also be liable to fine; and
- (b) if the offender at the time of such person's death was employed by him as a clerk or servant, with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Criminal Breach of Trust

311. Criminal breach of trust defined

Whoever, being in any manner entrusted with property or with any dominion over property, dishonestly misappropriates or converts to his own use that property or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged or of any legal contract express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits criminal breach of trust,

Illustrations, (a) A, being executor to the will of a deceased person, dishonestly dis-obey the law which directs him to divide the effects according to the will and appropriates them to his own use. A has committed criminal breach of trust.

(b) A is a warehouse keeper. Z, going on a journey, entrusts his furniture to A under a contract that it shall be returned on payment of a stipulated sum for storage. A dishonestly sells the goods. A has committed criminal breach of trust.

(c) A residing in Town A is agent for Z residing at Town B. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a sum of money to A with directions to A to invest the same in Government securities. A dishonestly disobeys the direction and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith believing that it will be more for Z's advantage to hold Bank shares, disobeys Z's direction and buys Bank shares for Z instead of buying Government securities here, though Z should suffer loss and should be entitled to bring a civil action against A on account of that loss, yet A not having acted dishonestly has not committed criminal breach of trust.

(e) A, a pay malla, is entrusted with public money and is either directed by law or bound by a contract express or implied with the Government to pay into a certain treasury all the public money which he holds. A dishonestly misappropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

312. Punishment for criminal breach of trust

Whoever commits criminal breach of trust shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

313. Criminal breach of trust by carrier, etc.

Whoever, being entrusted with property as a carrier, wharfinger or warehouse keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment for a term which may extend

to ten years and shall also be liable to fine.

314. Criminal breach of trust by clerk or servant

Whoever, being a clerk or servant or employed as a clerk or servant and being in any manner entrusted in such capacity with property or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

315. Criminal breach of trust by public servant or by banker, merchant or agent

Whoever, being in any manner entrusted with property or with any dominion over property in his capacity as a public servant or in the way of his business as a banker, factor, broker, legal practitioner or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

Receiving Stolen Property

316. Stolen property defined

Property, the possession whereof has been transferred by theft or by extortion or by robbery, and property, which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is stolen property, whether the transfer has been made or the misappropriation or breach of trust has been committed within the State or elsewhere; but if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

317. Dishonestly receiving stolen property

Whoever dishonestly receives or retains any stolen property knowing or

having reason to believe the same to be stolen property, shall be punished with imprisonment for a term which may extend to fourteen years and with fine.

[No. 4 of 2006.]

318. Dishonestly receiving property stolen in the commission of brigandage

Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of brigandage, or dishonestly receives, from a person whom he knows or has reason to believe to belong or to have belonged to a gang of brigands, property, which he knows or has reason to believe to have been stolen, shall be punished with imprisonment for life or any less term and shall also be liable to fine.

319. Assisting in concealment of stolen property

Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished for a term which may extend to five years or with fine or with both.

319A. Possession of thing reasonably suspected of having been stolen

Whoever knowingly has in his possession or under his control anything which is reasonably suspected of having been stolen or unlawfully obtained and who does not give an account to the satisfaction of a court of justice as to how he came by the same shall be punished with imprisonment which may extend to two years or with fine or with both.

[NN 19 of 1966.]

Cheating

320. Cheating defined

Whoever by deceiving any person—

- (a) fraudulently or dishonestly induces the person so deceived to deliver any property to any person or to consent that any person shall retain any property; or
- (b) intentionally induces the person so deceived to do or omit to do anything which he would not do or omit to do if he were not so deceived and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to cheat.

Explanation. A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations. (a) *A, by falsely pretending to be in the Government service, intentionally deceives Z and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.*

(b) *A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer and thus dishonestly induces Z to buy and pay for the article. A cheats.*

(c) *A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample and thereby dishonestly induces Z to buy and pay for the article. A cheats.*

(d) *A, by tendering in payment for an article a cheque on a bank with which A keeps no money and by which A expects that the cheque will be dishonoured, intentionally deceives Z and thereby dishonestly induces Z to deliver the article intending not to pay for it. A cheats.*

(e) *A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z and thereby dishonestly induces Z to lend money. A cheats.*

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of cotton which A does not intend to deliver and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A at the time of obtaining the money intends to deliver the cotton and afterwards breaks his contract and does not deliver it, he does not cheat but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys a house to B. A knowing that in consequence of such sale he has no right to the property then sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

321. Cheating by personation defined

A person is said to cheat by personation if he cheats by pretending to be some other person or by knowingly substituting one person for another or representing that he or any other person is a person other than he or such other person really is.

Explanation. The offence is committed whether the individual personated is a real or imaginary person.

Illustrations. *(a) A cheats by pretending to be a certain rich merchant of the same name. A cheats by personation.*

(b) A cheats by pretending to be B a person who is deceased. A cheats by personation.

322. Punishment for cheating

Whoever cheats shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

323. Cheating person whose interest offender is bound to protect

Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound either by law or by a legal contract to protect, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

324. Cheating by personation

Whoever cheats by personation shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

325. Cheating and dishonestly inducing delivery of property

Whoever cheats and thereby fraudulently or dishonestly induces the person deceived to deliver any property to any person or to make, alter or destroy the whole or any part of a document of title or anything which is signed or sealed and which is capable of being converted into a document of title, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Mischief

326. Mischief defined

Whoever, with intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or to any person cause the destruction of any property or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits mischief.

Explanation 1. It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause or knows that he is likely to cause wrongful loss or damage to any person by injuring any property whether it belongs to that person or not.

Explanation 2. Mischief may be committed by an act affecting property belonging to the person who commits the act or to that person and other jointly.

Illustrations, *(a) A voluntarily burns a document of title belonging to Z intending to cause wrongful loss to Z. A has committed mischief.*

(b) A voluntarily throws into a river a ring belonging to Z with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(c) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects with the intention of thereby preventing Z from obtaining satisfaction of the debt and of thus causing damage to Z. A has committed mischief.

(d) A, having joint property with Z in a horse, shoots the horse intending thereby to cause wrongful loss to Z. A has committed mischief.

(e) A causes cattle to enter upon a field belonging to Z intending to cause or knowing that he is likely to cause damage to Z's crop. A has committed mischief.

327. Punishment for mischief

Whoever commits mischief shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

328.

[NR 19 of 1960.]

329. Mischief by killing or maiming animal

Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

[No. 4 of 2006.]

330. Mischief by killing or maiming cattle, etc.

Whoever commits mischief by killing, poisoning, maiming or rendering useless any camel, horse, donkey, mule, bull, cow, or ox whatever may be the value thereof shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

[No. 4 of 2006.]

331. Mischief in relation to water supply

Whoever commits mischief by doing any act which renders or which he knows to be likely to render any installation for the supply or distribution of water less efficient for its intended purpose or which causes or which he knows to be likely to cause a diminution of the supply of water for animals which are the subject of ownership or for any domestic, agricultural or commercial purpose, shall be punished with imprisonment which may extend to five years or with fine or with both.

332. Mischief by injury to public road, bridge, river or channel

Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel natural or artificial impassable or less safe for travelling or conveying property, shall be punished with imprisonment for life or any less term or with fine or with both.

333. Mischief by inundation or obstruction to public drainage

Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage system attended with injury or damage, shall be punished with

imprisonment for a term which may extend to five years or with fine or with both.

334. Mischief in relation to electricity, telegraphs and telephones

Whoever commits mischief by doing any act which renders or which he knows to be likely to render any installation for generating, storing, transmitting or distributing electricity or any telegraph or telephone installation less efficient for its intended purpose or which causes or which he knows to be likely to cause a diminution of any supply of electricity, shall be punished with imprisonment for a term which may extend to five years or with fine or with both.

335. Mischief by destroying or moving a public landmark

Whoever commits mischief by destroying or moving any landmark fixed by the authority of a public servant or by any act which renders such landmark less useful as such, shall be punished with imprisonment for a term which may extend to five years and with fine.

[No. 4 of 2006.]

336. Mischief by fire or explosive with intent to cause damage

Whoever commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

337. Mischief by fire or explosive with intent to destroy house, etc.

Whoever commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with imprisonment for life or for any less term and shall also be liable to fine.

338. Mischief to vessel

Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards intending to destroy or render unsafe or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

339. Mischief by fire to vessel

Whoever commits or attempts to commit by fire or any explosive substance such mischief as is described in section 338 shall be punished with imprisonment for life or for any less term and shall also be liable to fine.

340. Running vessel aground or ashore with intent to commit theft

Whoever intentionally runs any vessel aground or ashore intending to commit theft of any property contained therein or to misappropriate any such property dishonestly or with intent that such theft or misappropriation of property may be committed shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

341. Mischief committed after preparation made for causing death or hurt

Whoever commits mischief having made preparation for causing to any person death or hurt or wrongful restraint or fear of death or of hurt or of wrongful restraint, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

Criminal Trespass

342. Criminal trespass defined

Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or

annoy such person or with intent to commit an offence, is said to commit criminal trespass.

343. House trespass defined

(1) Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place of worship, or any railway carriage, motor vehicle or aircraft used for the conveyance of passengers or goods, is said to commit house trespass.

(2) For the purpose of this section "**building**" means a structure of any kind whether permanent or temporary and includes a hut, store, granary, pound and a compound completely enclosed by a wall or other structure.

Explanation. The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house trespass.

344. Lurking house trespass defined

(1) Whoever commits house trespass, having taken precaution to conceal such house trespass from some person who has a right to exclude or reject the trespasser from the building, tent, vessel, railway carriage, motor vehicle or aircraft which is the subject of the trespass, is said to commit lurking house trespass.

(2) For the purpose of this section "**building**" means a structure of any kind whether permanent or temporary and includes a hut, tent, store, granary, pound and a compound completely enclosed by a wall or other structure.

345. Lurking house trespass by night defined

Whoever commits lurking house trespass between sunset and sunrise, is said to commit lurking house trespass by night.

346. House breaking defined

A person is said to commit house breaking, who commits house trespass,

if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if being in the house or any part of it for the purpose of committing an offence or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say—

- (a) if he enters or quits through a passage made by himself or by any abettor of the house trespass in order to commit the house trespass;
- (b) if he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance, or through any passage to which he has obtained access by scaling or climbing over any wall or building;
- (c) if he enters or quits through any passage which he or any abettor of the house trespass has opened in order to commit the house trespass by any means by which that passage was not intended by the occupier of the house to be opened;
- (d) if he enters or quits by opening any lock in order to commit the house trespass or in order to quit the house after a house trespass;
- (e) if he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault;
- (f) if he enters or quits by any passage which he knows to have been fastened against such entrance or departure and to have been unfastened by himself or by an abettor of the house trespass.

Explanation 1. The word "**house**" in this section includes any place which may be the subject of house trespass.

Explanation 2. Any out-house or building occupied with a house between which and such house there is an immediate internal communication is part of the house within the meaning of this section.

Illustrations. (a) *A commits house trespass by making a hole through the wall of Z's house, or by cutting a slit in the tent in which Z is living, and putting his hand through the aperture. A commits house breaking.*

(b) *A commits house trespass by creeping into a ship at a port-hole between decks. This is house breaking.*

(c) *A commits house trespass by entering Z's house through a window. This is house breaking.*

(d) *A commits house trespass by entering Z's house through the door having opened a door which was fastened. This is house breaking.*

(e) *A commits house trespass by entering Z's house through the door having lifted a latch by putting a wire through a hole in the door. This is house breaking.*

(f) *A finds the key of Z's house door which Z had lost and commits house trespass by entering Z's house having opened the door with that key. This is house breaking.*

(g) *Z is standing in his doorway. A forces a passage by knocking Z down and commits house trespass by entering the house. This is house breaking.*

(h) *Z, the doorkeeper of Y, is standing in Y's doorway. A commits house trespass by entering the house having deterred Z from opposing him by threatening to beat him. This is house breaking.*

347. House breaking by night defined

Whoever commits house breaking between sunset and sunrise, is said to commit house breaking by night.

348. Punishment for criminal trespass

Whoever commits criminal trespass shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

349. Punishment for house trespass

Whoever commits house trespass shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand naira or with both.

[No. 4 of 2006.]

350. House trespass to commit offence punishable with death

Whoever commits house trespass in order to commit any offence punishable with death, shall be punished with imprisonment for a term not exceeding fourteen years and shall also be liable to fine.

351. House trespass to commit offence punishable with fourteen years imprisonment

Whoever commits house trespass in order to commit any offence punishable with fourteen years imprisonment, shall be punished with imprisonment for a term not exceeding ten years and shall also be liable to fine.

352. House trespass to commit offence punishable with imprisonment

Whoever commits house trespass in order to commit any offence punishable with imprisonment, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

353. Lurking house trespass or house breaking

Whoever commits lurking house trespass or house breaking, shall be

punished with imprisonment for a term which may extend to two years and shall also be liable to fine.

354. Lurking house trespass or house breaking in order to commit offence punishable with imprisonment

Whoever commits lurking house trespass or house breaking in order to commit any offence punishable with imprisonment, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

355. Lurking house trespass or house breaking by night

Whoever commits lurking house trespass by night or house breaking by night, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

356. Lurking house trespass or house breaking by night to commit offence punishable with imprisonment

Whoever commits lurking house trespass by night or house breaking by night in order to commit any offence punishable with imprisonment, shall be punished with imprisonment for life or any less term and shall also be liable to fine.

357. Joint liability for lurking house trespass or house breaking by night where death or grievous hurt caused

If at the time of the committing of lurking house trespass by night or house breaking by night any person guilty of such offence voluntarily causes or attempts to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house trespass by night or house breaking by night shall be punished with imprisonment for life or any less term and shall also be liable to fine.

358. Breaking open receptacle containing property

Whoever dishonestly or with intent to commit mischief breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

359. Breaking open receptacle by person entrusted with custody

Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same dishonestly or with intent to commit mischief breaks open or unfastens that receptacle, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

360. Lurking with house breaking implements

Whoever is discovered between sunset and sunrise carrying false keys or other instruments suitable for house breaking and seeks to conceal himself or is otherwise shown to have a criminal intention, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

361. Fabrication of false key or instrument

Whoever imitates or alters any key or fabricates any instrument intending that such false key or instrument shall be used for a criminal purpose, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

[No. 4 of 2006.]

CHAPTER XX

Forgery

362. Making a false document defined

A person is said to make a false document—

- (a) who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document or makes any mark denoting the execution of a document with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed or at a time at which he knows that it was not made, signed, sealed or executed; or
- (b) who without lawful authority dishonestly or fraudulently by cancellation or otherwise alters a document in any material part thereof after it has been made or executed either by himself or by any other person whether such person be living or dead at the time of such alteration; or
- (c) who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document knowing that such person by reason of unsoundness of mind or intoxication cannot or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

363. Forgery and forged document defined

Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person or to support any claim or title or to cause any person to part with property or to enter into any express or implied contract or with intent to commit fraud or that fraud may be committed, commits forgery; and a false document made wholly or in part by forgery is called a forged document.

Illustrations. (a) *A has a letter of credit upon B for one hundred naira written by Z. A in order to defraud B adds a cipher to the one hundred and*

makes the sum one thousand naira, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A without Z's authority affixes Z's seal to a document purporting to be a conveyance of a plot from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B payable to bearer but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of fifty naira. A commits forgery.

(d) A leaves with B his agent a cheque on a bank signed by A without inserting the sum payable and authorises B to fill up the cheque by inserting a sum not exceeding two hundred naira for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of three hundred naira. B commits forgery.

(e) A draws a bill of exchange on himself in the name of B without B's authority intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C ". A dishonestly scratches out B's name intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A sells and conveys a plot to Z. A afterwards, in order to defraud Z of the plot, executes a conveyance of the same plot to B dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the plot to B before he conveyed it to Z. A has committed forgery.

(h) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z and by representing to Z that he has prepared the will according to his instructions induces Z to sign the will. A has committed forgery.

(i) A writes a letter and signs it with B's name without B's authority certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property. A has committed forgery.

(j) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery inasmuch as he intended to deceive Z by the forged certificate and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1. A man's signature of his own name may amount to forgery.

Illustrations, *(a) A signs his own name to a bill of exchange intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.*

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(c) A picks up a treasury voucher payable to a different person of the same name. A endorses the voucher in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable. here A has committed forgery.

(d) A purchases a house sold under execution of a decree against B. B after the seizure of the house in collusion with Z executes a lease of the house to Z at a nominal rent and for a long period and dates the lease six months prior to the seizure with intent to defraud A and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(e) A, a trader in anticipation of insolvency, lodges effects with B for A's benefit and with intent to defraud his creditors; and in order to give a colour to the transaction writes a promissory note binding himself to pay to B a sum for value received and antedates the note intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery.

Explanation 2. The making of a false document in the name of a fictitious person intending it to be believed that the document was made by a real person or in the name of a deceased person intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration. *A draws a bill of exchange upon a fictitious person and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate. A commits forgery.*

364. Punishment for forgery

Whoever commits forgery shall be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

365. Forgery of public seals, etc.

Whoever forges—

- (a) a thing which purports to be the public seal of Nigeria or of any State of Nigeria or the great or privy seal of any country of the Commonwealth or the seal of the President or a Governor of a State; or*

- (b) a document having on it or affixed to it any such seal or anything which purports to be or is intended by that person to be under stood to be, any such seal,

shall be punished with imprisonment for life or for any less term and shall also be liable to fine.

366. Using as genuine a forged document

Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

367. Making or possessing counterfeit seal with intent to commit forgery

Whoever makes or counterfeits any seal, plate or other instrument for making an impression intending that the same shall be used for the purpose of committing forgery or with such intent has in his possession any such seal, plate or other instrument knowing the same to be counterfeit, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

368. Possession of forged record

Whoever has in his possession any forged document knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

369. Counterfeiting device or mark used for authenticating documents

Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material or who with such intent has in his possession any

material upon or in the substance of which any device or mark has been counterfeited, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

370. Fraudulent cancellation or destruction of document of title

Whoever fraudulently or dishonestly or with intent to cause damage or injury to the public or to any person cancels, destroys or defaces or attempts to cancel, destroy or deface or secretes or commits theft in respect of any document which is or purports to be a document of title or a will or commits mischief in respect to any such document, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

371. Falsification of accounts

Whoever, being a clerk, officer or servant or employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud destroys, alters, mutilates or falsifies any book, paper, writing, document of title or account, which belongs to or is in the possession of his employer or has been received by him for or on behalf of his employer, or wilfully and with intent to defraud makes or abets the making of any false entry in or omits or alters or abets the omission or alteration of any material particular from or in any such book, paper, writing, document of title or account, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

Property and Other Marks

372. Property mark defined

A mark used for denoting that movable property belongs to a particular person is called property mark.

373. Using a false property mark defined

Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods or uses any case, package or other receptacle having any mark thereon in a manner reasonably calculated to cause it to be believed that the property or goods so marked or any property or goods contained in any such receptacle so marked belong to a person to whom they do not belong, is said to use a false property mark.

374. Punishment for using a false property mark

Whoever uses any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to two years or with fine or with both.

[No. 4 of 2006.]

375. Counterfeiting a property mark used by another

Whoever counterfeits any property mark used by any other person, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

376. Counterfeiting a mark used by a public servant

Whoever counterfeits any property mark used by a public servant or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

377. Making or possession of any instrument for counterfeiting a property mark

Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark or has in his possession a property mark for the purpose of denoting that any goods belong

to a person to whom they do not belong, shall be punished with imprisonment for a term which may extend to three years or with fine or with both.

378. Making a false mark upon any receptacle containing goods

Whoever makes any false mark upon any case, package or other receptacle containing goods in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three years or with fine or with both.

379. Making use of any such false mark

Whoever makes use of any such false mark in any manner prohibited by section 378 shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

380. Tampering with property mark

Whoever removes, destroys, defaces or adds to any property mark intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

CHAPTER XXI

Criminal Breach of Contracts of Service

381.

[No. 4 of 2006.]

382.

[No. 4 of 2006.]

CHAPTER XXII

Offences relating to Marriage or Incest

383.

[No. 4 of 2006.]

384.

[No. 4 of 2006.]

385.

[No. 4 of 2006.]

386.

[No. 4 of 2006.]

387. Adultery by a man

Whoever, being a man subject to any customary law in which extra-marital sexual intercourse is recognised as a criminal offence, has sexual intercourse with a person who is not and whom he knows or has reason to believe is not his wife, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery and shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

388. Adultery by a woman

Whoever, being a woman subject to any customary law in which extra-marital sexual intercourse is recognised as a criminal offence, has sexual intercourse with a person who is not and whom she knows or has reason to believe is not her husband is guilty of the offence of adultery and shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

389. Enticing or taking away or detaining with criminal intent a married woman

Whoever takes or entices away any woman, who is and whom he knows or has reason to believe to be the wife of any other man, from that man or from any person having the care of her on behalf of that man with intent that she may have illicit intercourse with any person or conceals or detains with that intent any such woman, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

390. Incest

Whoever being a man has sexual intercourse with a woman who is and whom he knows or has reason to believe to be his daughter, his granddaughter, his mother or any other of his female ascendants or descendants, his sister or the daughter of his brother or sister or his paternal or maternal aunt and whoever being a woman voluntarily permits a man who is and whom she knows or has reason to believe to be her son, her grandson, her father or any other of her male ascendants or descendants, her brother or the son of her brother or sister or her paternal or maternal uncle to have sexual intercourse with her, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Explanation. In this section words expressing relation include relatives of the half blood and relatives whose relation is not traced through a lawful marriage.

CHAPTER XXIII

Defamation

391. Defamation defined

(1) Whoever by words either spoken or reproduced by mechanical means or intended to be read or by signs or by visible representations makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, save in the cases hereinafter excepted, to

defame that person.

Explanation 1. It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2. It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3. An imputation in the form of an alternative or expressed ironically may amount to defamation.

Explanation 4. No imputation is said to harm a person's reputation, unless that imputation directly or indirectly in the estimation of others lowers the moral or intellectual character of that person or lowers the character of that person in respect of his calling or lowers the credit of that person or causes it to be believed that the body of that person is in a loathsome state or in a state generally considered as disgraceful.

Illustrations, (a) *A says—"Z is an honest man, he never stole B's watch", intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it falls within one of the exceptions.*

(b) *A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation unless it falls within one of the exceptions.*

(c) *A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.*

Exceptions

(2) It is not defamation—

(i) *Imputation of truth which public good requires to be*

published.—to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published; whether or not it is for the public good is a question of fact;

Illustrations. *(a) Z opens a school at Town A. The fact is that Z has fled from Europe to escape punishment for gross acts of swindling. A is protected by this exception if he publishes that fact.*

(b) But if the swindling had occurred twenty years ago and in the meantime Z had been carrying on a school in Town B and had been living an upright life, A would not be protected by this exception if he raked up the facts and published them.

- (ii) *Public conduct of public servant.*—to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions or respecting his character so far as his character appears in that conduct and no further;
- (iii) *Conduct of any person touching any public question.*—to express in good faith any opinion whatever respecting the conduct of any person touching any public question and respecting his character so far as his character appears in that conduct and no further;

Illustration. *It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting or in forming or joining any society which invites the public support.*

- (iv) *Publication of reports of proceedings of courts.*—to publish a substantially true report of the proceedings of a court of justice or of the result of any such proceedings;

- (v) *Merits of case decided in court or conduct of witnesses and others concerned.*— to express in good faith any opinion whatever respecting the merits of any case civil or criminal which has been decided by a court of justice or respecting the conduct of any person as a party, witness or agent in any such case or respecting the character of such person as far as his character appears in that conduct and no further;

Illustrations. (a) *A says—"I think Z's evidence at that trial is so contradictory that he must be stupid or dishonest". A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness and no further.*

(b) *But if A says—"I do not believe what Z asserted at the trial, because I know him to be a man without veracity ", A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's conduct as a witness.*

- (vi) *Merits of public performance.*—to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public or respecting the character of the author so far as his character appears in such performance and no further;

Explanation. A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations. (a) *A person who publishes a book submits that book to the judgment of the public.*

(b) *A person who makes a speech in public submits that speech to the judgment of the public.*

- (c) *An actor or singer who appears on a public stage submits*

his acting or singing to the judgment of the public.

(d) *A says of a book published by Z—"Z's book is foolish, Z must be a weak man. Z's book is indecent Z must be a man of impure mind". A is within this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book and no further.*

(e) *But if A says—"I am not surprised that Z's book is foolish and indecent for he is a weak man and a libertine". A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.*

(vii) *Censure passed in good faith by person having lawful authority over another.— in a person having over another any authority either conferred by law or arising out of a lawful contract made with that other to pass in good faith any censure on the conduct of that other in matters to which lawful authority relates;*

Illustration. *An Area Court Judge censuring in good faith the conduct of a witness or of an officer of the court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for inefficiency in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.*

(viii) *Accusation preferred in good faith to authorised person.—to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of the accusation;*

Illustration. *If A in good faith accuses Z before a magistrate; if A in good faith complains of the conduct of Z a servant to Z's master; if A in good faith*

complains of the conduct of Z a child to Z's father—A is within this exception.

- (ix) *Imputation made in good faith by person for protection of his or other's interests.*—to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it or of any other person or for the public good;

Illustrations. (a) *A shopkeeper says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty". A is within the exception if he has made this imputation on Z in good faith for the protection of his own interests.*

(b) *A a government officer in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith and for the public good. A is within the exception.*

(c) *A in giving evidence before a court of justice identifies Z as the person he saw committing a robbery. Although Z proves that A is mistaken, A is protected by this exception. If he is giving false evidence he can be proceeded against under section 158.*

- (x) *Caution intended for good of person to whom conveyed or for public good.*—to convey a caution in good faith to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed or of some person in whom that person is interested or for the public good.

392. Punishment for defamation

Whoever defames another shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

393. Injurious falsehood

(1) Whoever, save as hereinafter excepted, by words either spoken or reproduced by mechanical means or intended to be read or by signs or by visible representations makes or publishes any false statement of fact, intending to harm or knowing or having reason to believe that such false statement of fact will harm the reputation of any person or class of persons or of the Government or of any local Government council in the State shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Explanation 1. A statement is false unless it is substantially true and proof that a statement is substantially true shall lie on the accused.

Explanation 2. Whether a statement is a statement of fact or a mere expression of opinion is a matter for the decision of the court.

(2) It is not an offence under this section to make or publish in good faith a false statement of fact which the accused had reasonable grounds for believing to be substantially true and proof that he had such reasonable grounds shall lie on the accused.

Illustrations, (a) *A newspaper publishes a false statement that the proceeds of a recent increase in a tax were shared amongst the Ministers of the State personally. This is a false statement of fact.*

(b) *A says that Z's bakery is unhygienic. This is a statement of opinion; but if A says that he saw Z take a dead mouse out of the dough before baking this is a statement of fact.*

394. Printing or engraving matter known to be defamatory

Whoever prints or engraves any matter or prepares or causes to be prepared any record for the purpose of mechanical reproduction of any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

395. Sale of printed or engraved substance containing defamatory matter

Whoever sells or offers for sale any printed or engraved substance containing defamatory matter or any record prepared for the purpose of the mechanical reproduction of defamatory matter, knowing that such substance or record contains such matter, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

CHAPTER XXIV

Criminal Intimidation, Insult and Annoyance and Drunkenness

396. Criminal intimidation defined

Whoever threatens another with any injury to his person, reputation or property or to the person reputation or property of anyone in whom that person is interested, with intent to cause alarm to that person or to cause that person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation. A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.

Illustration. *A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.*

397. Punishment for criminal intimidation

Whoever commits the offence of criminal intimidation shall be punished—

- (a) with imprisonment for a term which may extend to two years or with fine or with both; and
- (b) if the threat be to cause death or grievous hurt or to cause the destruction of any property by fire or to cause an

offence punishable with death or with imprisonment for a term which may extend to seven years or to impute unchastity to a woman, with imprisonment for a term which may extend to seven years or with fine or with both.

398. Criminal intimidation by an anonymous communication

Whoever commits the offence of criminal intimidation by an anonymous communication or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment for a term which may extend to two years in addition to the punishment for the offence by section 397.

399. Use of insulting or abusive language, etc.

Whoever uses insulting or abusive language concerning, or otherwise conducts himself towards, any person or class or group of persons, whether such person or any member of such class or group is present or not, in a manner likely to give such provocation to any person present as to cause such last mentioned person to break the public peace or to commit any other offence shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

[NN 13 of 1965.]

Illustrations, *(a) A, in the presence of B, uses insulting or abusive language concerning B or otherwise conducts himself towards B in a manner likely to provoke B and cause him to break the public peace or to commit any other offence. A is guilty of an offence under this section.*

(b) A, in the presence of B but whether or not in the presence of C, uses insulting or abusive language concerning C or otherwise conducts himself towards C in a manner likely to provoke B and cause him to break the public peace or to commit any other offence. A is guilty of an offence under this section.

400. Word, gesture or act intended to insult the modesty of a woman

Whoever intending to insult the modesty of any woman utters any word, makes any sound or gesture or exhibits any object, intending that such word or sound shall be heard or that such gesture or object shall be seen by such woman or intrudes upon the privacy of such woman, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

401. Drunkenness in a public place

Whoever is found drunk in a public place or in any place by entering which he committed a trespass, shall be punished—

- (a) with imprisonment for a term which may extend to three months or with fine which may extend to one thousand naira or with both; and
- (b) if the person so found conducts himself in such place in a disorderly manner or is incapable of taking care of himself, with imprisonment for a term of six months or with fine of two thousand naira or with both.

[NN 14 of 1963, No. 4 of 2006.]

402. Drunkenness in private place

Whoever being drunk in any private place there conducts himself in a disorderly manner to the annoyance of any person having a right to exclude him from such place or fails to leave such place when requested to do so by such person, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand naira or with both.

[NN 14 of 1963, No. 4 of 2006.]

403. Drinking alcoholic drink

Whoever being of the Muslim faith drinks anything containing alcohol other than for a medicinal purpose shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to one thousand naira or with both.

[No. 4 of 2006.]

404. Effect of previous convictions under sections 401, 402 or 403

Whoever is convicted of an offence under sections 401, 402 or 403 shall, if he is shown to have been convicted of an offence under any of such sections within the previous six months, be punished—

- (a) with imprisonment or fine which may extend to twice the maximum imprisonment or maximum fine prescribed for the offence of which he is convicted; and
- (b) if he is shown to have been convicted of two or more such offences within the like period, then with imprisonment or fine which may extend to three times the maximum imprisonment or maximum fine aforesaid or with both.

CHAPTER XXV

Vagabonds

405. Definitions in Chapter XXV

In this chapter—

- (1) The term "**idle person**" shall include—
 - (a) any person who being able wholly or in part to maintain himself or his family wilfully neglects or refuses to do so;
 - (aa) any person who having been convicted under section 249 or 250 of the Schedule to the Criminal Code Ordinance commits any offence which would render him liable to be

convicted as an idle person;

[Cap. 42, LN (1948).]

- (*b*) any person who wanders abroad or places himself in any street or public place to get or gather alms or causes or encourages children to do so unless from age or infirmity he is unable to earn his living;
- (*c*) any person who has no settled home and has no ostensible means of subsistence and cannot give a satisfactory account of himself;
- (*d*) any common prostitute behaving in a disorderly or indecent manner in a public place or persistently importuning or soliciting persons for the purpose of prostitution;
- (*e*) any person playing at any game of chance for money or money's worth in any public place;
- (*f*) any person who in any street or place of public resort or within sight or hearing of any person therein disturbs the peace by quarrelling or attempting to quarrel or by using any insolent, scurrilous or abusive term of reproach;
- (*g*) any person who in any street or place of public resort or within sight or hearing of any person therein with the intention of annoying or irritating any person, sings or otherwise utters any scurrilous or abusive songs or words whether any person be particularly addressed therein or not;

[NN 11 of 1964.]

- (*h*) any person who in any street or place of public resort is guilty of any riotous, disorderly or insulting behaviour to

the obstruction or annoyance of any person lawfully using such street or place or any place in the neighbourhood thereof; and

- (1) any person who in any private or enclosed place is guilty of any riotous, disorderly or insulting behaviour to the annoyance of any person lawfully using any place in the neighbourhood thereof.

Explanation. A nomad cannot be convicted because he has no settled home if he has either apparent means of subsistence or gives a satisfactory account of himself.

(2) The term "**vagabond**" shall include—

- (a) any person who after being convicted as an idle person commits any of the offences which would render him liable to be convicted as such again;
- (b) any person who is found in possession of housebreaking implements with intent to commit any of the offences defined in sections 343 to 347 inclusive of this Penal Code;
- (c) any suspected person or reputed thief who by night frequents or loiters about any shop, warehouse, dwelling-house, dock or wharf with intent to commit any offence under Chapters XVIII or XIX of this Penal Code;
- (d) any male person who knowingly lives wholly or in part on the earning of a prostitute or in any public place solicits or importunes for immoral purposes; and
- (e) any male person who dresses or is attired in the fashion of a woman in a public place or who practises sodomy as a means of livelihood or as a profession.

(3) An "incurrible vagabond" shall mean any person who after being convicted as a vagabond commits any of the offences which would render him liable to be convicted as such again.

406. Penalty on conviction as idle person

Whoever is convicted as being an idle person shall be punished with imprisonment for a term which may extend in the case of a person falling within the provisions of paragraph (a), (b), (c), (d) or (e) of subsection (1) of section 405, to three months or with fine which may extend to one thousand naira or with both, and, in the case of a person falling within the provisions of paragraph (f), (g), (h) or (i) of subsection (1) of section 405, to one year or with fine which may extend to two thousand naira or with both.

[NN 11 of 1964, No. 4 of 2006.]

407. Penalty on conviction as vagabond

Whoever is convicted as being a vagabond shall be punished with imprisonment which may extend to two years or with fine which may extend to two thousand naira or with both.

[NN 11 of 1964, No. 4 of 2006.]

408. Penalty on conviction as incurrible vagabond

Whoever is convicted as being an incurrible vagabond shall be punished with imprisonment which may extend to three years or with fine which may extend to two thousand naira or with both.

[NN 11 of 1964, No. 4 of 2006.]

409. Evidence of intent to commit an offence

For the purposes of this Chapter in proving the intent to commit an offence it shall not be necessary to show that the person suspected was guilty of any particular act tending to show this purpose or intent and he may be convicted if from the circumstances of the case and from his known character as proved to the court before which he is brought it appears to the court that

his intent was to commit such offence.

Illustration. *A man who has been convicted of theft is found by night crouching in the shadow of a locked shop and seeing a policeman at once runs away. He is arrested in possession of a large bundle of keys. It need not be shown that he was trying the keys or attempting to enter the shop.*

410. – 477*.

Sections 410 to 477 of this Penal Code were added by the Penal Code (Northern region) Federal Provisions Act, 1960 (No. 25 of 1960). They are omitted here because they relate to matters within the exclusive competence of the Federation but the federal Provisions Act still has force in all those states in Nigeria where the Penal Code (NN 1963, Cap. 89) is the fundamental legislation current in criminal law.

CHAPTER P4

PENAL CODE LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
