

CHAPTER 99 - PENSIONS AND GRATUITIES

A LAW TO PROVIDE FOR PENSIONS AND GRATUITIES IN THE STATE

[1 October 1979]

1. This Edict may be cited as the Pensions and Gratuities Edict.

2. In this Edict unless the context otherwise requires:—

"Armed forces of the Federation" or "armed forces" mean the Nigerian Army, the Nigerian Navy and the Nigerian Air Force;

"The Commissioner" means the State Commissioner charged with responsibility for pensions;

"Medical board" means any medical board appointed by the Commissioner or by any other person pursuant to a delegation of powers under section 21 of this Edict to assess the disablement of an officer;

"Final pay in respect of an officer whose appointment has terminated" means the amount payable to him for a month (or if he was on a daily rate of pay for thirty-one days) multiplied by 12 in respect of the last substantive rank held by him immediately before the end of his service;

"Governor" means the Governor of the State;

"next-of-kin" means those persons whose names are furnished by the deceased. Officer on his record of service kept in the Records office of the State Directorate of Establishments and Training or furnished by him in writing at any time before his death to that Directorate;

"Officer" means a person employed in a pensionable office of the State but does not include officers on temporary or contract appointment;

Pensions and Gratuities

"Pensionable emoluments" in respect of an officer means the salary attached to the last substantive rank held by the officer and does not include any allowances;

"Pensionable service" means service in a pensionable office in the Civil Service of the State which may be taken into account in computing an officer's pension under this Edict;

"Civil Service" or "Service" means serving under the government of the Federation in a civil

capacity or of the civil service of the State or such other service in any organization which may be declared by the Governor under section 30 of this Edict to be a pensionable office and service under superannuation scheme in respect of which there is a reciprocal arrangement for the acceptance of service as qualifying service under this Edict or regulation made thereunder; "qualifying service" means service in the civil service or any approved service which may be taken into account in determining whether an officer is eligible by length of service for a pension or gratuity;

"retirement" means cessation of service after an officer has served for a period of not less than 10 years up till March 31 1978, or thereafter for a period of not less than 15 years being periods respectively appointed as qualifying an officer for a pension and gratuity;

"Survivor" or "designated survivor" in relation to a deceased officer means those persons whose names are furnished by the officer on his record of service kept in the Records Office of the State Directorate of Establishments and Training or later supplied in writing at any time before his death by the deceased officer to that Directorate;

"State" means Adamawa State of Nigeria;

"termination" in relation to an officer's service means termination of service by retirement or withdrawal;

"Transfer value" means the amount paid and accepted in discharge of pension liability in respect of an officer at the time of his transfer to an approved service;

"War service" means any or all of the following.:-

(a) Service in the armed forces after 27 May 1967 ending immediately before 16 January 1970

(b) Service in connection with internal security operations; that is, all operations in aid of civil authority in the maintenance of law and order;

(c) any other service as may be so declared from time to time by the President of the Federal Republic of Nigeria;

"Withdrawal" means cessation of service after an officer has served for a minimum period of 10 years but less than 15 years up till 31 March 1978, and qualifying the officer only for gratuity.

3.—(1) Subject to the provisions of this Edict any pension or gratuity granted hereunder to any person on his retirement from the Civil Service of the State shall be computed on the final pay of the person entitled thereto and in accordance with the provisions of schedule 1 to this Edict.

(2) In the computation of pensionable service and qualifying service for the purposes of this Edict.:-

(a) where an officer served in any of the armed forces of the Federation during the period between 27 May 1967 and 15 January 1970.---

- (i) each completed year of war service shall count as two years;
- (ii) a period of war service not exceeding four months and not included in a completed year shall count as one year; and
- (iii) a period of war service not exceeding four months and not included in a completed year or in a period of the kind mentioned in sub-paragraph (ii) above shall count as six months;
- (b) any period of service (other than war service) over six months and not included in a completed year shall, for the purposes of schedule 1 to this Edict as relates to officers entitled to a pension, count as one year.
- (3) Pensions and gratuity already awarded under the provisions of any other enactment relating to pensions may be recalculated in order to take account of subsection (2) above.

4. There shall be charged on and paid out of the revenue of the State all such sums of money as may from time to time be set out for the purposes of paying pensions and gratuity by an appropriation law of the State.

5.—(1) No pension or gratuity shall be granted under this Edict to any officer except on his retirement from the Civil Service of the State in any of the following circumstances, that is:—

- (a) on voluntary retirement after qualifying service of ten years up to 31 March 1977 and fifteen years as from 1 April 1977;
- (b) On compulsory retirement under the provisions of sections 4 of this Edict;
- (c) On compulsory retirement for the purpose of facilitating improvements in the organization of an officer's department or Ministry so that greater efficiency or economy may be effected;
- (d) On the advice of a properly constituted medical board certifying that the officer is no longer mentally or physically capable of carrying out the functions of his office;
- (e) On total or permanent disablement while in the service;
- (f) On abolishing of his office under section 13 of this Edict;
- (g) If he is required by the Civil Service Commission of the State to retire on the ground that his retirement is in the public interest.

(2) Where an officer retires after 1 April 1977 pursuant to subsection (1) above:—

- (a) If he has completed 10 years but not up to 15 years, he shall be entitled to pension;
- (b) If he has served for not less than 15 years he shall be entitled to pension;
- (c) if he is required to retire after 15 years qualifying service pursuant to the provisions of paragraphs (c) to (g) of subsection (1) above, he shall be entitled to pension immediately on retirement, notwithstanding that he has not attained the age of 45 years.

(3) For the avoidance of doubt:—

(a) where any person who had served for 5 years but less than 10 years had withdrawn from the Public Service between 1 April 1974 and 31 March 1978, he shall be entitled to a gratuity for one year's salary based on his last pay;

(b) where any person who had served for 10 years but less than 15 years had retired voluntarily from the Civil Service between 1 April 1974 and 31 March 1978, he shall be paid in addition to gratuity, a pension at the rate stipulated in schedule 1 to this Law.

6. Where an officer mentioned in subsection (3) of this section is required to retire, he shall immediately become entitled to his pension notwithstanding that he has not attained the age of 55 years.

7. Where, as from 1 April 1978, an officer, who has served for a minimum of three years but not up to ten years, is required to retire from the service under this section, he shall be entitled to an *ex-gratia* award or gratuity calculated on *pro rata* basis at the rate of ten *per centum* for every completed year of service.

8. Except as otherwise provided in this Edict, the payment of a pension to any officer qualified to receive a pension under this Edict shall not commence until such officer has attained the age of 45 years.

9. (1) Every officer shall retire upon attaining the age of 60 years, so however, that for officers retiring on or before 31 March, 1978 the compulsory retiring age shall be 55 years.

(2) The Commission may require an officer to retire from the service at any time after he has attained the age of 45 subject to three months' notice in writing of such requirement being given.

10. Any pension or gratuity to which an officer is entitled in accordance with the provisions of this Edict shall not be withheld or altered to his disadvantage.

Provided that where such officer is dismissed from the Service for any offence, including a breach of the Code of Conduct. Specified in the Fifth Schedule of the Constitution of the Federal Republic of Nigeria 1979, he may forfeit such pension or gratuity.

11.(1) Where an officer dies in the service after the completion of the minimum period of qualifying service, there shall be paid to his legal personal representative or to any person designated by him during his lifetime as his survivor:—

(a) up to 31 March 1978, a gratuity equal to his one year's salary plus appropriate pension as if

he had retired at the date of his death;

(b) As from 1 April 1978, such pension and gratuity as would have been payable to him if he had retired at the date of his death.

Provided that where an officer dies before completing the minimum qualifying period of 10 years, his legal personal representative or survivor shall be paid his one year's salary as death gratuity.

(2) Any pension payable under subsection (1) above shall be paid for a period expiring at the end of five years after his death but it shall be lawful for the total to be paid forthwith.

12.(1) Without prejudice to subsection (2) below, where an officer dies in the course of his official duty and without his own fault, there shall be paid to his next of kin or designated survivors a duty to which the officer would have been entitled at the date of his death.

(2) In addition to the gratuity payable under subsection (1) above, there shall be granted:—

(a) if the deceased officer leaves a widow, a pension to her for life while unmarried and of good character, at a rate not exceeding one-third of the deceased officer's accrued pension at the date of his death; or

(b) if the deceased officer leaves a widow to whom a pension is granted under paragraph (a) of this subsection and a child or children, a pension in respect of each child; until such child attains the age of 18 years of an amount not exceeding one-ninth of the deceased officer's accrued pension; but where the deceased leaves an only child, that child shall be entitled to two-third of the deceased officer's accrued pension until he attains the age of 18 years.

Provided that where a child to whom this paragraph relates is engaged in a full time course of studies at an institution of higher learning, he shall continue to be granted the relevant pension emoluments until he attains the age of 25 years;

(c) if the deceased officer leaves a widow to whom a pension is granted under paragraph (a) of this subsection and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of 18 years, of one-sixth of the accrued pension of the deceased officer.

Provided that:—

(i) A pension shall not be payable under this subsection at any time in respect of more than six children;

(ii) A pension granted to a female child under this subsection shall cease upon the marriage of such child under the age of 18 years;

(iii) Where a deceased officer leaves more than one widow, the Commissioner may grant a pension to one or more of such widows not exceeding in the aggregate the total value of the

pension which might be granted to a sole widow under the provisions of this subsection.

(3) For the purposes of this section, the word "child" includes:—

(a) A posthumous child;

(b) A child born out of wedlock; and

(c) A stepchild or a child adopted in a manner recognized by law (including customary or Islamic law), before the death of the officer and where such child is designated a survivor as stipulated under this law.

(4) Where the deceased officer does not qualify for a pension by reason of the length of his service, his dependents shall be entitled to pro-rata pension calculated at the rate of 2 *per cent per annum* of pensionable service based on the deceased officer's final salary.

13.(1) Where as a result of re-organization in a Department or Ministry it becomes necessary to abolish an office and the holder of such office cannot be transferred to another office, the Civil Service Commission of the State may require such officer to retire on three months' notice of such requirement being given to him.

(2) Where an officer retires under the provisions of subsection (1) above, he shall in addition to the appropriate pension under schedule 3 be entitled to 10 percent of his pension and gratuity as compensation for premature retirement; so however that his total award shall not exceed 70 percent of his salary as pension and 300 percent of his salary as gratuity.

(3) Where an officer is required to retire in pursuant of subsection (1) of this section has not completed the minimum period qualifying him for a gratuity or pension, the Commissioner may grant him a gratuity equal to his one year's salary.

14.(1) Where an officer who is incapacitated in the course of his official duties has not completed the minimum qualifying service and is not, on the termination of his service, eligible for a pension under this Edict the Commissioner may, in lieu of the gratuity stipulated in the relevant schedule grant to such officer in addition to injury pension stipulated in schedule 3, pension calculated, at the rate of 2 percent of the officer's retirement.

(2) The provisions of this part of this Edict shall not apply to any officer who by reason of the injury is entitled to compensation under the Workmen's Compensation Act.

15. Any award of pension or gratuity under this Edict to an incapacitated officer may be made retrospectively, so however, that no such award shall be made, to take effect before the termination of his service.

PART II—MISCELLANEOUS

16. Notwithstanding anything to the contrary contained in any other Law, where an officer is missing and is not found within a period of one year and a board of inquiry set up by the Commissioner concludes that it is reasonable to presume that he has died, the Commissioner may pay to his next-of-kin or designated survivor.

17. Where an officer dies within five years after retirement, his next-of-kin or designated survivors shall continue to be paid, for a period expiring at the end of five years from the date of his retirement, retirement, the same pension which the deceased officer was receiving prior to his death but if the next-of-kin or designated survivor so elects, the balance of his pension at the said next-of-kin or designated survivor.

18. Where the records of service of an officer are missing, the Commissioner shall cause an inquiry to be conducted into the circumstances for which the records are missing.

19.-(1) Except as otherwise provided in this Edict, only continuous and unbroken service shall be taken into account as qualifying service caused by a temporary suspension from employment not arising from misconduct may be disregarded for the purposes of the calculation of qualifying service under this Edict.

(2) Where an officer who:-

(a) had retired from the public service without a pension on account of ill-health, abolishing of office or a re-organization in a Ministry or Department for the purpose of effecting greater efficiency or economy, is subsequently re-employed in the Civil Service; or

(b) Has left any pensionable service under any voluntary agency service and is subsequently employed in the public service; or

(c) after confirmation of his appointment in the Civil Service voluntarily resigned for the purpose of pursuing a course of studies and is subsequently re-employed in the Civil Service in such circumstances as the Commissioner considers that it is in the public interest that the break in his service should be disregarded; the officer, shall, on retirement and subject to such conditions as may be imposed by the Commissioner pursuant to subsection (3) below, be entitled to such pension or gratuity as he would have been eligible had the said break in his service not occurred prior to his re-employment

(3) Any pension or gratuity granted pursuant to the provisions of subsection (2) of the section shall be in lieu of:–

- (a) Any pension previously granted to the officer concerned;
- (b) Any gratuity previously granted to the officer concerned which is required to be refunded as a condition of the application of the officer of this section.

20.–(1) Where an officer holding an unestablished contract appointment transfers to a permanent one, the period during which he was on such unestablished, temporary or contract appointment shall count in full as qualifying service:

Provided that:–

(a) any allowance or extra pay in the form of contract in addition to salary or contract gratuity which was granted to him while holding such temporary or contract appointment shall be refunded by him in full as a condition to the application of the officer under this subsection; and

(b) In calculation of a pension or gratuity granted in accordance with the provisions of this section no account shall be taken of any period during which the officer was not in the service.

(2) Where an officer who retires or is required to retire from any public service other than on grounds of ill-health or on the abolishing of his office, is qualified for the award of pensions, he shall not be eligible for re-engagement on pensionable terms in any public office in the Federation, but he may be re-engaged on contract or temporary basis. Provided that the pension already earned shall not be reduced but no contract addition or contract gratuity may be payable to him.

21. In the computation of qualifying service, no period during which an officer was less than 15 years of age or was absent from duty on leave without pay shall be taken in account unless such absence was for the purpose of utilizing a bursary or scholarship awarded to him by the Government of the State thereof or the absence was on account of such other purpose as the Commissioner may permit.

22. Where an officer in a pensionable service transfers from the Civil Service of a State or voluntary agency teaching service within the Federation or vice-versa, he shall in respect of his service in each of the Civil Services concerned be entitled to pension or gratuity apportioned among the various Civil Services concerned in such proportion as corresponds with the duration of his service in each of the respective Civil Services concerned, so however that:–

(a) The Federal Government shall bear responsibility for any portion of his service rendered to

- a State Civil Service or a voluntary agency teaching service up to 31 March 1975;
- {b) The respective State Civil Service or voluntary agency teaching service shall bear responsibility for his service from 1 April 1976;
- (c) In the case of a non-Nigerian officer, apportionment shall be based on the statement of aggregate pensionable emoluments in certain cases.

23. Notwithstanding the provisions of section 17 of this Edict, where an officer is transferred to a Civil Service in circumstances that the officer may be entitled on retirement to a pension based on his final pay, the Commissioner may agree with the establishment concerned for the payment of a lump sum in satisfaction of the liability of the civil service in respect of the length of service of the officer at the time of his transfer.

If the lump sum is accepted by the establishment concerned, the amount shall be treated as the transfer value of the officer in respect of his right to a pension.

24.—(1) Where a person serving in any capacity within the armed forces of the Federation is transferred from the armed forces to the Civil Service of the State, the service of that person in the armed forces of the Federation shall be continuous service for the purposes of this Edict and any pension payable hereunder, shall cease to be payable to such person.

(2) Accordingly, this Edict shall have effect in relation to transfers from the armed forces to the Civil Service of the State as if all the service of the person concerned was rendered in the Civil Service of the State.

(3) Where a person serving in any capacity within the Civil Service of the State thereof without formal transfer joined the armed forces of the Federation at any time between 27 May 1967 and 15 January 1970, he shall be deemed, if not more than 3 months had elapsed between the cessation of his civil service and the commencement of his military service:—

- (a) To have been on leave from the civil service for that period on full pay;
- (b) To have held the last substantive post held by him in that office prior to his service in the armed forces; and
- (c) To have been transferred to the armed forces on the date he assumed duty in the armed forces.

25. Where the Commissioner is satisfied that:—

- (a) a sum is due to the State Government from a person to whom a pension or gratuity may or

has been awarded under this Edict

(b) an overpayment on account of any such pension or gratuity has been made to any such person by the State Government .The Commissioner may authorize the deduction from the pension or gratuity in respect of that sum or overpayment of such amounts, at such times as he may think fit, and the amounts so deducted shall be applied in or towards paying or repaying the sum or overpayment.

26.—(1) The Commissioner may by order published in the of Gazette delegate to another person or authority all or any of his powers under this Edict.

(2) The delegation of power under subsection (1) above shall not prevent the Commissioner from continuing to exercise the power if he thinks fit.

(3) The delegation of powers under this section shall not extend to the power to make regulations under this Edict.

27.—(1) An officer who wishes to retire from the service after serving for 15 years or more shall give the Commissioner three months notice of his intention to do so or he shall pay three months' salary in lieu of such notice.

(2) An officer who wishes to withdraw from the service after serving for not less than ten years shall give the Commissioner one month's notice of his intention to do so or he shall pay one month's salary in lieu of such notice.

28. (1) A pension granted to an officer under this Edict shall not exceed 70 percent of the highest pensionable emoluments earned by him at any time during the course of his service.

(2) A pension granted under this Edict shall not be less than N 360.00 per annum.

29. —(1) The Commissioner may with the approval of the Government by regulations, make provision generally for carrying into effect the provision of this Edict and in particular, but without prejudice to the generality of the foregoing, may by regulation amend the provisions of any schedule to this Edict.

(2) Whenever the Commissioner is satisfied that it is equitable that any regulations made under this section shall have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that regulation may be given retrospective effect for that purpose.

30. The Governor shall by notice published in the State Gazette declare any office in the state to be a pensionable office.

31. The enactments set out in schedule 4 to this Edict are hereby repealed, so however, that pensions and gratuities already granted under the repealed enactments shall continue to be paid, or as the case may be paid as if granted under this Edict and any such pension and gratuity shall accordingly be recalculated in order to take account of the provisions of this Edict where applicable, or of the Pensions (Increase) Act 1975.

Formula for calculation of pensions and gratuity in respect of retirement between 1 April 1974 and 31 March 1978

Years of Service	Gratuity as percentage of final pay	Pension as percentage of final pay
10	100%	30%
11	110%	32%
12	120%	34%
13	130%	36%
14	140%	38%
15	150%	40%
16	160%	42%
17	170%	44%
18	180%	46%
19	190%	48%
20	200%	50%
21	210%	52%
22	220%	54%
23	230%	56%
24	240%	58%
25	250%	60%
26	260%	62%
27	270%	64%
28	280%	66%
29	290%	68%
30 and above	300%	70%

SCHEDULE 2

Formula for pension and gratuity calculation based on percentage of final salary in respect of retirement after 31 March 1977

Years of qualifying period	Gratuity as percentage of final pay	Pension as percentage of final pay
10	100%	—
11	110%	—
12	120%	—
13	130%	—
14	140%	—
15	100%	30%
16	110%	32%
17	120%	34%
18	130%	36%
19	140%	38%
20	150%	40%
21	160%	42%
22	170%	44%
23	180%	46%
24	190%	48%
25	200%	50%
26	210%	52%
27	220%	54%
28	230%	56%
29	240%	58%
30	250%	60%
31	260%	62%
32	270%	64%
33	280%	66%
34	290%	68%
35	300%	70%

SCHEDULE 3 SECTION 13(2)

Category	<i>Incapacity pension payable</i>	
	Degree of incapacitation	Incapacity pension payable
A	Not less than 70%	30% of final pay at date of injury.
B	50% to 69%	15% of final pay at date of injury.
C	30% to 40%	10% of final pay at date of injury.

SCHEDULE 4 SECTION 31

Enactments repealed

1. Pensions (Northern Nigeria New Officers) Law (Cap. 91) NN 1963.
2. Pensions (Previous Service on Contract) Law (Cap. 92) NN 1963.
3. Pensions (Special Provisions) Law (Cap. 93) NN 1963.
4. Pensions (Special Application) Law NN 26 of 1960.
5. Widows and Orphans Pensions Law (Cap. 139) NN 1963.

CHAPTER XIX OFFENCES AGAINST PROPERTY

Theft

286.—(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.—(1) Whoever commits theft shall be punished with imprisonment for a term which may extend to ten years.

(2) Where:-

(a) the value of the property stolen is below the sum of one thousand 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 five hundred naira for subsequent offences.

288.—(1) Whoever commits theft in or from any building, tent or vessel which building tent or vessel is used as a human dwelling, for the custody of property or as a place of worship, or in or from any railway carriage, motor vehicle or aircraft used for the conveyance of passengers or goods, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

(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.

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

293. Whoever in order to commit extortion puts any person in fear or attempts to put any person in fear of any injury so 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. 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. 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.

296.—(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.

EXPLANATION. 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 five thousand naira". 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. 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. Whoever commits robbery shall be punished:-

(a) with imprisonment for 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, to imprisonment for life, with or without caning.

299. Whoever attempts to commit robbery shall be punished with imprisonment for a term of fourteen years, with or without fine and caning.

300. 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 of twenty one years with or without fine and caning.

301. Whoever commits brigandage shall be punished with imprisonment for a term of twenty one years with or without fine and caning.

302. 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.—(1) If, at the time of committing or attempting or 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, the imprisonment with which such offender shall be punished shall not be less than fourteen years, with or without fine and caning;

(b) the offender:-

(i) 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) 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) uses or attempts or offers to use, or bears, any firearm or With anything resembling a firearm, firearm.

the imprisonment with which such offender shall be punished shall not be less than life, with or without caning.

(2) In this section:-

"article of equipment" includes vehicle;

"firearm" means any barrelled weapon of any description from which any shot, bullet or other missile can be discharged;

"the uniformed services" include the Nigerian Army, the Nigerian Navy, the Nigerian Air Force and any police force.

304. —(1) Whoever makes any preparation for committing brigandage shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

(2) Whoever makes any preparation for committing brigandage punishable under any of the provisions of paragraph (b) of subsection (1) of section 303, shall be punished with imprisonment of not less than twenty-one years, with or without fine and caning.

305. —(1) Whoever belongs to a gang of persons associated for the purpose of habitually committing brigandage, shall be punished with imprisonment for a term which may extend to fourteen years and shall s' also be liable to fine.

(2) Whoever belongs to a gang of persons associated for the purpose of habitually committing

brigandage punishable under any of the provisions of paragraph (b) of subsection (1) of section 303, shall be punished with imprisonment of not less than twenty-one years, with or without fine and caning.

306. —(1) 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 which may extend to ten years and shall also be liable to fine.

(2) Whoever belongs to any wandering or other gang of persons associated for the purpose of habitually committing robbery punishable under any of provisions of paragraph (b) of subsection (1) of section 303 and not being a gang of brigands, shall be punished with imprisonment for not less than fourteen years, with or without fine and caning.

307. —(1) Whoever is one of five or more persons assembled for the purpose of committing brigandage, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

(2) Whoever is one of five or more persons assembled for the purpose of committing brigandage punishable under any of the provisions of paragraph (b) of subsection (1) of section 303, shall be punished with imprisonment of not less than fourteen years, with or without fine and caning.

308. 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 of 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. 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. 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. 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 disobeys 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 Yola is agent for Z residing at Zaria. 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 mallam, 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. 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. trust.

313. 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. 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. 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.

316. 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. 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 or with fine or with both.

318. 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. 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 or with both.

319A. Whoever knowing 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.

Cheating

320. 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 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). 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 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.

325. 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.

331. 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. 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. 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 He drainage, with fine or with both.

334. 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. Whoever commits mischief by destroying or moving any land mark fixed by the authority of a public servant or by any act which renders such land mark less useful as such, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

336. 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. 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. Whoever commits mischief to any decked vessel or any vessel of 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. 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. 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. 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. 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. — (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. — (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. Whoever commits lurking house trespass between sunset and sunrise, is said to commit lurking house trespass by night.

346. 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 had 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. Whoever commits house breaking between sunset and sunrise, is said to commit house breaking by night.

348. 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 one thousand naira or with both.

349. 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 one thousand naira or with both.

350. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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 two years and shall also be liable to fine.

CHAPTER XX FORGERY

362. 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. 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. Whoever commits forgery shall be punished with imprisonment for a term which may extend to fourteen years or with fine or with both.

365. Whoever forges:-

(a) a thing which purports to be the public seal of Nigeria or of any State of Nigeria 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 understood 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. 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. 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. 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. 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. 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. 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. A mark used for denoting that movable property belongs to a particular person is called a property mark.

373. 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. 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 one year or with fine or with both.

375. 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. 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 of 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. 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. 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. 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. 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. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place or to act as servant to any person during a voyage or journey or to guard any person or property during the voyage or journey, voluntarily omits so to do, except in the case of illness or ill treatment, shall be punished

with imprisonment for a term which may extend to one month or with fine which may extend to two hundred naira or with both.

Illustrations, (a) A a porter, being bound by a lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed an offence under this section.

(b) A, by unlawful means, compels B a porter to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed an offence.

EXPLANATION. It is not essential to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient, if the contract is lawfully made with any person either expressly or impliedly by the person who is to perform the service.

Illustration. A contracts with a village head to provide horses for a journey. The village head sub-contracts for the performance of the contract with B, a member of his village, who starts in charge of some of the horses and in the course of the journey voluntarily leaves the horses, B is guilty of an offence under this section.

382. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person, who by reason of youth or of unsoundness of mind or of disease or bodily weakness is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred naira or with both.

CHAPTER XXII OFFENCES RELATING TO MARRIAGE OR INCEST

383. Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

384.—(1) Whoever having a husband or wife living marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, 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:-

(a) to any person whose marriage with such husband or wife has been legally dissolved; nor

(b) to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife at the time of the subsequent marriage shall have been continually absent from such person for the space of seven years and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

385. Whoever commits the offence defined in section 384 having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment for a term which may extend to ten years and shall also be liable to fine.

386. Whoever dishonestly or with a fraudulent intention goes through the ceremony of being married knowing that he is not thereby lawfully married, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

387. Whoever, being a man subject to any customary law in which extra-marital sexual intercourse is recognized 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. Whoever, being a woman subject to any customary law in which extra-marital sexual intercourse is recognized 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. 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. 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 grand-daughter, 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.—(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.

(2) It is not defamation:-

(i) 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 Yola. 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 Zaria 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) to express in good faith any opinion whatever respecting the Public 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) 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) to publish a substantially true report of the proceedings of a court of justice or of the result of

any such proceedings;

(v) 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 that 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) 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) 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) 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) 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) 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. Whoever defames another shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

393. —(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. Whoever prints or engraves any matter or prepares or causes to be prepared any record for the purpose of mechanical reproduction of any known to be matter, knowing or having good reason to believe that such matter is defamatory, 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. 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. 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 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. 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. 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. 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.

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. 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. 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 five hundred 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 one thousand naira or with both.

402. 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 one thousand naira or with both.

403. Whoever being of the Moslem 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 hundred naira or with both.

404. Whoever is convicted of an offence under section 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. 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;

(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;

if) 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 NN 11 of sight or hearing of any person therein with the intention of 1964-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;

(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

(i) 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 "incorrigible 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. 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 five hundred naira or with both, and, in the case of a person falling within the provisions of paragraph (f), (g), (h) or (i) of subsection Penalty on conviction as idle person. NN 11 of 1964.

(1) of section 405, to one year or with fine which may extend to one thousand naira or with both.

407. Whoever is convicted as being a vagabond shall be punished with imprisonment which may extend to two years or with fine which conviction may extend to one thousand naira or with both.

408. Whoever is convicted as being an incorrigible 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.

409. 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 is 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.

