

CHAPTER 1

GRENADA

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

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

[20th January, 1987]

PRELIMINARY

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

BOOK I

GENERAL PROVISION (P.P. 4-47)

- PART I INTRODUCTORY PROVISION
- TITLE I PRELIMINARY MATTERS

PART II	RULES AS TO CRIMINAL RESPONSIBILITY
TITLE II	GENERAL EXPLANATIONS
TITLE III	SPECIAL EXPLANATIONS RELATION TO CERTAIN OFFENCES
TITLE IV	ATTEMPTS TO COMMIT CRIMES
TITLE V	ABETMENT AND CONSPIRACY
TITLE VI	GENERAL EXEMPTIONS
TITLE VII	JUSTIFIABLE FORCE AND HARM

PART III	PUNISHMENTS
TITLE VIII	GENERAL AND SPECIAL CASES

BOOK II

SUMMARY OFFENCES (P.P. 48-84)

PART IV	OFFENCES AGAINST THE PERSON
TITLE IX	ASSAULTS AND CRIMINAL HARM
PART V	OFFENCES AGAINST RIGHTS OF PROPERTY
TITLE X	MISCHIEF TO PROPERTY
TITLE XI	MISAPPROPRIATIONS AND FRAUDS
TITLE XII	FORGERY AND FALSE COIN
PART VI	OFFENCES AGAINST PUBLIC ORDER, HEALTH, AND MORALITY
TITLE XIII	PUBLIC NUISANCES
TITLE XIV	PERJURY
TITLE XV	MISCELLANEOUS OFFENCES

BOOK III

INDICTABLE OFFENCES (P.P. 84-158)

PART VII	OFFENCES AGAINST THE PERSON AND REPUTATION
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TITLE XVII	CRIMINAL HARM TO THE PERSON
TITLE XVIII	CRIMINAL HOMICIDE AND SIMILAR OFFENCES
TITLE XIX	LIBEL
PART VIII	OFFENCES AGAINST RIGHTS OF PROPERTY
TITLE XX	MISCHIEF TO PROPERTY
TITLE XXI	MISAPPROPRIATIONS AND FRAUDS
TITLE XXII	HOUSE-BREAKING AND BURGLARY
TITLE XXIII	FORGERY AND FALSE COIN
PART IX	OFFENCES AGAINST PUBLIC ORDER, HEALTH AND MORALITY
TITLE XXIV	OFFENCES AGAINST THE SAFETY OF THE STATE
TITLE XXV	OFFENCES AGAINST THE PUBLIC PEACE
TITLE XXVI	PERJURY AND OBSTRUCTIONS OF PUBLIC JUSTICE
TITLE XXVII	OFFENCES RELATING TO PUBLIC OFFICES AND TO PUBLIC ELECTIONS
TITLE XXVIII	BIGAMY AND SIMILAR OFFENCES
TITLE XXIX	PUBLIC NUISANCES
PART X	OFFENCES AGAINST NATIONAL FINANCIAL INTEGRITY
TITLE XXX	MAIL, WIRE AND ELECTRONIC FRAUDS (SEE P.P. 155-158)

BOOK I

GENERAL PROVISIONS

PART I

INTRODUCTORY PROVISIONS

TITLE I

PRELIMINARY MATTERS

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

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

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

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

“corporation” does not include a corporation sole;

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

“deliver” includes the causing a person to receive a thing and the permitting a person to take a thing, whether directly or by any other person;

“duress” means any force, harm, constraint or threat, used with intent to cause a person against his will to do or to abstain from doing any act;

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

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

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

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

“Imprisonment” means, in the case of imprisonment for three years or more, imprisonment with hard labour, and, in the case of imprisonment for less than three years, imprisonment with or without hard labour, as the Court in its discretion thinks fit to direct;

“indictable offence” means any offence punishable under Book III. of this Code, or punishable on indictment under any other law;

“indictment” includes a criminal information triable before a jury;

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

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

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

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

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

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

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

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

"public place" includes any public way and any building, place or conveyance to which for the time being the public are entitled or permitted to have access, either without any condition or upon condition of making any payment, and any building or place which is for the time being used for any public or religious meeting or assembly, or as an open Court;

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

Acts are done "publicly"—

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

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

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

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

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

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

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

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

"the Court" means either a Magistrate's Court in the exercise of its jurisdiction in respect of summary offences or the Supreme Court in the exercise of its criminal jurisdiction, according to the circumstances of the particular case.

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

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

"complaint" includes any information or charge;

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

"instrument of obeah" means any philtre, vial, blood, bone, image or other article or thing, which according to the testimony of two or more credible witnesses, is used or intended to be used in the practice of obeah;

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

"order" includes any conviction.

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

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

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

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

(3) "officer" of a company or corporation includes any officer, chairman, director, trustee, manager, secretary, treasurer, cashier, clerk, auditor, accountant or other person provisionally, permanently or temporarily charged with or performing any duty or function in respect of the affairs of the company or corporation, whether for or without any remuneration.

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

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

- (a) any civil office, including the office of Governor, the power of appointing a person to which or of removing a person from which is vested in Her Majesty, or in the Governor-General or in any public commission or board; or
- (b) any office to which a person is nominated or appointed by statute or by public election; or
- (c) any civil office, the power of appointing to which or of removing from which is vested in any person or persons holding public office of any kind included in either of the two last preceding sub-heads of this section; or
- (d) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any Court; or
- (e) any Justice of the Peace;

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

"civil office" means any public office other than an office in the military or naval service of Her Majesty;

"public office" means the office of any public officer;

"judicial officer" means any person executing judicial functions as a public officer.

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

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

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

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

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

- (a) all the provisions of Book I. shall be applied to and be deemed to form part of every provision of Books II. and III., in so far as they are applicable to the matter of that provision, and are not expressly or by necessary implication excluded, limited or modified with respect to that matter;
- (b) this Code shall not be construed strictly, either as against Her Majesty or as against a person accused of any offence, but shall be construed amply and beneficially for giving effect to the purposes thereof; and
- (c) in the construction of this Code, a Court shall not be bound by any judicial decision or opinion on the construction of any other statute, or of the Common Law, as to the definition of any offence or of any element of any offence.

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

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9. When an act which, if wholly done within the jurisdiction of the Court, would be an offence against this Code, is done

partly within and partly beyond the jurisdiction, every person who within the jurisdiction does or abets any part of such act may be tried and punished under this Code in the same manner as if such act had been done wholly within the jurisdiction.

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

Exclusion of
other laws

11. Nothing in this Code shall affect—

Saving of
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- (a) the liability, trial or punishment of a person for an offence against any statute other than this Code; or
- (b) the liability of a person to be tried or punished for an offence under the provisions of any Act relating to the jurisdiction of Colonial Courts, in respect of acts done beyond the ordinary jurisdiction of such Courts; or
- (c) the power of any Court to punish a person for contempt of such Court; or
- (d) the liability or trial of a person, or the punishment of a person under any sentence passed or to be passed, in respect of any act done or commenced before the commencement of this Code; or
- (e) any power of Her Majesty, or of the Governor-General as the representative of Her Majesty, to grant a pardon, or to remit or commute in whole or in part, or to respite, the execution of any sentence passed or to be passed; or
- (f) any of the laws, regulations or articles for the time being in force for the government of Her Majesty's naval, military or air forces:

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

PART II

RULES AS TO CRIMINAL RESPONSIBILITY

TITLE II

GENERAL EXPLANATIONS

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

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

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

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

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

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

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

Provisions relating to negligence

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

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

Provision relating to causing an event

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

(3) A person shall not be convicted of having intentionally or negligently caused an event if, notwithstanding his act and the acts of any person acting jointly with him, the event would not have happened but for the existence of some state of facts or the intervention of some other event or of some other person, the probability of the existence or intervention of which other event or person the accused person did not take into consideration,

and had no reason to take into consideration. This provision shall not apply where a person is charged with having caused an event by an omission to perform a duty for averting the event.

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

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

(6) A person shall not, by reason of anything in this section, be relieved from any liability in respect of an attempt to cause an event: and a person shall not, by reason of anything in this section, be relieved from any liability in respect of negligent conduct, if such negligent conduct is punishable under this Code irrespective of whether it actually causes any event.

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

- (a) a consent shall be void if the person giving it is under seven years of age, or is, by reason of insanity, or of immaturity, or of any other permanent or temporary incapacity, whether from intoxication or any other cause, unable to understand the nature or consequences of the act to which he consents;
- (b) a consent shall be void if it is obtained by means of deceit or of duress;
- (c) a consent shall be void if it is obtained by the undue exercise of any official, parental, or other authority; and any such authority which is exercised otherwise than in good faith for the purposes for which it is allowed by law, shall be deemed to be unduly exercised;

- (d) a consent given on behalf of a person by his parent, guardian or any other person authorized by law to give or refuse consent on his behalf, shall be void if it is given otherwise than in good faith for the benefit of the person on whose behalf it is given;
- (e) a consent shall be of no effect if it is given by reason of a mistake of fact;
- (f) a consent shall be deemed to have been obtained by means of deceit or of duress, or of the undue exercise of authority, or to have been given by reason of a mistake of fact, if it would have been refused but for such deceit, duress, exercise of authority or mistake, as the case may be; and
- (g) for the purposes of this section, exercise of authority is not limited to exercise of authority by way of command, but includes influence or advice purporting to be used or given by virtue of an authority:

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

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

Provision relating to claim of right

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

Provision relating to fraud (see s. 365)

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

Provisions relating to intoxication

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

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

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

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

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

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

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

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

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

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

TITLE III

SPECIAL EXPLANATIONS RELATING TO CERTAIN OFFENCES

ASSAULT

20. (1) "Assault" includes—

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

Different kinds of assault

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

21. (1) A person makes an assault and battery upon another person if, without the other person's consent, and with the intention of causing harm, pain, fear or annoyance to the other person, or of exciting him to anger, he forcibly touches the other person, or causes any person, animal or matter to forcibly touch him.

Definition of and provision relating to assault and battery

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

- (a) where the consent of the other person to be forcibly touched has been obtained by deceit, it suffices with respect to intention that the touch is intended to be such as to cause harm or pain, or is intended to be such as, but for the consent obtained by the deceit, would have been likely to cause fear or annoyance or to excite anger;
- (b) where the other person is insensible, unconscious or insane, or is, by reason of infancy or any other circumstance, unable to give or refuse consent, it suffices, with respect to intention, either that the touch is intended to cause harm, pain, fear or annoyance to him, or that the touch is intended to be such as would be likely to cause

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harm, pain, fear or annoyance to him, or to excite his anger, if he were able to give or refuse consent, and were not consenting;

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

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

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

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

battery by retreating, or by consenting to do, or to abstain from doing, any act.

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

Definition of and provisions relating to imprisonment

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

UNLAWFUL DAMAGE

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

Definition of damage

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

Explanation of unlawful damage

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

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

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

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

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

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

STEALING, &C

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

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

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

Explanation as to dishonest appropriation

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

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

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

Provisions relating to part owners

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

Explanation as to a gratuitous trustee

Explanation as to amount of damage

Definition of stealing

Definition of fraudulent breach of trust

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

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

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

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

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

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

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

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

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

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

- (a) at the time of appropriating it, he knows who is the owner of the thing or by whom it has been lost; or
- (b) the character or situation of the thing, or the marks upon it, or any other circumstances is or are such as to indicate the owner of the thing or the person by whom it has been lost; or

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

Consent by a wife in case of stealing

Explanation as to stealing of thing found

which it to an appropriation

action consent and necessity

- (c) the character or situation of the thing, or the marks upon it, or any other circumstances is or are such as that the person who has lost the thing appears likely to be able to recover it by reasonable search and inquiry, if it were not removed or concealed by any other person.

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

FALSE PRETENCES AND OTHER FRAUDS

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

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pretence

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

(2) For the purposes of this section—

- (a) a representation may be made either by written or spoken words, or by personation, or by any other conduct, sign, or means, of whatsoever kind;
- (b) the expression " a representation of the existence of a state of facts" includes a representation as to the non-existence of any thing or condition of things, and a representation of any right, liability, authority, ability, dignity, or ground of credit or confidence as resulting from any alleged past facts or state of facts, but does not

include a mere representation of any intention or state of mind in the person making the representation, nor any mere representation or promise that anything will happen or be done, or is likely to happen or be done;

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

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

Explanation
as to
personation

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

Provisions
relating to
fictitious
trading

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

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

- (i) that, in giving the order or making the bargain, he used a false name or address or a false reference, or gave as the address of his place of business an address at which he did not carry on business in good faith for the purposes of trade; or
- (ii) that he has sold, pledged, or pawned the goods or things so obtained by him, or some of them, under such circumstances that it appears he obtained the goods or things only for the purpose of so dealing with them.

RECEIVING

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

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

TITLE IV

ATTEMPTS TO COMMIT CRIMES

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

(2) Whoever attempts to commit a crime shall, if the attempt is frustrated by reason only of accident or of circumstances or

events independent of his will, be deemed guilty of an attempt in the first degree, and shall, except as in this Code otherwise expressly provided, be punishable in the same manner as if the crime had been completed.

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

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

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

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

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

Preparation for committing crime. (see s. 308)

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TITLE V

ABETMENT AND CONSPIRACY

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

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

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

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

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

(5) An abettor may be tried before, with, or after a person abetted, and although the person abetted is dead or is otherwise not amenable to justice.

(6) An abettor may be tried before, with, or after any other abettor, whether he and such other abettor abetted each other in

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

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

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

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

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

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

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

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

Duty to prevent felony

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

piracy

48. (1) If two or more persons agree to act together with a common purpose in committing or abetting a crime, whether with or without any previous concert or deliberation, each of them is guilty of conspiracy to commit or abet that crime, as the case may be.

(2) A person within the jurisdiction of the Courts can be guilty of conspiracy by agreeing with another person who is beyond the jurisdiction for the commission or abetment of any crime to be committed by them or either of them, or by any other person, either within or beyond the jurisdiction; and for the purposes of this subsection as to a crime to be committed beyond the jurisdiction, "crime" means any act which, if done within the jurisdiction, would be a crime under this Code or under any other law.

abatement
piracy

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

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

TITLE VI

GENERAL EXEMPTIONS

criminal
as of
age

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

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

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

Criminal
liability of
married
woman

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

Ignorance or
mistake of
fact or of law

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

TITLE VII

JUSTIFIABLE FORCE AND HARM

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

Justification
for force or
harm

(2) Throughout the remainder of this Title, expressions applying to the use of force apply also to the causing of harm, although force only may be expressly mentioned.

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

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

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

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

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

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

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

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

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

59. (1) Any person may, with or without warrant or other legal process, arrest and detain another person who has committed a felony, and may, if the other person, having notice or believing that he is accused of felony, avoids arrest by resistance or flight or escapes or endeavours to escape from custody, use any force which is necessary for his arrest, detention, or

recapture, and may kill him, if he cannot by any means otherwise be arrested, detained, or retaken.

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

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

61. Where the arrest, detention, or search of a person is justifiable only on the authority of a warrant or other written process, if the person demands a view of the warrant or process, the use of force against him cannot be justified unless he is permitted to inspect the warrant or process, and he refuses to submit to the authority thereof.

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

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

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

(4) For the prevention of, or for the defence of himself or any other person against any of the following crimes, a person

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

Right of person arrested, &c. to inspect warrant

Use of force for prevention of or defence against crime

may justify any necessary force or harm, extending, in case of extreme necessity, even to killing, namely—

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

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

(6) No force used in an unlawful fight can be justified under any provision of this Code; and every fight is an unlawful fight in which a person engages, or which he maintains, otherwise than solely in pursuance of some of the matters of justification specified in this Title.

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

- (a) a person in actual possession of a house, land, vessel, or goods, or his servant or any other person authorized by him, may use such force, not extending to a wound or grievous harm, as is necessary for repelling a person who attempts forcibly and unlawfully to enter the house, land, or vessel, or to take possession of the goods;
- (b) a person in actual possession of a house, land, or vessel, or his servant or any other person authorized by him may

use such force, not extending to a blow, wound, or grievous harm, as is necessary for removing a person who, being in or on the house, land, or vessel, and having been lawfully required to depart therefrom refuses to depart;

- (c) if a person wrongfully takes possession of or detains goods, any other person who, as against him, has a present right to the possession of them, may, upon his refusal to deliver up the goods on demand, use such force, by himself or by any other person, not extending to a blow, wound, or grievous harm, as is necessary for recovering possession of the goods; and
- (d) a person may use such force, not extending to a blow, wound, or grievous harm, as is necessary for overcoming any obstruction or resistance to the exercise by him of any legal right.

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

Use of force for preserving order on board a vessel

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

- (a) a parent may correct his or her legitimate or illegitimate child, being under sixteen years of age, or any guardian or person acting as a guardian, his ward, being under sixteen years of age, for misconduct or disobedience to any lawful command;

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

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

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

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

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

- (a) the killing of a person cannot be justified on the ground of consent;
- (b) a wound or grievous harm cannot be justified on the ground of consent, unless the consent is given, and the wound or harm is caused, in good faith, for the purposes or in the course of medical or surgical treatment;
- (c) a party to a fight, whether lawful or unlawful, cannot justify, on the ground of the consent of another party,

any force which he uses with intent to cause harm to the other party;

- (d) a person may revoke any consent which he has given to the use of force against him, and his consent when so revoked shall have no effect for justifying force:

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

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

67. Whoever, in justifiably using force against another person, is obstructed or resisted by a third person, may in any case use such force against the third person, not extending to a blow, wound, or grievous harm, as is necessary for overcoming the obstruction or resistance; and may, if the obstruction or resistance amounts to a crime or to abetment of a crime, use force in accordance with the provisions of this Title with respect to the use of force in case of necessity for preventing crime.

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

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

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

PART III

PUNISHMENTS

TITLE VIII

GENERAL AND SPECIAL CASES

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

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

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

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

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

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

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

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

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

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

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

Effect of payment of compensation or imprisonment for non-payment

General rules for punishment

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

74. A "juvenile offender" for the purposes of this Title includes any offender who is proved to be, or in the absence of legal proof to the contrary appears to the Court to be, of or above the age of seven and under the age of sixteen years.

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

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

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

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

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

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

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

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

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

- (a) any public office held by him within the jurisdiction of the Court shall forthwith become vacant: and
- (b) any pension, superannuation allowance, or emolument payable to him out of the revenues of this state or out of any public fund, or chargeable on any rate or tax, and any according right to any such pension, allowance, or emolument, shall determine and be forfeited as from the time of the commission of the crime:

Provided that—

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

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

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

Imposition of alternative punishments

with or without sureties, for keeping the peace and being of good behaviour; and that, in default of such recognizance or sureties, he be imprisoned, in addition to the term, if any, of imprisonment to which he is sentenced, for any term not exceeding six months in the case of a conviction before the Supreme Court, or three months in the case of a conviction before a Magistrate's Court, not exceeding in either case the term for which he is liable to be imprisoned for the offence of which he is convicted.

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

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

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

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

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

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