

CHAPTER II.

GENERAL EXPLANATIONS.

Definitions
in the Code
to be under-
stood subject
to exceptions.

6. Throughout this Code every definition of an offence, every penal provision and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the

¹ Subs. by the A. O. 1937 for "law passed by the Governor General of India in Council".

² The original words "the limits of the said territories" have successively been amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

³ The original words "the said territories" have successively been amended by the A. O. 1937, A. O. 1948 and A. O. 1950 to read as above.

⁴ Subs. by the Indian Penal Code Amendment Act, 1898 (4 of 1898), s. 2, for the original s. 4.

⁵ Subs. by the A. O. 1950 for clauses (1) to (4).

⁶ Subs. by the A. O. 1950 for "the Provinces" which had been subs. by the A. O. 1948 for "British India".

⁷ Subs. by the A. O. 1948 for "a coolie, who is a Native Indian subject".

⁸ Subs. by the A. O. 1950 for "a British subject of Indian domicile".

⁹ Illustrations (b), (c) and (d) rep. by the A. O. 1950.

¹⁰ Subs. by the A. O. 1950 for the original s. 5 as amended by Acts 14 of 1870, 10 of 1927, 35 of 1934, A. O. 1937 and A. O. 1948.

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chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision or illustration.

Illustrations.

(a) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police-officer, without warrant, apprehends Z who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation. Sense of expression once explained.

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

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

10. The word "man" denotes a male human being of any age: the word "woman" denotes a female human being of any age. "Man".
"Woman".

11. The word "person" includes any Company or Association, or body of persons, whether incorporated or not. "Person".

12. The word "public" includes any class of the public or any community. "Public".

13. [Queen].—Rep. by the A. O. 1950.

¹[14. The words 'servant of Government' denote any officer or servant continued, appointed or employed in India by or under the authority of Government.] Servant of Government.

15. [Definition of "British India".] Rep. by the A. O. 1937.

16. [Definition of "Government of India".] Rep. by the A. O. 1937.

²[17. The word "Government" denotes the Central Government or the Government of a ~~Part A~~ State.] "Government". Deleted I A 3/57

³[18. The word 'State' denotes a Part A State or a Part C State and the word 'States' denotes all the territories for the time being comprised within Part A States and Part C States.] "State" and "States". Substituted I A 3/57

¹ Subs. by the A. O. 1950 for the original s. 14 as amended by A. O. 1937 and A. O. 1948.

² Subs. by the A. O. 1950 for the original section.

³ Ins. by the A. O. 1950. The original s. 18 was rep. by the A. O. 1937.

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Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant ;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

Eighth.—Every officer of ¹[the Government] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of ¹[the Government], or to make any survey, assessment or contract on behalf of ¹[the Government], or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of ¹[the Government], or to make, authenticate or keep any document relating to the pecuniary interests of ¹[the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of ¹[the Government], and every officer in the service or pay of ¹[the Government] or remunerated by fees or commission for the performance of any public duty ;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district ;

²[*Eleventh.*—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.]

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

¹ Subs. by the A. O. 1950 for “the Crown” which had been subs. by the A. O. 1937 for “Govt.”

² Ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 2.

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¹[*Explanation 3.*—The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

“Moveable property”.

22. The words “moveable property” are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

“Wrongful gain”.

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

“Wrongful loss”.

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

Gaining wrongfully.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A

Losing wrongfully.

person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

“Dishonestly”.

24. Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that this “dishonestly”.

“Fraudulently”.

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

“Reason to believe”.

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

Property in possession of wife, clerk or servant.

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

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

“Counterfeit”.

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

²[*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be

¹ Ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 2.

² Subs. by the Metal Tokens Act, 1889 (1 of 1889), s. 9, for the original Explanations.

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deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.]

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter. "Document".

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-Attorney is a document.

A map or plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature.

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right. "Valuable security".

Illustration.

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security".

31. The words "a will" denote any testamentary document.

"A will".

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

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission. "Act".
"Omission".

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Acts done by several persons in furtherance of common intention.

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

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

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

Effect caused partly by act and partly by omission.

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

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

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

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

Illustrations.

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

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

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

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

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

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

¹Subs. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 1, for the original section.

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

Illustration.

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

¹[40. Except in the ²[chapters] and sections mentioned in clauses “Offence”. 2 and 3 of this section, the word “offence” denotes a thing made punishable by this Code.]

In chapter IV, ³[Chapter VA] and in the following sections, namely sections, ⁴[64, 65, 66, ⁵[67], 71], 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word “offence” denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word “offence” has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

41. A “special law” is a law applicable to a particular subject. “Special law”.

42. A “local law” is a law applicable only to a particular part of ~~“the territories comprised in the~~ ^{“Local law”.} ~~“States”]. Deleted FA 48/52~~ S 3

43. The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action: and a person is said to be “legally bound to do” whatever it is illegal in him to omit. “Legally bound to do”.

44. The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property. “Injury”.

45. The word “life” denotes the life of a human being, unless the contrary appears from the context. “Life”.

¹ Subs. by the Indian Penal Code Amendment Act, 1870 (27 of 1870), s. 2, for the original s. 40.

² Subs. by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I, for “chapter”.

³ Ins. by the Indian Criminal Law Amendment Act, 1913 (8 of 1913), s. 2.

⁴ Ins. by the Indian Penal Code Amendment Act, 1882 (8 of 1882), s. 1.

⁵ Ins. by the Indian Criminal Law Amendment Act, 1886 (10 of 1886), s. 21(1).

⁶ Subs. by the A. O. 1948 for “British India”.

⁷ Subs. by the A. O. 1950 for “Provinces”.

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- “Death”. 46. The word “death” denotes the death of a human being unless the contrary appears from the context.
- “Animal”. 47. The word “animal” denotes any living creature, other than a human being.
- “Vessel”. 48. The word “vessel” denotes anything made for the conveyance by water of human beings or of property.
- “Year”. 49. Wherever the word “year” or the word “month” is used, *it is to be understood that the year or the month is to be reckoned according to the British calendar.*
- “Month”. 50. The word “section” denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.
- “Section”. 51. The word “oath” includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.
- “Oath”. 52. Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.
- “Good faith”. 52. Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.
- “Harbour”. ¹[52A. Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word “harbour” includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.]