

## CHAPTER IX.

### OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with <sup>1</sup>[the Central or any State Government or Parliament or the Legislature of any State], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant taking gratification other than legal remuneration in respect of an official act.

*Explanations.*—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

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<sup>1</sup> Subs. by the A. O. 1950 for "the Central or any Provincial Government or Legislature" which had been subs. by the A. O. 1937, for "the Legislative or Executive G. of I., or with the Govt. of any Presidency, or with any Lieutenant-Governor".

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“Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government, which he serves, to accept.

“A motive or reward for doing.” A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

*Illustrations.*

(a) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(b) A, holding the office of <sup>1</sup>[Counsel in a Foreign State], accepts a lakh of rupees from the Minister of <sup>2</sup>[that State]. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the <sup>3</sup>[Government of India]. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.

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

Taking gratification, in order, by corrupt or illegal means, to influence public servant.

**162.** Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person, with <sup>4</sup>[the Central or any State Government or Parliament or the Legislature of any State], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking gratification, for exercise of personal influence with public servant.

**163.** Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with <sup>4</sup>[the Central or any State Government or Parliament or the Legislature of any State], or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

<sup>1</sup> Subs. by the A. O. 1950 for “Resident at the Court of a subsidiary Power”.

<sup>2</sup> Subs. by the A. O. 1950 for “that Power”.

<sup>3</sup> Subs. by the A. O. 1950 for “British Government”.

<sup>4</sup> See footnote 1 on pre-page.

(Chapter IX.—Of Offences by or relating to Public Servants.)

Illustration.

An advocate who receives a fee for arguing a case before a Judge ; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist ; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust,—are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for abetment by public servant of offences defined in section 162 or 163.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

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

Public servant obtaining valuable thing, without consideration,

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

from person concerned in proceeding or business transacted by such public servant.

or from any person whom he knows to be interested in or related to the person so concerned, of either description

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

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration. *165A*

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166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely

Public servant disobeying law, with

## (Chapter IX.—Of Offences by or relating to Public Servants.)

intent to  
cause injury  
to any  
person.

that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

*Illustration.*

A, being an officer directed by law to take property in execution, in order to satisfy a decree-pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

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

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

Public  
servant  
unlawfully  
engaging in  
trade.

**168.** Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public  
servant  
unlawfully  
buying or  
bidding for  
property.

**169.** Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Personating  
a public  
servant.

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

Wearing garb  
or carrying  
token used  
by public  
servant with  
fraudulent  
intent.

**171.** Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(Chapter IXA.—Of Offences relating to Elections.)

<sup>1</sup>[CHAPTER IXA.

OF OFFENCES RELATING TO ELECTIONS.

**171A.** For the purposes of this Chapter—

(a) "candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is, in contemplation, holds himself out as a prospective candidate thereat; provided that he is subsequently nominated as a candidate at such election;

"Candidate"  
"Electoral  
right"  
defined.

(b) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

**171B.** (1) Whoever—

Bribery.

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

**171C.** (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

Undue  
influence at  
elections.

(2) Without prejudice to the generality of the provisions of subsection (1), whoever—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

<sup>1</sup> Chapter IXA ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 2.

## (Chapter IXA.—Of Offences relating to Elections.)

- (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

Personation  
at elections.

**171D.** Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

Punishment  
for bribery.

**171E.** Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both :

Provided that bribery by treating shall be punished with fine only,

*Explanation.*—‘Treating’ means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment  
for undue  
influence or  
personation  
at an elec-  
tion.

**171F.** Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

False state-  
ment in  
connection  
with an  
election.

**171G.** Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

Illegal  
payments in  
connection  
with an  
election.

**171H.** Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees :

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

(Chapter IXA.—Of Offences relating to Elections. Chapter X.—Of contempts of the lawful authority of Public Servants.)

**171I.** Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

Failure to keep election accounts.

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