

PENAL CODE

LEGISLATIVE DECREE NO. 5 OF 16 December 1962

This Code is still applied in the Republic of Somaliland and in the northern Somalia region of Puntland. It is still current in South and Central Somalia.

The Code which is based on the Italian Penal Code of 1930 was initially drafted by the Italian Somalia “Court of Justice” in 1957 and was finalised by special Legal Committee in 1962. The Code was approved by Legislative Decree in December 1962, but came into force on 3 April 1964 when it replaced the 1930 Italian Code then applicable in Somalia and the Indian Penal Code of 1860 which was applied in Somaliland.

This is the semi-official English Language translation of the Code which was published in Italian, and was undertaken to make the Code accessible to English language speakers in Somaliland. American lawyer, Martin R. Ganzglass, described this translation as being “*confusing, ungrammatical, and often incorrect*” and I would recommend anyone able to do so to refer to the book written by Mr Ganzglass titled “*The Penal Code of the Somali Democratic Republic with Cases, Commentary and Examples*”, Rutgers University Press 1971, which is still available.

Occasionally numbers in square brackets appear in the text of the Code. These refer to the relevant articles of:

- a) the Somali Republic 1961 Constitution (denoted as “Const.”) which is no longer applicable to either Somaliland or Somalia; or
- b) the Penal Code itself (denoted as “P.C”); or
- c) the Criminal Procedure Code (denoted as “C.P”).

So far as the Somaliland is concerned, under Article 130 of the Somaliland Constitution any provisions of this Code which are contrary to the fundamental rights and freedoms of the individual and to Islamic Sharia shall be disapplied. All provisions which are in effect repealed by Somaliland Constitution are also null and void. All references therefore to “the Somali Republic” or to the constitution, territory and institutions of

that state should be read as referring to the “the Republic of Somaliland” or its territory or institutions. The fines set out in the Code have been revised and Somaliland courts use updated scales in Somaliland Shillings.

As expected of a law which is essentially based on the 1930s code of a then fascist state, there are, despite the changes made by the Legislation Committee of 1961/2, many provisions of this Code which do not sit comfortably with modern concepts of human rights. Somaliland courts and lawyers would need to examine many of the provisions of this Code to see how compatible they are with the individual rights and freedoms enshrined in the Somaliland Constitution and the citizens’ rights to criticise, question and condemn the actions and deeds of their elected and unelected officials without being punished under outdated offences. Lower courts should be willing to refer, under Article 15 of the Organisation of the Judiciary Law 2003/6 to the Constitutional Court any issues which raise the constitutionality of the Penal Code’s provisions, and the Constitutional Court must, unlike in the past, be more strident in exercising its jurisdiction in this respect until such time the Code is updated.

(Somalilandlaw.com acknowledges receipt of this scanned copy of the Penal Code from the UNDP ROLS Programme).

Editor – www.somalilandlaw.com

THE PENAL CODE

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Note: The page numbering of this electronic English Language copy of the Code is not sequential as the original published text it was based on had alternate pages in Italian and English languages.

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Penal Code.

THE PRESIDENT OF THE REPUBLIC

HAVING SEEN article 62 of the Constitution;

HAVING SEEN Law No. 5 of 30 January 1962 delegating to the Government the power to issue, among other laws, a Penal Code;

HAVING SEEN the final text of the Penal Code drafted by the Commission referred to in article 2 of the said law;

HAVING HEARD the Council of Ministers;

ON THE PROPOSAL of the Minister of Grace and Justice;

DECREES:

1. The text of the Penal Code is hereby approved. It shall come into force six months after its publication in the Official Bulletin.

2. Copies of the Penal Code published in the Official Bulletin shall be sent to the offices of Regional Governors, District Commissioners and Local Administrations. Such copies shall be kept in the said offices for sixty consecutive days, open to the public, for purposes of giving publicity to the Code.

3. The Penal Codes in force, article 57 of the Organization of the Judiciary approved by Ordinance No. 5 of 3 February 1956, and any other provision contrary to, or incompatible with the Penal Code, are hereby abrogated, with effect from the date of entry into force of the said Code.

Mogadiscio, 16 December 1962.

The President of the Republic

ADEN ABDULLA OSMAN

Prime Minister «ad interim»

ABDIRIZAK HAGI HUSSEN

Minister of Grace and Justice

AHMED GHELLE HASSAN

THE PENAL CODE

BOOK I

OFFENCES IN GENERAL

PART I

THE PENAL LAW

ART. 1. (*Offences and Punishment to Be Expressly Provided by Law*). - No one shall be punished for an act which is not expressly made an offence [15, 23 P.C.] by law, nor with a punishment [90, 109 P.C.] which is not prescribed therefore [42, 43, 44, 45 Const.].

ART. 2. (*Time at which Penal Laws Take Effect*). - 1. No one shall be punished for an act which, in accordance with the law in force at the time when it was committed, did not constitute an offence [42 Const.].

2. - No one shall be punished for an act which, in accordance with a subsequent law, does not constitute an offence; and if he has already been convicted and sentenced, the execution and the penal consequences of such conviction and sentence shall terminate.

3. - If the law in force at the time when an offence was committed and the subsequent law differ, that law shall be applied the provisions of which are more favourable to the accused, unless the conviction and sentence have become final.

4. - In the case of exceptional or temporary laws, the provisions of the two preceding paragraphs shall not apply.

ART. 3. (*Persons to Whom the Penal Law Is Applicable*). - 1. - Except as otherwise provided by national or international law [6' Const.], the Somali penal law shall be applicable to all, citizens or aliens, who are in the territory of the State [4 Const., 4' P.C.].

2. - The Somali penal law shall also be applicable to citizens or aliens [4 P.C.] who are outside the territory of the State [4 Const.], within the limits established by the said law [6, 7, 8, 9 P.C.] or by international law [6' Const.].

ART. 4. (*Somali Citizen - Territory of the State*). - 1. - For the purposes of penal law, Somali citizens shall include persons belonging by

origin or election to places subject to the sovereignty of the State and stateless persons residing in the territory of the State [4 Const.]

2. - For the purposes of penal law, the territory of the State shall include the territory of the Republic [4 Const.] and every other place subject to the sovereignty of the State. Somali ships and aircrafts shall be deemed to be territory of the State wherever they are, except those which under international law [6¹ Const.] are subject to a foreign law.

Art. 5. (Ignorance of Penal Law). - No one may allege ignorance of the penal law as an excuse [28 P.C.].

Art. 6. (Offences Committed in the Territory of the State). - 1. - Whoever commits an offence [15 P.C.] in the territory of the State [4 Const., 4² P.C.] shall be punished according to Somali penal law.

2. - An offence shall be deemed to be committed in the territory of the State when the act or omission constituting it occurred therein in whole or in part, or where the consequences of the act or omission occurred therein [20 P.C.].

Art. 7. (Offences Committed Abroad Punishable Without Exception). - Whoever commits any of the following offences [15 P.C.] in a foreign territory shall be punished according to Somali law:

- a) crimes against the personality of the State [184-239 P.C.];
- b) crimes of counterfeiting the seal of the States or of using such counterfeited seal [360 P.C.];
- c) crimes of counterfeiting money which is legal tender in the territory of the State [348 P.C.];
- d) crimes committed by public officers [240 a P.C.] in the service of the State by abusing their powers or violating their duties [240-262 P.C.];
- e) any other offence in respect of which Somali penal law is made applicable by law [8, 9 P.C.] or international conventions [6¹ Const.].

Art. 8. (Offences Committed Abroad Punishable Under Certain Conditions). - 1. - Whoever, apart from the cases specified in article 7, commits in a foreign territory a crime [15 P.C.] against the State or against a Somali citizen [4 P.C.] shall be punished according to Somali law, provided that:

- a) the act or omission is considered an offence [15 P.C.] also by the law of the country in which it has been committed;
- b) the party injured has made a complaint [81 P.C.], unless the offence is exclusively against the State;
- c) the offender is found in the territory of the State [4 Const.,

4 P.C.] when the complaint is made, or when the penal proceedings are initiated.

2. - Whoever, apart from the cases specified in article 7, commits in a foreign territory a crime [15 P.C.], which is not a political crime [8³ P.C.], to the prejudice of a foreign State or an alien, shall be punished according to Somali law, provided that:

a) the act or omission is considered an offence [15 P.C.] also by the law of the country in which it has been committed;

b) the party injured has made a complaint [81 P.C.];

c) the offender is found in the territory of the State [4 Const., 4 P.C.] when the complaint is made;

d) extradition [19 Const., 11 P.C.] is not granted or agreed to by the Government of the State in which the offence was committed or by that of the State to which the offender belongs;

e) the prosecution is authorized by the Minister of Grace and Justice.

3. - For the purposes of penal law, any crime actuated, in whole or in part, by political motives shall be considered a «political crime».

ART. 9. (*Cases in which Criminal Proceedings Cannot Be Instituted*).

— Apart from the cases specified in article 7, criminal proceedings for a crime committed abroad cannot be instituted against a person who was finally acquitted abroad of the same crime or against a person who, abroad, has been convicted of a crime and has served the sentence prescribed therefore.

ART. 10. (*Recognition of Foreign Penal Judgments*). - 1. - A

foreign penal judgment pronounced in respect of a crime may be recognized:

a) to establish that the offender is a recidivist [61 P.C.] or to establish any other penal consequence of a conviction, or to pronounce that the offender is a habitual or professional delinquent [64-70 P.C.];

b) where the conviction would involve an accessory penalty according to Somali law [92 P.C.];

c) where according to Somali law the person convicted or acquitted would be liable to security measures [172 P.C.], if he was in the territory of the State;

d) where the foreign judgment orders restitution or compensation for damages [158-160 P.C.]; or where it has to be produced in a proceeding in the territory of the State [4 Const., 4 P.C.] for the purpose of obtaining restitution, compensation for damages or any other purpose of a civil nature [158-160 P.C.].

2. - For any foreign judgment to be recognized, it must have been pronounced by the judicial authorities of a foreign State with which an extradition [19 Const., 11 P.C.] treaty is in force.

3. - If no such treaty is in force, a foreign judgment may still be recognized within the State, if the Ministry of Grace and Justice so

requests. No such request shall be necessary if recognition is sought for the purposes specified in letter d) on paragraph 1.

Art. 11. (Extradition). - 1. - Extradition may be granted only in the cases and in the manner established by law and required by international conventions [19¹ Const.].

2. - Extradition shall not be granted unless the act which gives rise to the demand for extradition is an offence [15 P.C.] under Somali law and the foreign law.

3. - No person may be subjected to extradition for political offences [19¹ Const., 8³ P.C.].

Art. 12. (Computation and Expiration of Period). - 1. - Where the penal law makes a legal effect dependent upon lapse of time, this shall be calculated by the ordinary calendar (*).

2. - The initial day shall not be reckoned in the period.

Art. 12. (Matter Governed by More than One Penal Law or by More than One Provision of the Same Penal Law). - Where the subject matter is governed by more than one penal law, or by more than one provision of the same law, the special law or the special provision shall prevail over the general law or the general provision, unless otherwise provided.

Art. 14. (Special Penal Laws). - The provisions of this Code shall apply to matters governed by other penal laws in so far as the latter do not provide otherwise.

PART II

OFFENCES

CHAPTER I: OFFENCES COMMITTED AND CRIMES ATTEMPTED

Art. 15. (Offences: Distinction Between Crimes and Contraventions) - Offences shall be divided into crimes and contraventions, according to the different nature of the punishments respectively prescribed for them by this Code [90 P.C.].

Art. 16. (Offences Committed). - Except as otherwise provided by the penal law *rf. ex.:* art. 218, 437 P.C.], an offence shall be considered committed where the act or omission on the part of the offender has caused the harmful or dangerous event [20 P.C.] indicated in the penal law.

Art. 17. (Crimes Attempted). - A crime shall be considered attempted where the act or omission on the part of the offender, unequi-

(*) 1 January - 31 December (Art., 66 Const., and 10 legislative Decree n. 2 of 29-12-1961).

vocally directed towards causing the event [19 P.C.], has not been entirely completed, or where the event has not resulted [125 P.C.].

ART. 18. (*Desistance and Repenting and Acting Upon Repentance*).

1. - Where the offender voluntarily desists from the act, he shall not be liable to punishment for the acts performed before desisting, unless such acts themselves constitute an offence.

2. - Where the offender, after completing the act, voluntarily prevents the event, he shall be liable to the punishment prescribed in respect of the attempted crime, reduced by one-third to one half [Art. 40 f, P.C.].

ART. 19. (*Attempt to Commit an Impossible Offence*).

1. - Attempt shall not be punishable where, owing to the unsuitability of the act or the non-existence of the object thereof, the event is impossible.

2. - Where the act comprises the ingredients constituting a different offence, the punishment prescribed for the offence actually committed shall apply.

3. - In cases referred to in the first paragraph, the Judge may order that an accused person who is acquitted be subjected to security measures [161 P.C.].

CHAPTER II: ELEMENTS CONSTITUTING THE OFFENCES

Section I: *Material Element of Offences.*

ART. 20. (*Action and Event: Relation of Cause and Effect*).

1. - No one may be punished in respect of an act or omission deemed by the law to be an offence, if the harmful or dangerous event upon which the existence of the offence depends is not the consequence of his act or omission [16 P.C.].

2. - Where there is a legal obligation to prevent an event, failure to prevent it shall be equivalent to causing it.

ART. 21. (*Concurrence of Causes*).

1. - The concurrence of pre-existing or simultaneous or supervening causes, even though independent of the act or omission of the offender, shall not exclude the relation of causality between the act or omission and the event [20 P.C.].

2. - Supervening causes shall exclude the relation of causality only when they have been by themselves sufficient to determine the event. However, if the act or omission previously committed constitutes in itself an offence, the punishment prescribed therefore shall be applied.

3. - The preceding provisions shall also apply where the pre-existing or simultaneous or supervening cause consists of the unlawful act of another person.

ART. 22. (*Offences Punishable Subject to Existence of a Condition*).

- Where the law requires the existence of a condition in order to render an act punishable, the offender shall be responsible for the offence even though the consequence which is a necessary condition for rendering the act punishable, was not desired by him [f. ex.: 431 P.C.].

Section II: *Psychological Element of Offences.*

ART. 23. (*Psychological Element*). - 1. - No one may be punished for an act or omission deemed by the law to be an offence unless he has done it knowingly and wilfully.

2. - No one may be punished for an act or omission deemed by law to be a crime unless he has done it with criminal intent, except in cases of preterintentional crimes or crimes committed with *culpa* which are expressly provided by law 124 P.C.].

3. - In regard to contraventions, a person shall be answerable for his act or omission done knowingly and wilfully, whether it be done with criminal intent, or with *culpa*.

ART. 24. (*Offences Committed with Criminal Intent, Preterintentionally or with Culpa*). - 1. - A crime:

a) is with criminal intent, where the harmful or dangerous event which is the result of the act or omission is foreseen and desired by the offender as a consequence of his act or omission, and where the law makes the crime dependent upon such event ff. ex.: art., 434 P.C.];

b) is preterintentional or beyond the intent, where the harmful or dangerous event arising from the act or omission is more serious than the one desired by the offender [f. ex.: art., 441 P.C.];

c) is with *culpa*, or against the intent, where the event, even if foreseen, is not desired by the offender and occurs as a consequence of negligence, imprudence, lack of skill, or non-observance of laws, regulations, orders or instructions e).

2. - The distinction between an offence committed with criminal intent and one committed with *culpa*, which is laid down in this article in respect of crimes, shall apply also to contraventions where, by law, a legal consequence is made dependent upon such distinction [f. ex.: art., 513 P.C.]..

ART. 25. (*Acts Erroneously Thought to Be Offences*). - Whoever commits an act which does not constitute an offence, under the erroneous impression that it does constitute an offence, shall not be punishable.

ART. 26. (*Accident or Force Majeure*). - Whoever has committed an act through accident or *force majeure* shall not be punishable.

ART. 27. (*Physical Compulsion*). - 1. - Whoever has committed an act, having been compelled to do so by others by means of physical violence which he could not resist or from which he could not in any way escape, shall not be punishable.

2. - The person who employed the violence shall be responsible for the act committed by the person constrained [36' P.C.]..

ART. 28. (*Mistake of Fact*). - 1. - Nothing is an offence which is done by any person by reason of mistake of fact as to the act constituting

(*) Art., 194', 197, 202, 204^s, 205^s, 262, 280^s, 307, 311', 344, 345, 346, 347, 402', 445, 446 P.e., (crimes with *culpa*, provided by Penal Code).

the offence. However, where the mistake is committed through *culpa* and the fact constitutes a crime committed with *culpa* [24 c P.C.], punishment shall not be excluded.

2. - Mistake of fact as to the act constituting a particular offence shall not exclude liability to punishment where the act constitutes a different offence.

3. - Mistake of law other than the penal law shall exclude liability to punishment where the mistake of law has resulted in a mistake of fact as to the act constituting the offence [5, 29, 30 P.C.].

Art. 29. (*Mistake Caused by Deceit of Another*). - The provisions of the preceding article shall also apply in the mistake of fact as to the act constituting the offence is caused by deceit committed by another person; in this case, however, the person who has induced a deceived person to commit the act shall be liable for the same.

Art. 30. (*Injury of Person Other than the One Against Whom the Injury Was Directed*). - 1. - Whenever, by reason of a mistake in the use of the means for carrying out an offence, or for any other reason, an injury is caused to a person other than the one against whom the injury was directed, the offender shall be liable as if he had committed the offence against the person whom he desired to injure, without prejudice to the provisions of article 43 regarding aggravating and extenuating circumstances.

2. - Where, in addition to the other person, the person against whom the injury was directed is injured, the offender shall be liable to the punishment prescribed in respect of the more serious offence, increased up to one-half.

Art. 31. (*Event Different from That Desired by the Offender*). - 1. - Apart from the cases referred to in the preceding articles, if by reason of a mistake in the use of the means for carrying out the offence, or for any other reason, an event is caused which is different from that desired, the offender shall be liable for the event which was not desired, where the act constitutes a crime committed with *culpa* [24 P.C.].

2. - If the offender has also caused the desired event to occur, the provisions governing the concurrence of offences [44 P.C.] shall apply.

CHAPTER III: CIRCUMSTANCES EXCLUDING PUNISHMENT

Art. 32. (*Consent of the Injured Party*). - Whoever injures or places in jeopardy a right, with the consent of the person who can legitimately dispose of it, shall not be liable to punishment.

Art. 33. (*Exercise of a Right or Performance of a Duty*). - 1. - Nothing is an offence which is done in the exercise of a right, or in the performance of a duty imposed by law, by a lawful order of a public officer.

2. - If an act constituting an offence is committed by order of a

superior officer, the officer [240 p.e.] who has given the order shall be liable for the offence.

The person who carried out the order shall also be liable for the offence unless, owing to a justifiable mistake, he believed he was obeying a lawful order.

3. - Whoever carries out an unlawful order shall not be punishable when the law does not allow him to question the legitimacy of the order [37 p.e.].

ART. 34. (*Private Defence*). - Whoever has committed an act, having been compelled by the necessity of defending his own or another person's right against the actual danger of an unlawful injury, shall not be punishable provided that the defence is proportionate to the injury [37 p.e.].

ART. 35. (*Lawful Use of Arm*). - 1. - Subject to the provisions contained in the two preceding articles, a public officer [240 P.c.] shall not be punishable if, for the purpose of performing a duty his office, he employs or orders the employment of arms or orders the employment of arms or other of physical coercion when he is compelled to do so by the absolute necessity of repelling violence or overcoming resistance to the authorities, or avoiding the escape of a person lawfully arrested or detained for an offence.

2. - The provisions of the first paragraph shall apply to any person who, being lawfully requested by a public officer, affords him assistance.

3. - Other cases in which the use of arms or other means of physical coercion is permitted shall be established by law [37 p.e.].

ART. 36. (*State of Necessity*). - 1. - Whoever has committed an act, having been compelled by the necessity of saving himself or others from actual danger of serious bodily injury, and where such danger has not been voluntarily caused by him or could not otherwise be avoided, shall not be punishable provided that the act is proportionate to the danger, and the person is not legally bound to expose himself to such danger.

2. - The provisions of the first paragraph shall also apply if the state of necessity is caused by the threats of others; in this case, however, the person who has compelled another to commit an act shall be liable for the act committed by the other person [27, 37 p.e.].

ART. 37. (*Excess Committed With Culpa*). - Where, in committing any of the acts referred to in articles 33, 34, 35 and 36, the limits imposed by necessity are exceeded with *culpa*, and where the act constitutes a crime committed with *culpa*, the provisions relating to crimes committed with *culpa* shall apply.

ART. 38. (*Presumed Circumstances Excluding Punishment*). - Where a person mistakenly considers that there exist circumstances exclud-

ing the punishment, these shall be taken into account in his favour. However, where the mistake is caused by *culpa* and where the act constitutes a crime committed with *culpa*, liability to punishment shall not be excluded [37 P.C.].

CHAPTER IV: THE CIRCUMSTANCES OF THE OFFENCE

ART. 39. (*Ordinary Aggravating Circumstances*). - The following shall be aggravating circumstances of an offence, where they are not constitutive elements thereof nor special aggravating circumstances [117-123 P.C.]:

(f) having acted for abject or futile motives;

b) having committed the offence in order to commit or conceal another offence, or to obtain or secure for oneself or another the benefit or impunity from another offence;

c) in the case of crimes committed with *culpa* [24 P.C.], having acted in spite of having foreseen the event;

d) having used inhuman means or having acted cruelly towards persons;

e) having taken advantage of such circumstances of time, place or person as to hinder public or private defence;

f) where the offender has committed the offence during the time when he was wilfully evading the execution of an arrest warrant or an order of imprisonment issued for a previous offence;

g) in the case of crimes against property [480-504 P.C.], having caused serious damage to the property of the party injured;

h) having aggravated or attempted to aggravate the consequences of the crime committed;

i) having committed the act with abuse of power or in violation of the duties inherent in a public office or in a public service;

j) having committed the act against a public officer [240 P.C.] or a person entrusted with a public service [240 P.C.], or against a diplomatic or consular agent of a foreign State in the course of or by reason of the performance of their functions or service;

k) having committed the act with abuse of authority or of domestic relationship or with abuse of one's position in an office, or in connexion with performance of work, dwelling together or extending or receiving hospitality.

ART. 40. (*Ordinary Extenuating Circumstances*). - 1. - The following shall be extenuating circumstances of an offence where they are not constitutive elements thereof nor special extenuating circumstances [117-123 P.C.]:

a) having acted for motives having a particular moral or social value;

b) having acted in a state of anger caused by an unlawful act of another;

c) having acted under the influence of meetings or assemblies forbidden by law or by the Authorities, where the offender is not a habitual or professional offender;

d) having, in the case of crimes against property, caused negligible damage [482 b P.C.] to the property of the party injured;

e) where, in addition to the act or omission of the offender, an act committed with criminal intent by the party injured, has contributed in causing the event;

f) where, before trial, the offender has fully paid compensation for the damage or, where possible, has effected restitution; or having, before the trial and apart from the case referred to in the last paragraph of article 18, spontaneously and effectively taken measures to eliminate or reduce the injurious or dangerous consequence of the offence;

g) any other circumstance that the Judge considers to be such as to justify a lessening of the punishment.

2. - The extenuating circumstances referred to in letter g) of paragraph 1 shall be considered as one circumstance which may coexist with one or more of the other circumstances previously indicated.

ART. 41. (Objective and Subjective Circumstances). - For the purposes of the penal law:

a) objective circumstances are those which relate to the nature, kind, means, object, time, place and any other factor relating to the act, the gravity of the injury or the danger, or the personal conditions or qualities of the party injured;

b) subjective circumstances are these which relate to the extent [24 a P.C.] of the criminal intent or the degree of *culpa* [24 c P.C.], or the personal condition or qualities of the offender, or the relationship between the offender and the party injured.

ART. 42. (Circumstances not Known or Mistakenly Presumed). -

1. - Except as otherwise provided by law, the aggravating [39 P.C.] or extenuating [40 P.C.] circumstances shall be taken into account respectively, against or in favour of the offender, even though they are not known to him or are mistakenly believed by him to be non-existent.

2. - If the person mistakenly considers that there exist aggravating extenuating circumstances, these shall not be taken into account against him or in his favour.

ART. 43. (Evaluating of Circumstances of Mistake Regarding the Victim of an Offence). - 1. - In the case of mistake as to the party injured [30¹ P.C.], the aggravating circumstances [39 P.C.] in respect of the condition or qualities of the party injured, or the relationship between the latter and the offender, shall not be taken into account against the offender. Mistakenly presumed extenuating circumstances [40 P.C.] regarding the aforesaid condition, qualities or relationship shall, on the contrary, be taken into account in his favour.

2. - The provisions of this article shall not apply in case of circumstances concerning the age of the party injured.

CHAPTER V: CONCURRENCE OF OFFENCES

Art. 44. (*More than One Breach of One or Various Provisions of Law by One or More Acts*). - Whoever, by a single act or omission, violates various provisions of law, or commits more than one breach of the same provision of law, shall be punished, for the various offences provided for by law. In such a case, the punishments imposed in the same judgment shall be added together, subject to the maximum limits fixed by law [126-139 P.C.]..

Art. 45. (*Continuing Offence*). - Whoever, by more than one act or omission done with the same criminal intent, commits, at the same time or at different times, more than one breach of the same provision of law, of the same or of different gravity, shall be guilty of continuing offence. In such a case the punishment shall be that imposed in respect of the most serious of the breaches committed, increased up to three-fold.

Art. 46. (*Complex Offence*). - 1. - The provisions of the two preceding articles [44, 45 P.C.] shall not apply when the law considers as constituent elements, or as aggravating circumstances of a single offence, acts which by themselves would constitute an offence.

2. - Whenever the law, in fixing the punishment for a complex offence, refers to the punishments prescribed in respect of the separate offences which constitute it, the maximum limits fixed by articles 133 and 134 shall not be exceeded.

PART III

THE OFFENDER AND THE PARTY INJURED

CHAPTER I: THE OFFENDER

Section I: *Liability*.

Art. 47. (*Capacity of Understanding and of Volition*). - 1. - No one may be punished for an act constituting an offence if, at the time when he committed it, he was not liable.

2. - Whoever possesses the capacity of understanding and of volition shall be liable [48, 49, 50, 53, 56, 57, 58, 59 C.P.]..

Art. 48. (*Rendering a Person Incapable for the Purpose of Causing the Commission of an Offence*). - Whoever renders a person incapable of understanding or of exercising volition [47 P.C.] for the purpose of making him commit an offence, shall be responsible for the offence committed by the incapacitated person [73 P.C.]..

Art. 49. (*Voluntarily Produced Incapacity of Understanding or Volition*). - Whoever makes himself incapable of understanding or of

exercising volition [47 P.C.] for the purpose of committing an offence or to provide himself with an excuse, shall be liable for the offence committed, and the punishment shall be increased [118 P.C.].

ART. 50. (*Total Mental Deficiency*). - Whoever, at the moment when he committed an act, was by reason of infirmity, in a state of mind such as to preclude capacity of understanding and of volition, shall not be liable [47 P.C.].

ART. 51. (*Partial Mental Deficiency*). - Whoever, at the moment when he committed an act, was, by reason of infirmity, in a state of mind such as largely to diminish, without precluding, his capacity of understanding or of volition [47 P.C.], shall be liable for the offence committed, but the punishment shall be reduced [119 P.C.].

ART. 52. (*Conditions of Emotion or Passion*). - Liability shall not be precluded or lessened by conditions of emotion or passion.

ART. 53. (*Drunkenness Due to Accident or Force Majeure*). - 1. - Whoever, at the moment when he committed an act, had not the capacity of understanding or of volition [47 P.C.], owing to total drunkenness arising from accident or *force majeure*, shall not be liable.

2. - If the drunkenness was not total, but was nevertheless such as largely to lessen liability, without precluding it, the punishment shall be reduced [119 P.C.].

ART. 54. (*Voluntary or Culpable Drunkenness*). - Drunkenness not arising from accidents or from *force majeure* shall not preclude or lessen liability.

ART. 55. (*Habitual Drunkenness*). - 1. - Where the offence is committed in a state of drunkenness by a habitual drunkard, the punishment shall be increased [118 P.C.].

2. - For the purposes of the penal law a person who is addicted to the use of alcoholic beverages and is frequently in a state of drunkenness shall be deemed to be a «habitual drunkard» [175 P.C.].

ART. 56. (*Drunkenness Caused by Narcotic Drugs*). - The provisions of the preceding articles [53, 54, 55 P.C.] shall also apply when the act has been committed under the influence of narcotic drugs.

ART. 57. (*Chronic Intoxication From Alcohol or Narcotic Drugs*). - In the case of acts committed while in a state of chronic intoxication induced by alcohol or narcotic drugs, the provisions contained in articles 50 and 51 shall apply [173, 176 P.C.].

ART. 58. (*Deaf and Dumb Condition*). - 1. - A deaf and dumb person who, at the time when he committed an act, had not the capacity of understanding or of volition [47, 173, 176 P.C.], by reason of his infirmity, shall not be liable.

2. - If the capacity of understanding or of volition [47 P.C.] was largely diminished, but not entirely nonexistent, the punishment shall be reduced [118, 173 P.C.].

Art. 59. (*Persons Under Fourteen Years of Age*). - Whoever, at the time he committed an act, had not attained fourteen years of age [177 P.C.], shall not be liable [47 P.C.].

Art. 60. (*Persons Under Eighteen Years of Age*). - 1. • Whoever, at the time he committed an act, had attained fourteen years of age but not eighteen years, shall be liable [47 P.C.] if he had the capacity of understanding and of volition; but the punishment shall be reduced [119 P.C.].

2. - When imprisonment imposed is less than five years, or in cases of pecuniary punishment, conviction shall not entail any accessory penalties. In cases of more serious punishment, conviction shall only entail interdiction from public offices for a period not exceeding five years [137, 147 P.C.].

Section II: *Recidivists, Habitual and Professional Offenders.*

Art. 61. (*Recidivism*). - 1. - A recidivist means a person who, after conviction for an offence, commits another offence.

2. - Recidivism shall be aggravated [124 P.C.]:

a) where the second offence is of the same kind [63 P.C.];

b) where the second offence is committed within five years from the preceding conviction;

c) where the second offence is committed while or after serving the sentence, or during the time when the convicted person voluntarily evades serving the sentence;

d) where there are more than one prior convictions [124 P.C.].

Art. 62. (*Discretion of the Judge in Cases of Recidivism*). - For purposes of recidivism, except in cases of convictions for offences of the same kind [63 P.C.], the Judge shall have the discretion not to take into account a previous conviction for a crime or a contravention when convicting for a contravention or a crime [15 P.C.], or not to take into account a previous conviction for a crime or a contravention [15 P.C.], or for crimes committed with criminal intent, or preterintentional or with « culpa » [23, 24 P.c.], or for contraventions [15 P.c.].

Art. 63. (*Offences of the Same Kind*). - For the purposes of the penal law [61, 62 P.C.], offences shall be deemed to be « of the same kind » where they entail a violation of the same provision of law. Offences of the same kind shall also be those which, although governed by different provisions of this Code or by different laws, nevertheless, owing to the nature of the acts constituting them, or of the motives thereof, present common fundamental characteristics.

Art. 64. (*Habitual Delinquency Presumed by Law*). - 1. - Whoever, after having been sentenced to imprisonment for terms exceeding five years in the aggregate for three crimes, of the same kind [638 p.e.], not committed with *culpa*, and committed within a period of ten years, and not simultaneously, is convicted of another crime of the same kind, not committed with *culpa*, committed within ten years after the latest of the previous crimes, shall be declared a habitual offender.

2. - The period during which a convicted person is subject to detention as a result of conviction and sentence or as a result of security measures, shall not be included for the purpose of calculating the ten year period referred to in the previous paragraph [68, 69, 70, 91, 172' p.e.].

Art. 65. (*Habitual Delinquency Declared by the Judge*). - Apart from the case referred to in the preceding article [165 p.e.], a person shall be declared a habitual offender where, after having been convicted of two crimes, not committed with *culpa* [15, 23', 24' a b p.e.], he is again convicted of a crime, not committed with *culpa*, and where the Judge, taking into account the nature and the gravity of the offences, the time within which they were committed, the conduct and manner of life of the offender, and the other circumstances referred to in article 110, is of opinion that the offender is addicted to crime [68, 69, 70 p.e.].

66. (*Habitual Contraveners*). - - Whoever, having been sentenced to imprisonment in respect of three contraventions of the same kind (63 p.e.), receives a sentence for another contravention, which is of the same kind, shall be declared to be a habitual contravener where the Judge, taking into account the nature and the gravity of the offences, the time within which they were committed, the conduct and manner of life of the offender, and the other circumstances referred to in article 110, is of opinion that the offender is addicted to offences (68, 69, 70 p.e.).

Art. 66. (*Professional Offenders*). - - Whoever, having committed acts for which he should be declared a habitual offender, is convicted for another offence, shall be declared to be a professional offender or contravener where, having regard to the nature of the offences, the conduct and manner of life of the offender, and the other circumstances referred to in article 110, there is reason to believe that he is habitually living, even though partially, on the proceeds of offences [68, 69, 70 p.e.].

Art. 68. (*Effects of Extinction of Offence or Punishment*). - 1. - For the purposes of recidivism and declaring a person to be a habitual or professional offender, account shall also be taken of convictions in respect of which the offence or the punishment has been extinguished [143-157 p.e.].

2. - The above provision shall not apply where the penal effects of the conviction are also extinguished.

Art. 69. (*Conviction for Different Offences in One Judgment*). - - The provisions relating to the declaration that a person is a habitual or

professional offender shall also apply where a conviction for different offences is pronounced in one judgment.

Arl. 70. (*Effects of Declarations Relating to Habitual and Professional Offenders*). - 1. - In addition to the increases of punishment prescribed for recidivism and any other consequences prescribed by other provisions of law, a declaration that a person is a habitual or professional offender shall entail the application of security measures [161 P.C.].

2. - A declaration that a person is a habitual or professional offender may be made at any time, even after the sentence has been carried out; but where it is pronounced after the sentence, the subsequent conduct of the offender shall not be taken into account and the punishment imposed shall not be altered.

3. - A declaration that a person is a habitual or professional offender shall be extinguished as a result of rehabilitation.

Section III: *More than One Person Participating in an Offence.*

Arl. 71. (*Punishment for Those Who Participate in an Offence*). - Where more than one person participates in the same offence, each of them shall be liable to the punishment prescribed therefor, except as otherwise provided in the following articles.

Arl. 72. (*Causing a Person not Liable or not Punishable to Commit an Offence*). - Whoever has caused a person who is not liable, or not punishable on account of a personal condition or capacity, to commit an offence, shall be liable for the offence committed by that person; and the punishment shall be increased [118 P.C.].

Arl. 73. (*Aggravating Circumstances*). - 1. - The punishment to be imposed for the offence committed shall be increased [118 P.C.]:

a) where more than five persons participate in committing an offence, except as otherwise provided by law [266, 305, 481 e), P.C.];

b) in the case of persons who, even apart from the cases referred to in sub-paragraphs c) and d) below, have promoted or organized participation in the offence, or have directed the action of the persons who participated in that offence;

c) in the case of persons who, in the exercise of their authority, direction or supervision, have caused persons subject to them to commit the offence;

d) in the case of persons who, apart from the case referred to in the preceding article, have caused a person under 18 years of age, or one in a state of mental infirmity or deficiency [48 P.C.], to commit the offence.

2. - The increases of punishment prescribed in letters a), b) and c) of the previous paragraph shall apply even where anyone of the persons participating in the act is not liable or punishable [47, 26, 27, 28, 32-38 P.c.].

ART. 74. (*Participation in Crimes Committed with Culpa*). - 1. - In the case of a crime committed with *culpa* [24 c, P.C.], where the event has been caused by the participation of more than one person, each of them shall be liable to the punishment prescribed for the said crime.

2. - The punishment shall be increased [118 P.C.] in the case of a person who has caused others to participate in the crime, where the conditions laid down in article 72 and in letters c) and d) of paragraph 1 of the previous article are present.

ART. 75. (*Extenuating Circumstances*). - 1. - Where the Judge is of opinion that the aid lent by any of the persons who participated in the offence as laid down in articles 71 and 74 has played a minor part in the preparation or the execution of the offence, he may reduce the punishment [119 P.C.].

2. - The previous provision shall not apply in the cases referred to in article 73.

3. - The punishment may likewise be reduced [119 P.C.] in the case of a person who has been caused to commit the offence or to participate therein where the conditions laid down in letters c) and d) of the first paragraph of article 73 are present.

ART. 76. (*Agreement to Commit an Offence: Instigation*). - 1. - Except as otherwise provided by law [232 P.C.], where two or more persons agree to commit an offence, and it is not committed, none of them shall be punishable for the mere act of making the agreement. However, in the case of agreement to commit a crime, the Judge may apply security measures [161 P.C.].

2. - The same provisions shall apply in the case of instigation to commit an offence, where the instigation has been favourably received, but the offence has not been committed.

3. - Where the instigation was directed to the commission of a crime and was not favourably received, the instigator may be subjected to security measures [161 P.C.].

ART. 77. (*Offence Different From That Intended by Any of the Persons Participating*). - 1. - Where the offence committed is different from that which was intended by anyone of those who participated if it, that person shall also be liable where the event is the consequence of his act or omission [10 P.C.].

2. - Where the offence committed is more serious than that intended, the punishment shall be reduced [119 P.C.] as regards the person who desired the lesser offence.

ART. 78. (*Change in the Nature of the Offence in Respect of Any of the Persons Participating*). - Where, owing to the personal conditions or qualities of the offender, or to the relationship between the offender and the party injured, the nature of the offence is altered in respect of any of the participants, the others shall also be liable for the same

offence. However, where this offence is more serious, the Judge may reduce the punishment [118 P.C.] for those in respect of whom the aforesaid conditions, qualities or relationship do not exist.

Art. 79. (*Evaluation of Aggravating or Extenuating Circumstances*).

1. - Objective circumstances [41 a P.C.] which increase or reduce the punishment, even though they are not known by all those who participate in the offence, shall be taken into account against them or in their favour.

2. - Subjective circumstances [41 b P.C.] which increase the punishment as regards any of the persons who participate in the offence, shall operate also against the others, even though unknown to them when they have aided in the commission of the offence.

3. - Any other circumstance which increases or reduces the punishment shall only be taken into account in respect of the person to whom it applies [42 P.C.].

Art. 80. (*Evaluation of Circumstances Excluding Punishment*).

1. - Subjective circumstances [41 b P.C.] which exclude punishment as regards any of the persons who have participated in the offence shall only be effective in respect of the persons to whom they apply.

2. - Objective circumstances [41 a P.C.] which exclude punishment shall be effective in respect of all the persons who have participated in the offence [42 P.C.].

CHAPTER II: THE PARTY INJURED BY THE OFFENCE

Art. 81. (*Right of Making Complaint*). - Except for offences in respect of which proceedings are initiated by the State, any offence shall be punishable upon the complaint of the party injured (*).

Art. 82. (*Exercise of the Right in the Case of Persons Under Disability*). - 1. - Where the party injured is under fourteen years of age or is under a disability by reason of mental infirmity, the right of making complaint may be exercised by his legal representative.

2. - In case of absence or disability of the legal representative or where the legal representative has conflicting interests with those of the party injured, the right of making complaint may be exercised by a special representative [85, 86, 87, 89 P.C.].

Art. 83. (*Complaint Where More Than One Person is Injured*). -

1. - An offence committed against more than one person shall be punishable even though the complaint is made by only one of the party injured.

2. - The complaint shall operate as of right against all those who have participated in the commission of the offence.

(*) Art. 308, 312², 393, 426, 433, 439, 446, 451, 452, 468, 472, 473, 474, 477, 479, 482, 489, 491, 493, 494¹, 495, 497, 502¹, 503 P.C. (offences punishable upon the complaint of the party injured).

ART. 84. (*Time Limit for Complaint*). - Except as otherwise provided by law, the right of making complaint may not be exercised after the lapse of one month from the date when the act constituting the offence was brought to the notice of the party injured.

ART. 85. (*Renunciation of the Right to Make Complaint*). - 1. - The right of making complaint may not be exercised where it has been expressly or impliedly renounced by the person who has the right to exercise it. The right shall be impliedly renounced where the person who has the right to make the complaint has performed acts incompatible with the intention to exercise the right.

2. - The renunciation shall extend automatically to all the persons who have participated in the commission of the offence. However, it shall not have any effect with respect to any other party injured who has a right to make a complaint.

ART. 86. (*Withdrawal of the Complaint*). - Except as otherwise provided by law, a complaint may be withdrawn expressly before judgment is pronounced by the Court of first instance. Where there are more than one complainants, the withdrawal by one of them shall not operate as a withdrawal with respect to the others [87, 88 P.C.].

ART. 87. (*Acceptance of Withdrawal of the Complaint*). - 1. - Withdrawal of the complaint shall have no effect where the person against whom the complaint is made rejects it expressly.

2. - A withdrawal in favour of only one of the persons who have participated in the commission of an offence shall extend to all of them, but shall have no effect in respect of anyone who rejects it.

3. - The provisions of, article 82 shall apply as regards capacity for accepting withdrawal [88 P.C.].

ART. 88. (*Conditions Regarding Withdrawal, Acceptance or Rejection*). - Withdrawal of a complaint or acceptance or rejection thereof shall not be made subject to any terms or conditions.

ART. 89. (*Complex Offences*). - In the cases provided for in article 46, proceeding for complex offences shall be initiated by the State where for any of the offences which are constitutive elements or aggravating circumstances thereof proceedings must be initiated by the State.

PART IV PUNISHMENT

CHAPTER I: KINDS OF PUNISHMENTS IN GENERAL

ART. 90. (*Principal Punishments*). - 1. - The principal punishments prescribed for crimes shall be:

a) death [16³ Const., 94 P.c.];

- b) imprisonment for life [95 P.C.];
 - c) imprisonment [96 P.C.];
 - d) fine (multa) [97 P.C.].
2. - The principal punishments prescribed for contraventions shall be:
- a) imprisonment [98 P.C.];
 - b) fine (ammenda) [99 P.C.].

ART. 91. (*Denomination of the Principal Punishment*). - 1. - The terms «detentive punishments» or «punishments restrictive of personal liberty» [44 Const.], shall include imprisonment for life, imprisonment for crimes and imprisonment for contraventions [95, 96, 98 P.C.].

2. - The term «pecuniary punishments» shall include fine for crimes and fine for contraventions [97, 99 P.C.].

ART. 92. (*Accessory Penalties*). - 1. - The accessory penalties for crimes shall be:

- a) interdiction from public offices [101, 102 P.C.];
- b) interdiction from a profession or trade [103, 104 P.C.];
- c) legal interdiction [105 P.c.].

2. - The accessory penalty for contraventions shall be suspension of the right to practise a profession or trade [107 P.C.].

3. - The penal law shall specify the cases in which accessory penalties prescribed for crimes shall apply also to contraventions.

ART. 93. (*Application of Principal Punishments and Accessory Penalties*). - The principal punishments [90 P.c.] shall be imposed by the Judge on conviction. Accessory penalties [92 P.C.] shall follow by operation of law as the consequence of conviction.

CHAPTER II: PRINCIPAL PUNISHMENTS

ART. 94. (*Punishment of Death*). - The punishment of death [90 a P.C.] shall be carried out by shooting inside a penitentiary, or in any other place prescribed by the Minister of Grace and Justice [108 P.C.].

ART. 95. (*Imprisonment for Life*). - The punishment of imprisonment for life [90 b P.c.] shall be served in an establishment provided for the purpose, with compulsory labour [44 Const., 102, 105' P.C.].

ART. 96. (*Imprisonment for Crimes*). - The punishment of imprisonment for a crime [90] P.C.] may extend from five days to twenty-four years and shall be served in an establishment provided for the purpose, with compulsory labour [44 Canst., 102, 105', 106 P.C.].

ART. 97. (*Fine for Crimes*). - 1. - The punishment of fine for a crime [90' d P.c.] shall consist in the payment to the State of a sum of not less than 10 Sh. So. and not more than 50.000 Sh. So.

2. - For crimes inspired by motives of gain, even though the punishment prescribed by law is imprisonment only, the Judge may impose in addition a fine ranging from 10 Sh. So. to 20.000 Sh. So.

3. - Where the fine prescribed by law appears to be ineffective by reason of the financial position of the offender, the Judge shall have discretion to increase it up to three times the amount.

ART. 98. (*Imprisonment for Contraventions*). - 1. - The punishment of imprisonment for a contravention [90' a P.C.] may extend from five days to three years, and it shall be served in an establishment provided for the purpose, or in special sections of establishments provided for serving imprisonment for crimes, with compulsory labour [107, 136' P.c.]

2. - A person sentenced to imprisonment may be employed at work different from that normally provided in the establishment regard being had to his aptitude and previous occupations [44 Const.].

ART. 99. (*Fine for Contraventions*). - 1. - The punishment of fine for a contravention shall consist in the payment to the State of a sum of money of not less than 2 Sh. So. and not more than 10.000 Sh. So

2. - Where the fine prescribed by law appears to be ineffective by reason of the financial position of the offender, the Judge shall have a discretion to increase it up to three times the amount.

ART. 100. (*Fixed and Proportional Pecuniary Punishments*). - 1. - The cases in which pecuniary punishments are fixed and those in which they are proportional shall be prescribed by law.

2. - Proportional pecuniary punishments shall have no maximum limit.

CHAPTER III: ACCESSORY PENALTIES

ART. 101. (*Interdiction from Public Offices*). - 1. - Interdiction from public offices [92' a P.C.] may be permanent or temporary.

2. - Except as otherwise provided by law, permanent interdiction from public offices shall deprive the convicted person of:

a) the right to vote or to be elected, and every other political right;
b) any public office, any non-obligatory assignment in the public service, and the related right to be rewarded as a public officer or a person entrusted with a public service;

c) the office of guardian or legal representative, even temporary. and any other office pertaining to guardianship or to the position of legal representative;

d) academic positions, titles, decorations or other public honours;
e) stipends, pensions and allowances borne by the State or other public body;

f) any honour inherent in any of the offices, services, titles, capacities, distinction and decorations referred to in the foregoing subparagraph;

g) the capacity to assume or acquire any right, office, service, function, title, distinction, decoration and honour referred to in the preceding sub-paragraphs.

3. - Temporary interdiction shall deprive the convicted person of the capacity to acquire, exercise or enjoy, during the period of interdiction, the aforesaid rights, offices, services, qualities, titles and honours. The duration of such temporary interdiction shall be not less than one year nor more than five years.

4. - The cases in which interdiction from public offices is limited to a particular office or particular offices shall be prescribed by law.

ART. 102. (*Cases in Which a Sentence Entails Interdiction from Public Offices*). - 1. - A sentence of imprisonment for life [90' b, 95 P.C.] and one of imprisonment for a crime [90' c, 96 P.C.] for a term of not less than five years shall entail the permanent interdiction of the convicted person from public offices [101 P.C.] a sentence of imprisonment for a crime [90' c, 96 P.C.] for a term of not less than three years shall entail his interdiction from public offices for a period of five years [WI' P.c.].

2. - A declaration that a person is a habitual a professional offender [64, 65, 67 P.C.] shall entail permanent interdiction from public offices [WI' P.C.].

ART. 103. (*Interdiction from Profession or Trade*). - Interdiction from a profession or trade [92' P.C.] shall deprive the convicted person of the capacity of exercising, during the period of the interdiction, a profession, craft, industry, commerce or trade, in respect of which any special permission, certificate, authorisation or licence is required, and shall entail the revocation of any such permission, certificate, authorisation or licence. The duration of such interdiction shall be not less than one month nor more than five years except in the cases expressly provided by law.

ART. 104. (*Conviction for Crimes Committed with Abuse of a Public Office or of a Profession or Trade Interdiction*). - Every conviction in respect of crimes committed with abuse of powers, or in violation of the duties attached to a public office, or a public service, or any of the offices specified in paragraph 2 (c) of article 101, or with abuse of any profession, craft, industry or commerce or trade, or in violation of the duties attached thereto, shall entail temporary interdiction from public offices or from the profession, craft, industry, commerce or trade [106' P.C.],

ART. 105. (*Legal Interdiction*). - 1. - Whoever is sentenced to imprisonment for life [95 P.C.] shall be under legal interdiction [92' c P.C.].

2. - Whoever is sentenced to imprisonment for a crime [91' c, 96 P.C.] for a term not less than five years shall be under legal interdiction [106' P.C.] for the duration of the punishment.

3. - For the purposes of disposing and administering property and acting as agent in connexion therewith, the provisions of civil law regarding interdiction shall apply to legal interdiction.

ART. 106. (*Sentence for Crimes Committed With Culpa*). - 1. - The provisions of article 102 and the second paragraph of the preceding article shall not apply in the case of a sentence for a crime committed with culpa [24' P.C.].

2. - The provisions of articles 104 shall not apply in the case of a sentence for a crime committed with culpa [24' c P.C.] where the punishment imposed is less than three years imprisonment or where only a pecuniary punishment is imposed.

ART. 107. (*Suspension from the Exercised of a Profession or Trade*). - 1. - Suspension from the exercise of a profession or a trade [92³ P.C.] shall deprive the person convicted of the capacity to exercise for a period of not less than fifteen days and not more than two years, a profession, craft, industry, commerce or trade in respect of which a special permission, certificate authorisation or licence is required.

2. - A sentence in respect of a contravention committed with abuse of the profession, craft, industry, commerce or trade, or in violation of the duties attached thereto, where the punishment imposed is not less than imprisonment for one year, shall entail suspension from the exercise of such profession or trade [98 P.c.].

ART. 108. (*Legal Status of a Person Sentenced to Death*). - The legal status of a person sentenced to death [949 P.C.] shall be the same as that of a person sentenced to imprisonment for life [95 P.C.].

CHAPTER IV: APPLICATION AND MODIFICATION OF PUNISHMENT

Section I: *General Provisions.*

ART. 109. (*Discretionary Powers of the Judge in Imposing Punishment: Limits*). - 1. - Within the limits fixed by law, the Judge shall apply the punishment in his discretion [110 P.C.]. He shall state the grounds justifying the use of such discretionary power [97' Const.].

2. - In increasing or reducing the punishment, the Judge shall not exceed the limits for each kind of punishment, except in cases expressly provided by law.

3. - Where a Judge pronounces a sentence of imprisonment [91' P.C.] for a period not exceeding one year, whether or not the sentence includes a pecuniary punishment [91' P.C.], against an offender who has not been previously convicted of a crime committed with criminal intent [24²c, P.c.], he may, upon request by the offender, and taking into account the circumstances referred to in article 110, order the conversion of the imprisonment into the equivalent pecuniary punishment, calculated in accordance with article 112.

4. - The benefic referred to in the preceding paragraph shall be subject to the condition that the offender, within the time prescribed by the Judge, pays the amount due by reason of the conversion [112 P.C.], and fulfils any civil obligation to make restitution or pay compensation to the party injured [158 P.C.].

ART. 110. (*Gravity of the Offence: Evaluation for the Purposes of Punishment*). - 1. - In the exercise of the discretionary powers referred to in the preceding article, the Judge shall take into account the gravity of the offence, as inferred from:

a) the nature, character, means, object, time, place and any other circumstances of the act;

b) the gravity of the injury or of the danger caused to the party injured by the offence;

c) the intensity of criminal intent, or the degree of culpa [24 P.C.].

2. - The Judge shall likewise take into account the offender's criminal capacity, as inferred from:

a) the motives to commit delinquency and the character of the offender;

b) the criminal record of the offender and, in general, the conduct and life of the offender prior to the offence;

c) the conduct at the time of, or subsequent to the offence;

d) the individual, domestic, and social conditions of life of the offender [v. 164 P.C.].

ART. 111. (*Calculation of Punishment*). - 1. - Punishment for a period of time [96, 98 P.C.] shall be applied by days, months and years [12 P.C.],

2. - In sentences to punishments for a period of time, no account shall be taken of fractions of a day and, in sentences to pecuniary punishments, of fractions of a Somali Shilling.

ART. 112. (*Equivalence Between Different Punishments*). - Where it is necessary to establish equivalence between pecuniary and detentive punishment [91 P.C.], calculation shall be made on the basis of 25 Sh. So., or fraction thereof, of pecuniary punishment for one day of detentive punishment.

ART. 113. (*Conversion of Pecuniary Punishment*). - 1. - Punishments of fine for a crime [97 P.C.] or for a contravention [99 P.C.] which are not carried out owing to the insolvency of the person sentenced shall be converted respectively into imprisonment [96 P.C.] for not more than three years and imprisonment [98 P.C.] for not more than two years. In such cases, the minimum limit of the said detentive punishments may be less than that prescribed in articles 96 and 93.

2. - The person sentenced may at any time bring the substituted punishment to an end by paying the fine reduced by the sum of money corresponding to the duration of the detentive punishment already served.

ART. 114. (*Detention Before Sentence*). - 1. - The period of detention undergone before the judgment has become final shall be deducted from the total period of detentive punishment [91 P.C.] or from the amount of the pecuniary punishment imposed [91 P.C.].

2. - For the purposes of deduction, detention prior to sentence shall be considered as imprisonment for a crime [96 P.C.] or for a contravention [98 P.C.].

ART. 115. (*Punishment and Detention Prior to Sentence in Respect of Offences Committed Abroad*). - Where a person tried abroad is again tried in the territory of the State, the punishment served abroad and the nature thereof shall be taken into account; and where detention prior to sentence took place abroad, the provisions of the preceding article shall apply.

ART. 116. (*Calculation of Accessory Penalties*). - In calculating temporary accessory penalties [101', 103, 105', 107 P.C.], no account shall be taken of the time during which the convicted person serves detentive punishment [91' P.C.] or is subjected to detentive security measures [172' P.C.], nor of the time during which he voluntarily evaded the execution of the punishment or security measures.

Section II: *Application and modification of punishment where there occur more than one aggravating or extenuating circumstance and in case of attempted crime.*

ART. 117. (*Increase or Reduction of Punishment*). - 1. - Where the law provides that the punishment be increased or reduced within specified limits, the increase or reduction shall apply to the total punishment which the Judge would impose on the offender if the circumstances which cause its increase or reduction did not exist.

2. - Where more than one aggravating circumstance or more than one extenuating circumstance occur, the increase or reduction of punishment shall apply to the total punishment resulting from the aforesaid increase or reduction.

3. - Whenever for any circumstance the law prescribes a punishment of a different nature, or fixes its measure differently from the ordinary punishment for the offence, the increase or reduction for the other circumstances shall not apply to the ordinary punishment for the offence, but to the punishment fixed for the aforesaid circumstance.

4. - Where there occur more than one aggravating circumstance among those mentioned in the third paragraph of this article, only the punishment prescribed for the most serious circumstance shall be applied; but the Judge may increase it.

5. - Where there occurs more than one extenuating circumstance among those mentioned in the third paragraph of this article, only the least serious punishment prescribed for the aforesaid circumstances shall be applied; but the Judge may reduce it.

ART. 118. (*Increase of Punishment in the Case of a Single Aggravating Circumstance*). - Where there occurs only one aggravating circumstance, and the increase of punishment is not fixed by law, the punishment which should be imposed for the offence committed shall be increased up to onethird.

However, the punishment of imprisonment for a crime to be applied by reason of the increase shall not exceed thirty years.

ART. 119. (*Reduction of Punishment in the Case of a Single Extenuating Circumstance*). - Where there occurs only one extenuating circumstances, and the reduction of punishment is not fixed by law:

a) imprisonment for life [94 P.C.] or imprisonment [96 P.C.] from twenty to thirty years shall be substituted for punishment of death;

b) imprisonment [96 P.C.] from twenty to twenty-four years shall be substituted for imprisonment for life [95 P.C.];

c) other punishments [90, 92 P.C.] shall be reduced by not more than one-third.

ART. 120. (*Limits of Increase of Punishment Where there Occurs More Than One Aggravating Circumstance*). - Where there occur more than one aggravating circumstance, the punishment to be applied in consequence of the increases shall not exceed three times the maximum fixed by law for the offence, except in the case of the circumstances referred to in the third paragraph of article 117, and shall not for any reason be greater than:

a) thirty years, in the case of imprisonment for a crime [96 P.C.];

b) five years, in the case of imprisonment for a contravention [98 P.C.];

c) 100,000 or 20,000 Sh. So., respectively, in the case of fine for a crime [97 P.C.] or a contravention [99 C.P.]; or 300,000 or 60,000 Sh. So. respectively, if the Judge avails himself of the power specified in the third paragraph of article 97 and the second paragraph of article 99.

ART. 121. (*Limits of Reduction of Punishment Where There Occurs More Than One Extenuating Circumstance*). - 1. - Where there occur more than one extenuating circumstance, the punishment to be applied in consequence of the reductions shall not be less than:

a) fifteen years' imprisonment [96 P.C.] where the law prescribes punishment of death [94 P.C.] in respect of the crime;

b) ten years' imprisonment [96 P.C.] where the law prescribes imprisonment for life [95 P.C.], in respect of the crime.

2. - The other punishments shall be reduced. In such a case, except in the circumstances referred to in the third paragraph of article 117, the punishment shall not be less than one-quarter.

ART. 122. (*Limits to Concurrence of Circumstances*). - Except as provided in article 13, where an aggravating circumstance includes another aggravating circumstance, or an extenuating circumstance includes another extenuating circumstance, only the aggravating or extenuating circumstance which entails, respectively, the greater increase or the greater reduction of punishment shall be taken into account against or in favour of the offender. If the aggravating or extenuating circumstances entail the same increase or the same reduction of punishment, one single increase or one single reduction of punishment shall be imposed.

ART. 123. (*Concurrence of Aggravating and Extenuating Circumstances*). - 1. - Where aggravating and extenuating circumstances occur together and the former are held to predominate, no account shall be taken of

the reductions of punishment prescribed in respect of the extenuating circumstances, and only the increases of punishment prescribed in respect of the aggravating circumstances shall be applied.

2. - Where the extenuating circumstances are held to predominate over the aggravating circumstances, no account shall be taken of the increases of punishment prescribed in respect of the latter, and only the reductions of punishment prescribed in respect of the extenuating circumstances shall be applied.

3. - Where the judge holds that there is equivalence between the aggravating and the extenuating circumstances, the punishment which would have been imposed if there had not occurred any of the said circumstances shall be applied.

4. - The foregoing provisions shall not apply in the case of circumstances relating to liability [47 P.C.] or to recidivism [61 P.C.] and of any other circumstances in respect of which the law prescribed a punishment of a different nature or fixes the measure of the punishment differently from the ordinary punishment for the offence.

ART. 124. (*Increased Punishment for Recidivism*). - 1. - In the case of recidivism [61 P.C.], the punishment shall be increased up to one-sixth.

2. - In the case of recidivism where anyone of the conditions referred to in sub-paragraphs a), b), c) and d) of paragraph 2 of article 61, occurs, the punishment shall be increased up to one-third.

3. - In the cases of recidivism, where more than one of the conditions referred to in paragraph 2 of article 61 occurs, the punishment shall be increased from one third to two-thirds.

ART. 125. (*Punishment for Attempted Crime*). - Whoever is guilty of attempted crime [17 P.C.] shall be punished:

a) with imprisonment [96 P.C.] from twenty to thirty years, where the law prescribes the punishment of death [94 P.C.] in respect of the committed crime [16 P.C.];

b) with imprisonment [96 P.C.] for not less than twelve years, where the law prescribes the punishment of imprisonment for life [95 P.C.] in respect of committed crime [16 P.C.];

c) in all other cases, with the punishment prescribed in respect of the committed crime [116 P.C.], reduced by one-third to two-thirds.

Section III: *Application and modification of punishment in case of concurrence of offences.*

ART. 126. (*Conviction for More Than One Offence by a Single Judgment*). - Where, by a single judgment, an offender is convicted of more than one offence, the provisions of the following articles shall apply.

ART. 127. (*Concurrence of Offences Punishable with Imprisonment for life*) [95 P.C.] shall be imposed with separate confinement

during daytime for a term of not less than one year and not more than five years, where the offender is guilty of more than one crime, each of which is punishable with imprisonment for life.

2. - Where an offender is convicted of a crime punishable with imprisonment for life [95 P.C.] and one or more crimes punishable with imprisonment [96 P.C.], the punishment of imprisonment for life shall be imposed, with separate confinement during daytime for a term of not less than six months and not more than four years.

ART. 128. (*Concurrence of Offences Punishable With Imprisonment or Pecuniary Punishments of the Same Kind*). - 1. - Where more than one offence is punishable with imprisonment [96, 98 P.C.], a single punishment shall be imposed for a term equivalent to the total duration of the punishment which would have been imposed for the separate offences.

2. - Where there is a concurrence of more than one crime, each of which is punishable with imprisonment [96 P.C.] for not less than twentyfour years, imprisonment for life [95 P.C.] shall be imposed.

3. - Pecuniary punishments [91' P.C.] of the same kind shall all be imposed in full.

ART. 129. (*Concurrence of Offences Punishable With Imprisonment of Different Kinds*). - 1. - Where more than one offence is punishable with imprisonment of a different kind [96, 98 P.C.], each punishment shall be imposed separately and in full.

2. - Imprisonment for contravention [98 P.C.] shall be executed last.

ART. 130. (*Concurrence of Offences Punishable With Pecuniary Punishment of Different Kinds*). - 1. - Where more than one offence is punishable with pecuniary punishments [91' P.C.] of different kinds, each punishment shall be imposed separately and in full.

2. - Where the pecuniary punishment [91' P.C.] imposed is not paid in full, the sum paid shall, for the purposes of conversion [115 P.C.], be deducted from the amount of the fine.

ART. 131. (*Punishments Considered as a Single Punishment Of as Separate Punishments*). - 1. - Except as otherwise provided by law, the punishments of the same kind which are imposed, in accordance with article 128 shall be considered a single punishment for all legal purposes.

2. - Punishments of different kinds which are imposed in accordance with articles 129 and 130 shall likewise be considered, for all legal purposes, a single punishment of the most serious kind. They shall, however, be regarded as different punishments for the purposes of their execution, the application of security measures [161 P.C.] and for any other purpose prescribed by law.

3. - Where a pecuniary punishment [91' P.C.] is imposed together with another punishment of a different kind, the punishments shall be considered as separate for all legal purposes.

ART. 132. (*Determination of Accessory Penalties*). - In order to determine the accessory penalties [92 P.C.] and all other penal consequences of a conviction, regard shall be had to the separate offences in respect of which an offender is convicted, and to the principal punishment [90 P.C.] which would have been imposed in respect of each of them if there had not been a concurrence of offences.

ART. 133. (*Limits of Increase of Principal Punishments*). - 1. Where there is a concurrence of offences referred to in article 128, the punishment to be imposed under that article shall not be more than five times the amount of the most serious of the joint punishments, and shall not for any reason exceed:

- a) thirty years, in case of imprisonment for crimes [96 P.C.];
- b) six years, in case of imprisonment for contraventions [98 P.C.],
- c) 150,000 Sh. So., in case of fine for crimes [97 P.C.], and 30,000 Sh. So., in case of fine of contravention [97 P.C.], and 400,000

in case of fine per crimes or 80,000 Sh. So., in case of fine for contraventions, where the judge avails himself of the power specified in the third paragraph of article 97 and the second paragraph of article 99.

2. - Where there is a concurrence of offences under the terms of article 129, the duration of the punishments to be imposed under that article shall not exceed thirty years. The portion of punishment in excess of such limit shall in every case be deducted from imprisonment for contraventions [98 P.C.].

3. - Where pecuniary punishments [91' P.C.] are converted into imprisonment [91' P.C.], owing to the insolvency of the offender, the total duration of such punishment shall not exceed four years in the case of imprisonment for crimes [96 P.C.] and three years in the case of imprisonment for contraventions [98 P.C.].

ART. 134. (*Limits of Increase of Accessory Penalties*). - The maximum duration of the temporary accessory penalties shall not exceed: altogether, the following limits:

- a) ten years, in cases of interdiction from public offices [101 P.C.] or from a profession or craft [103 P.C.];
- b) five years, in cases of suspension, from the exercise of a profession or craft [107 P.C.].

ART. 135. (*Punishments Imposed by Different Sentences*). - The provisions of the preceding articles shall also apply where, after a conviction, the same person has to be tried for another offence committed before or after the said conviction, or where more than one sentence have to be carried out against the same person.

CHAPTER V: EXECUTION OF PUNISHMENT

ART. 136. (*Special Establishments for Serving Imprisonment*). - 1. - Imprisonment for crimes [91' P.C.] shall, where possible, be served in

- special establishments for each of the following categories of offenders;
- a) habitual or professional offenders [64-70 P.C.];
 - b) persons sentenced to reduced punishment in consequence of mental infirmity [51 P.C.] or of being deaf and dumb [58 C.P.] or of chronic intoxication [57 P.C.] induced by alcohol or narcotic drugs; habitual drunkards [55 P.C.] and persons addicted to the use of narcotic drugs [56 P.C.].
3. - Where in the same offender there co-exist different personal conditions, the Judge shall decide in which of the special establishments the punishment is to be served. The decision may be modified during the execution of the punishment.
4. - The punishment of imprisonment for a contravention [98 P.C.] shall, where possible, be served, by the aforesaid classes of offenders and by habitual or professional contraveners [66, 67 P.C.], in special sections of the establishments used for serving the aforesaid punishment.
5. - Females shall serve imprisonment in establishments separate from those used for males.

Art. 137. (*Serving of Imprisonment by Minors*). - 1. - Until they have attained 18 years of age [60 P.C.], minors shall, where possible, serve imprisonment [91 P.C.] in establishments separate from those used for adults, or in separate sections of such establishments; and, during the hours not set apart for work, they shall be given instruction directed chiefly to moral rehabilitation [44 Const.].

2. - They shall, where possible, be assigned to special establishments in the cases referred to in paragraph 1 a) and b) of the preceding article.

Art. 138. (*Supervision Over the Execution of Punishments*). - The execution of punishments of imprisonment shall be supervised by the competent Judge [45 Const.].

Art. 139. (*Remuneration of Convicts for Work Performed*). - In establishments where sentences of imprisonment are served, convicts shall be paid remuneration for work done [36 Const., 3 Labour Code].

Art. 140. (*Compulsory Postponement of the Execution of Punishment*). - 1. - The execution of a punishment, other than a pecuniary punishment, shall be deferred:

- a) where it has to be imposed on a pregnant woman [31 Const.];
- b) where it has to be imposed on a woman who has been confined less than one year previously [31^s Const.];
- c) where a petition for pardon [94 P.C., 75 c) Const.] is submitted, in the case of a death sentence.

2. - In the case referred to in paragraph 1 b) above, the deferment shall be revoked should the child die or be entrusted to a person other than the mother, and the birth occurred more than two months previously.

ART. 141. (Optional Postponement of the Execution of Punishment). - 1. - The execution of a punishment may be deferred:

a) where a petition for pardon [75 c) Const.] is submitted, and the execution of the punishment is not required to be deferred in accordance with the preceding article;

b) where the person against whom a punishment restricting personal liberty [91¹ P.C.] has to be executed is in a condition of serious physical infirmity [33 Const.].

2. - In the case referred to in paragraph 1 (a) above, the execution of the punishment shall not be deferred for a period exceeding, in the aggregate, six months, counting from the day on which the sentence became final, even though the petition for pardon [75 c) Const.] is subsequently renewed .

ART. 142. (Supervening Mental Infirmity of Convicted Person).

1. - Where a convicted person, before the execution of a punishment restricting personal liberty or during the execution thereof, should become afflicted with a mental disability, the Judge shall, if he considers that the infirmity is such as to hinder the execution of the punishment, direct that the latter be deferred or suspended and that the convicted person be committed to an asylum, hospital or a nursing home [173, 176 P.C.].

2. - The foregoing provision shall also apply where, by reason of mental disability which has supervened, a person sentenced to punishment of death has to be committed to an asylum [176 P.C.].

3. - Where the grounds on which the aforesaid measure was based have ceased to exist, the order committing a convict to an asylum shall be revoked, and the punishment shall be executed.

PART V

EXTINCTION OF OFFENCE AND PUNISHMENT

CHAPTER I: EXTINCTION OF OFFENCE

ART. 143. (Death of the Offender Before Conviction). - The death of the offender, occurring before conviction, shall extinguish the offence [v. 148 P.C.].

ART. 144. (Amnesty). - 1. - An amnesty [64 Const.] shall extinguish the offence and, where a sentence has been passed, shall cause the execution thereof and the accessory penalties to cease.

2. - Where there is a concurrence of offences, the amnesty shall apply to the particular offences in respect of which it is granted.

3. - Extinction of offences by virtue of an amnesty shall be limited to the offences committed upto and including the day preceding the date of the presentation of the bill to the National Assembly delegating to the President of the Republic the power of amnesty and pardon [64¹ Const.].

4. - An amnesty may be made subject to conditions or obligations.

5. - An amnesty shall not apply to recidivists, in the cases referred to in paragraph two of article 61, or to habitual or professional offenders [64, 65, 67 P.C.], unless the decree otherwise provides.

ART. 145. (*Withdrawal of the Complaint*). - In the case of offences punishable on the complaint of the party injured [81 P.C.], except where the conviction has become final, withdrawal of the complaint [86 P.C.] or death of the injured person shall extinguish the offence.

ART. 146. (*Compounding Contraventions*). - In the case of contraventions for which the law prescribed the punishment of fine only [99 P.C.], the offender may be permitted, before the hearing of the case commences, to pay a sum equal to a third of the maximum punishment prescribed by law for that contravention together with the costs of the proceedings. Such payment shall extinguish the offence.

ART. 147. (*Judicial Pardon for Persons Under 18 or Over 70 Years of Age*). - 1. - Where, in the case of an offence committed by a person under 18 [60 P.C.] or over 70 years of age, the applicable punishment is imprisonment for a maximum term of not more than three years or a pecuniary punishment [91 P.C.], or both, the Judge may abstain from entering conviction and grant judicial pardon where, having regard to the circumstances referred to in article 110, he considers the offender will not commit any further offence. A judicial pardon shall extinguish the crime.

2. - A judicial pardon may not be granted more than once.

CHAPTER II: EXTINCTION OF PUNISHMENT

ART. 148. (*Death of Offender After Conviction*). - The death of the offender after conviction shall extinguish the punishment [v. 143 P.C.].

ART. 149. (*Indult and Pardon*). - 1. - An indult [64 Const.] or pardon [75 c) Const.] shall constitute condonation, wholly or in part, of the punishment imposed; or shall commute it to another kind of punishment fixed by law. It shall not extinguish the accessory penalties [92 P.C.] except where the decree otherwise provides, nor the other penal consequences of the conviction.

2. - Where there is a concurrence of offences, the indult shall apply once only, after the punishments have been added together in accordance with the rules governing the concurrence of offences.

3. - As regards induits, the provisions contained in the last three paragraphs of article 144 shall apply.

ART. 150. (*Conditional Suspended Sentence*). - 1. - Where the offender is not a recidivist [61 P.C.] and the Judge, taking into account the circumstances referred to in article 110, has reason to believe that the

offender will maintain a good conduct in the future, he shall, when pronouncing a sentence of conviction to imprisonment [91' P.C.] for a period not exceeding six months, or to a pecuniary punishment [91' P.C.], or both, and the pecuniary punishment is convertible into imprisonment for the same period, order that the execution of the punishment be suspended.

2. - The suspension of the punishment shall be subject to the following conditions:

a) that the offender does not, within five years from the sentence, commit a crime or contravention of the same nature [63 P.C.] as that for which he was convicted;

b) that the offender, within the time prescribed by the Judge, fulfils any civil obligation to make restitution or pay compensation to the party injured [158 P.C.].

3. - Where the above conditions are complied with, the punishment shall be extinguished.

ART. 151. (*Conditional Release*). - A person sentenced to imprisonment for life [95 P.C.] who has served at least twenty-five years, or a person sentenced to imprisonment [91' P.C.] who has served half of the punishment or at least three-fourths of the punishment if he is a recidivist [61 P.C.], may be granted conditional release, provided he has given continuous proof of good conduct.

ART. 152. (*Rehabilitation*). - Rehabilitation shall extinguish the accessory penalty [92 P.C.] and every other penal consequence of the conviction, otherwise provided by law.

ART. 153. (*Conditions for Rehabilitation*). - 1. - Rehabilitation shall be granted where five years have elapsed from the day on which the principal punishment [91 P.C.] was executed or was in any other way extinguished, and the convicted person has given real and continuous proof of good conduct.

2. - The period shall be ten years in the case of recidivists [61 P.C.] as referred to in paragraph 2 of article 61.

3. - The period shall likewise be ten years in the case of habitual or professional offenders [64, 65, 67 P.C.].

ART. 154. (*Revocation of Order of Rehabilitation*). - An order of rehabilitation shall be revoked *ipso jure* where the rehabilitated person commits, within five years, a crime not committed with *culpa* [24 a b P.C.] in respect of which the punishment of imprisonment [96 P.C.] for a term of not less than three years, or any other more serious punishment, is imposed.

ART. 155. (*Rehabilitation in the Case of Conviction Abroad*). - The provisions relating to rehabilitation shall also apply in the case of foreign convictions which are recognised in accordance with article 10.

CHAPTER III: GENERAL PROVISIONS

ART. 156. (*Effects of the Causes of Extinction of an Offence at Punishment*). - Except as otherwise provided by law, the extinction of an offence or a punishment shall have effect only in regard to the persons to whom the cause of extinction relates.

ART. 157. (*More than One Causes of Extinction*). - 1. - The extinction of an offence or a punishment shall take effect as of the time when the causes therefor occur.

2. - Where a cause which extinguishes an offence and a cause which extinguishes the punishment occur together, the cause which extinguishes the offence shall prevail, even though it occurred subsequently.

3. - Where more than one cause for the extinction of an offence or a punishment occur at different times, the first cause shall extinguish the offence or the punishment, and the subsequent ones shall cause the cessation of the effects which have not yet been extinguished in consequence of the preceding cause.

4. - Where more than one cause occur simultaneously, the most favourable cause shall extinguish the offence or the punishment, in such a case, the preceding paragraph shall apply as regards the effect which have not been extinguished in consequence of the most favourable cause

PART VI

CIVIL SANCTIONS

ART. 158. (*Restitution and Compensation for Damage*). - 1. . Every offence shall entail the obligation to make restitution in accordance with the civil laws.

2. - Every offence resulting in damage to property or any other damage, shall entail the obligation to make compensation on the part of the offender and of the persons who, in accordance with the civil laws, are responsible for his act [159 P.C.].

ART. 159. (*Joint and Several Liability Regarding Obligation ex Delicto*). - Persons convicted of one and the same offence shall be jointly and severally liable to make restitution or pay compensation in accordance with the civil laws [158 P.C.].

ART. 160. (*Effects of the Extinction of the Offence or the Punishment on Civil Obligations*). - The extinction of the offence or the punishment [143-157 P.C.] shall not entail the extinction of the civil obligations arising from the offence [158 P.C.].

CHAPTER I: SECURITY MEASURES IN RESPECT OF PERSONS

Section I: *General Provisions.*

ART. 161. (*Express Provisions of Law*). - No one may be subjected to a security measure not expressly provided by law nor to a measure beyond the limits provided by law [70, 162 C.P.; 17, 42 Const.].

ART. 162. (*Application of Security Measures*). - 1. - Security measures shall be regulated by the laws in force at the time when they are ordered [v. 42 Const.] .

2. - Where the law in force at the time of execution of the security measures is different, the law in force at the time of execution shall apply, where the latter is more favourable [2 P.C.].

ART. 163. (*Persons in Respect of Whom Security Measures Are Applied*). - 1. - Security measures may be applied only against persons who are a danger to society [164 P.C.] and who have committed an act which is made an offence by law [1 P.C.].

2. - Penal law shall establish the cases in which security measures may be applied against persons who are a danger to society on account of acts which are not made offences by law.

3. - Security measures shall apply also to aliens, who are in the territory of the State [4 P.C.].

ART. 164. (*Danger to Society*). - 1. - For the purposes of penal law, a person shall be deemed to be a danger to society where, even though to society where, even though neither liable nor punishable for an offence, he has committed any of the acts referred to in the preceding article, and where it is probable that he will commit other acts which are made offences by law.

2. - A person shall be adjudged a danger to society by the Judge on the basis of the circumstances referred to in article 110.

3. - In the cases expressly provided for, a person shall be presumed by law to be a danger to society [70, 173, 175, 176, 180 P.C.].

ART. 165. (*Order of the Judge*). - 1. - The security measures shall be ordered by the Judge in the judgment convicting or acquitting the person concerned.

2. - Security measures may also be ordered by a subsequent order:
a) in the case of a conviction, during the execution of a punishment or during a period in which the person convicted voluntarily evades the execution of the punishment;

b) in the case of acquittal, where it is presumed that the person is a danger to society [164' P.C.] and a period equal to the minimum term of the appropriate security measure has not elapsed;

c) at any time in the special cases provided by law [70 P.C.].

ART. 166. (*Provisional Application of Security Measures*). - 1. -

During the investigation or trial, the Judge may order that a person under 18 years of age [60 P.c.], or a person of unsound mind [50, 51 P.C.], or a habitual drunkard [55 P.C.], or a person addicted to the use of narcotic drugs [96 P.C.], or a person in a state of chronic intoxication induced by alcohol or narcotic drugs [57 P.c.], be provisionally committed to a reformatory [177 P.C.], a lunatic asylum [176 P.C.], a hospital or a nursing home [173 P.C.].

2. - The Judge may revoke the order where he is of opinion that the person concerned is no longer a danger to society.

3. - The period of the provisional execution of a measure of security shall be deducted from the period of the measure of security.

ART. 167. (*Revocation of Security Measures*). - 1. - A security

measure may not be revoked if the person to whom it has been applied has not ceased to be a danger to society [164 P.C.].

2. - The revocation may not be ordered unless a time equal to the minimum period prescribed by law for that security measure has elapsed.

ART. 168. (*Review of Cases of Persons Adjudged as a Danger to Society*). - 1. - Where the minimum period prescribed by law for each security measure has elapsed, the Judge shall review the conditions of the person who has been subjected to the measure in order to ascertain whether or not he is still a danger to society [164 P.C.].

2. - Where it appears that the person is still a danger to society, the Judge shall fix a time for a further review. However, where there is reason to believe that the danger has ceased, the Judge may review the case at any time.

ART. 169. (*Effects of Extinction of Offence or Punishment*). - 1. -

The extinction of the offence [143-1477 P.c.] shall preclude the application of security measures and shall terminate their execution.

2. - The extinction of the punishment [148-155 P.C.] shall preclude the application of security measures, except those which the law allows at any time [70 P.C.], but shall not preclude the security measures which have already been ordered by the Judge as measures accessory to a sentence of imprisonment for a period exceeding ten years.

3. - Where by reason of an indult [64 Const] or pardon [75 c) Const.] a sentence of death or of imprisonment for life is not to be executed, the person convicted shall be released under supervision for a period not less than three years.

ART. 170. (*Execution of Security Measures*). - 1. - Security measures which are ordered in addition to imprisonment [91' P.C.] shall be executed after the sentence has been served or otherwise extinguished.

2. - Security measures ordered in addition to a punishment other than imprisonment [91' P.C.], shall be executed after the conviction has become final.

3. - Temporary security measures not of a detentive character, ordered in addition to security measures of a detentive character [176 P.C.], shall be carried out after the execution of the measures of a detentive character.

ART. 171. (*Non-Observance of Security Measures*). - 1. - Where a person subjected to a security measures voluntarily evades the execution thereof, the minimum period of the measure shall begin to run from the day on which it is again commenced.

2. - The preceding provisions shall not apply to a person committed to a lunatic asylum [176 P.C.], a hospital or a nursing home [173 P.C.].

Section II: *Speajal Provisions.*

ART. 172. (*Kinds of Security Measures in Respect of Persons*). -

1. - Security measures in respect of persons shall be divided into those which are of a detentive and those which are not of a detentive character.

2. - Measures of a detentive character shall be:

- a) commitment to a hospital or nursing home [173 P.C.];
- b) commitment to a lunatic asylum [176 P.C.];
- c) commitment to a reformatory [177 P.C.].

3. - Measures not of a detentive character shall be:

- a) police surveillance [178 P.C.];
- b) expulsion of an alien from the State [181 P.C.].

4. - Where the law prescribes a security measure without indicating its nature, the Judge shall order the person to be placed under police surveillance [178 P.C.].

ART. 173. (*Commitment to a Hospital or Nursing Home*). - 1. -

A person convicted of a crime not committed with *culpa* [24 a, b, P.C.], and sentenced to a punishment reduced by reason of his mental infirmity [51 P.C.], or chronic intoxication by alcohol or narcotic drugs [57 P.C.], or by reason of being deaf and dumb [58 P.C.], shall be committed to a hospital or nursing home, for a period not less than one year, where the minimum punishment prescribed by laws is imprisonment for not less than five years [96 P.C.].

2. - Where the punishment prescribed for a crime is death [94 P.C.], imprisonment for life [95 P.C.] or imprisonment for a period of not less than ten years [96 P.C.], the security measure shall be ordered for a period not less than three years.

3. - Where, the punishment prescribed for any other offence is imprisonment [91' p.e.], and where it appears that the convicted person is a danger to society [164 P.C.], he shall be committed to a hospital or nursing home for a period not less than six months. However, the Judge may order him to be placed under police surveillance [178 P.C.] instead of being thus committed, except where the punishment has been reduced for chronic intoxication by alcohol or narcotic drugs [57 P.C.].

4. - Where commitment to a hospital or nursing home has been ordered, no other security measure of a detentive character shall be applied.

Art. 174. (*Execution of the Order Committing a Person a Hospital or Nursing Home*). - 1. - The order committing a person to a hospital or nursing home shall be executed after a sentence restrictive of personal liberty [91' P.C.] has been served or otherwise extinguished.

2. - The Judge, however, having regard to any special condition of mental infirmity of the person convicted, may order the person to be thus committed before the beginning or the end of the sentence restrictive of personal liberty [91' P.C.].

Art. 175. (*Habitual Drunkards*). - 1. - Where no other security measure of a detentive character [172² p.e.] is required to be ordered, a person sentenced to imprisonment for crimes [968 P.C.] committed in a state of drunkenness, if the drunkenness is habitual [55 P.C.], or for crimes committed under the influence of narcotic drugs to the use of which they are addicted [56 P.C.], shall be committed to a hospital or nursing home, for a period of not less than six months.

2. - However, in the case of crimes for which a sentence of imprisonment [96 P.C.] for a term of less than three years is imposed, the offender may be placed under police surveillance [178 P.C.] instead of being committed to a hospital or nursing home.

Art. 176. (*Treatment in a Lunatic Asylum*). - 1. - In the case of acquittal for mental infirmity [50 P.C.] or for chronic intoxication by alcohol or narcotic drugs [57 P.C.] or for being deaf and dumb [58 P.C.], the offender shall be committed to a lunatic asylum for a term of not less than two years, provided that, in the case of contraventions or crimes committed with *culpa* [24 c) p.e.], or other crimes for which the law prescribes a pecuniary punishment [9F P.C.] or imprisonment [96 P.C.] for a maximum a period not exceeding two years, the judgment of acquittal shall be notified to the Police.

2. - The minimum period of commitment to a lunatic asylum shall be ten years, where the law prescribes a punishment of death [94 P.c.], or imprisonment for life [95 P.C.]; five years, if the law prescribes a punishment of imprisonment [96 P.C.] for a minimum period of not less than ten years.

3. - Where a person who has been committed to a lunatic asylum is required to serve a sentence restrictive of person liberty [91' P.e.], the execution of such sentence shall be postponed until the end of the period of commitment to the lunatic asylum.

4. - The provisions of this article shall also apply to persons acquitted by reason of their age [59 P.C.], where they have committed an offence, and any of the conditions referred to in the first paragraph of this article are applicable.

ART. 177. (*Commitment to a Reformatory*). - 1. - Where a minor under 14 years of age [59 P.C.] has committed an offence, and is of a dangerous character [164 P.C.], the Judge, having special regard to the gravity of the act [110 P.C.] and the moral conditions of the family in which the minor has been brought up, may order him to be committed to a reformatory for a period of not less than two years.

2. - Where the crime is punished with death [94 PoCo] or imprisonment for life [95 P.C.], or imprisonment for not less than three years [96 P.C.], and the crime committed is not with *culpa* [24 c) P.C.], commitment of a minor to a reformatory shall be ordered for a period of not less than three years.

ART. 178. (*Police Surveillance*). - 1. - The Police shall exercise supervision over persons placed under police surveillance.

2. - The Judge shall lay down such instructions as are likely to prevent persons placed under police surveillance from committing further offences. Such instruction may be subsequently modified or limited by the Judge.

3. - The supervision shall be exercised in such a manner as to facilitate, by means of work, the readjustment of the person to society.

4. - Where a person is placed under police surveillance shall not last for less than a year.

ART. 179. (*Cases in Which Police Surveillance May be Ordered*). - In addition to the cases in which police surveillance may be ordered by special provision of law, it may also be ordered:

a) in the case of a sentence to imprisonment [96 P.C.] for a period exceeding one year;

b) in the cases in which this Code authorises a security measure for an act which the law does not make an offence [19, 76 P.c.].

ART. 180. (*Cases in Which Police Surveillance shall be Ordered*). - Police Surveillance shall be ordered:

a) where a punishment of imprisonment [96 P.C.] for a period not less than ten years is imposed. In such cases the Police surveillance shall not last less than three years;

b) where the convicted person is allowed conditional release [151 P.C.];

c) in any other case provided by law [70 P.C.].

ART. 181. (*Expulsion of an Alien From the Territory of the State*). - The expulsion of an alien from the territory of the State [4 PoC.] shall be ordered by the Judge where the alien has been sentenced to imprisonment [96 P.C.] for a period of not less than ten years, and in any other case expressly provided by law.

ART. 182. (*Confiscation*). - Confiscation shall be a security measure in respect of property, which may be added to those prescribed by this Code or by special provisions of law.

ART. 183. (*Cases Where Confiscation is Applicable*). - 1. - On a conviction, the Judge may order the confiscation of the material objects which were used or intended to be used in the commission of the offence [15 P.C.], or of those which are the proceeds or the profits thereof.

2. - Confiscation shall be ordered:

a) of material objects which constitute the rewards for the offence [15 P.C.];

b) of material objects whose manufacture, use, possession, custody or alienation constitutes an offence [15 P.C.], even where no conviction was pronounced.

3. - The provisions of paragraph 1 and (a) shall not apply if the material object belongs to anyone who is not a party to the offence.

4. - The provisions of paragraph 2 (a) shall not apply where the material object belongs to a person who is not a party to the offence, and its manufacture use, possession, custody or alienation may be effected with the consent of the competent authority.

BOOK II

CRIMES

PART I

CRIMES AGAINST THE PERSONALITY OF THE SOMALI STATE

CHAPTER I: CRIMES AGAINST THE SOMALI STATE AS AN INTERNATIONAL PERSON

ART. 184. (*Attempts Against the Integrity, Independence or Unity of the Somali State; high treason* (*)). - Whoever commits an act direct to subject the territory of the State [4 Const.] or a part thereof to the sovereignty of a foreign State, or to diminish the independence, or to dissolve the unity of the State [1 Const.], shall be punished with death [94 P.C., 16' Const.].

ART. 185. (*Citizen Who Bears Arms Against the Somali State*). - 1. - A citizen [4¹ P.C.] who bears arms against the State, or serves in the armed forces of a State at war with the Somali State, shall be punished with imprisonment for life [95 P.C.]. Where he holds a higher command or has a leading role, he shall be punished with death [94 P.C.].

2. - Whoever, being during hostilities [237 P.C.] in the territory of

(*) Art., 76 Const., (« high treason », committed by the President of the Republic).

an enemy State, has committed the act having been compelled thereto by an obligation imposed upon him by the laws of that State, shall not be liable to punishment.

3. - For the purposes of penal law, the expression «States at war» includes political units which, although not recognised by the Somali State as States, are treated as belligerents [237 P.C.].

Art. 186. (*Intelligence With Foreigners For the Purpose of Waging War Against the Somali State*). - 1. - Whoever holds intelligence with foreigners in order that a foreign State may wage war or commit acts of hostility against the Somali State, or commits other acts directed to the same end, shall be punished with imprisonment [96 P.C.] for not less than ten years.

2. - Where war results, punishment of death [94 P.C.] shall be imposed; where hostilities break out, imprisonment for life [95 P.C.] shall be imposed.

Art. 187. (*Hostile Acts Against a Foreign State Which Expose the Somali State to the Danger of War*). - 1. - Whoever, without the approval of the Government, effects recruitments or commits other hostile acts against a foreign State, so as to expose the Somali State to the danger of a war, shall be punished with imprisonment [96 P.C.] from five to twelve years; if war results, he shall be punished with imprisonment for life [95 P.C.].

2. - Should the hostile acts be such as only to disturb relations with a foreign Government, or to expose the Somali State or its citizens, wherever residing, to the danger of reprisals or retaliations, the punishment shall be imprisonment [96 P.C.] from two to eight years. Where a breach of diplomatic relations results, or where the reprisals or retaliations occur, the punishment shall be imprisonment [96 P.C.] from three to ten years.

3. - The above offence shall be punishable at the request of the Minister of Grace and Justice.

Art. 188. (*Intelligence With Foreigners For the Purpose of Engaging the Somali State to Neutrality or War*). - Whoever holds intelligence with foreigners in order to engage or to commit acts directed to engage the Somali State to a declaration or preservation of neutrality [60 75 g Const), or to a declaration of war, shall be punished with imprisonment [96 P.C.] from five to fifteen years.

Art. 189. (*Corruption of a Citizen by Foreigners*). - 1. - A citizen [4¹ P.C.] who, even indirectly, receives or obtains from foreigners a promise of money or of any benefit, for himself or for others, or accepts a promise thereof, with the object of performing acts contrary to the national interests, shall be punished, where the act does not constitute a more serious offence, with imprisonment [96 P.C.] from three to ten years and with fine [97 P.C.] from Sh. So. 5,000 to 10,000.

2. - The foreigner who gives or promises the money or the benefit shall be liable to the same punishment.

3. - The punishment shall be increased [118 P.C.];

a) where the act is committed in time of war [237 P.C.];

b) where the money or benefit given or promised for propaganda by means of the press.

ART. 190. (*Favouring the Enemy in Time of War*). - Whoever, in time of war [237 P.C.], holds intelligence with foreigners in order to favour the military operations of the enemy [185³ P.C.] to the prejudice of the Somali State, or otherwise to endanger the military operations of the Somali State, or commits other acts directed to the same objects, shall be punished with imprisonment [96 P.C.] for not less than ten years; and, where he attains the object, he shall be punished with death [94 P.C.].

ART. 191. (*Providing the Enemy With Supplies*). - 1. Whoever, in time of war [237 P.C.], provides, even indirectly, any enemy State [185³ P.C.] with supplies or other articles which may be used to the detriment of the Somali State, shall be punished with imprisonment [96 P.C.] for not less than five years.

2. - The preceding provision shall not apply to a foreigner who commits the act abroad.

ART. 192. (*Participation in Loans in Favour of the Enemy*). - 1. - Whoever, in time of war [237 P.C.], participates in loans or payments in favour of any enemy State [185³ P.C.], or facilitates the operations relating thereto, shall be punished with imprisonment [96 P.C.] for not less than five years.

2. - The preceding provision shall not apply to a foreigner who commits the act abroad.

ART. 193. (*Trading With the Enemy*). - A citizen [4¹ P.C.] or a foreigner living in the territory of the State [4¹ P.C.] who, in time of war [237 P.C.] and apart from the cases referred to in article 191, trades even indirectly with subjects of any enemy State [185³ P.C.], wherever they may be living, or with other persons living in the territory of any enemy State [185³ P.C.], shall be punished with imprisonment [96 P.C.] from two to ten years and with fine [97 P.C.] equal to five times the value of the goods and, in any case, not less than Sh. So. 10,000.

ART. 194. (*Failure to Execute Contracts For Supplies in Time of War*). - 1. - Whoever, in time of war [237 P.C.], does not carry out, wholly or in part, the obligations arising from a contract for the supply of commodities or work concluded with the State or other public body or with a firm performing public services or services of public necessity for the requirement of the armed forces or the population, shall be punished with imprisonment [96 P.C.] from three to ten years and with fine [17 P.C.] equal to three times the value of the goods or work which should have been supplied and, in any case, not less than Sh. So. 10,000.

2. - Where the non-performance, total or partial, of the contract is due to *culpa* [24 c, P.C.), the punishments shall be reduced by one-half.

3. - The preceding provisions shall apply also to sub-contractors, brokers and agents of suppliers whenever, in breach of their contractual obligations, they have caused the non-performance of the contract for supplies.

Art. 195. (*Fraud in Furnishing Supplies in Time of War*). — Whoever, in time of war [237 P.C.], commits a fraud in the execution of contracts for supplies or in the performance of the other contractual obligations referred to in the preceding article, shall be punished with imprisonment [96 P.C.], for not less than ten years and with fine [97 P.C.] equal to five times the value of the goods or work which should have been supplied and, in any case, not less than Sh. So. 20,000.

Art. 196. (*Distraction or Sabotage of Military Works*). - 1. - Whoever destroys or renders unserviceable, wholly or in part, even temporarily, ships, airplanes, trains, roads, installations, depots or other military works or works assigned to the service of the armed forces of the State, shall be punished with imprisonment [96 P.c.] for not less than eight years.

2. - Punishment of death (94 P.C.) shall be imposed:

a) where the act is committed in the interest of a State at war [185³ P.C.] with the Somali State;

b) where the act has seriously affected the preparation or the efficiency of the State for war, or its military operations.

Art. 197. (*Facilitation with Culpa*). - Where the execution of the crime referred to in the preceding article has been rendered possible, or facilitated, with *culpa* [24 c, P.C.] by the person who was in possession or had the custody or supervision of the goods indicated therein, that person shall be punished with imprisonment [96 P.c.) from one to five years.

Art. 198. (*Suppression, Falsification or Purloining of Papers or Documents Concerning the Security of the Somali State*). - 1. - Whoever, wholly or in part, suppresses, destroys or falsifies, or seizes, purloins or diverts, even temporarily, papers or documents concerning the security of the State or other political domestic or international interests of the State, shall be punished with imprisonment [96 P.C.) for not less than eight years.

2.- Punishment of death [94 P.C.) shall be imposed where the act has seriously affected the preparation or the efficiency of the State for war, or its military operations.

Art. 199. (*Procuring Information Regarding the Security of the Somali State*). - 1. - Whoever procures information which in the interest of the security of the State, or, in the political, domestic or international interest of the State, ought to remain secret, shall be punished with imprisonment [96 P.C.) from three to ten years.

2. - The punishment of death [94 P.C.] shall be imposed where the act has seriously affected the preparation or the efficiency of the State for war, or its military operations.

3. - For the purposes of the provisions of this Part, information which ought to remain secret in the political interest of the State shall include any information contained in Government papers not published for reasons of a political, domestic or international nature.

ART. 200. (*Political or Military Espionage*). - 1. - Whoever procures, for the purpose of political or military espionage, information which, in the interest of the security of the State, or in the political, domestic or international interest of the State ought to remain secret [199 P.C.], shall be punished with imprisonment [96 P.C.] for not less than fifteen years.

2. - Punishment of death [94 P.C.] shall be imposed:

a) where the act is committed in the interest of a State at war [185' P.C.] with the Somali State;

b) where the act has seriously affected the preparation or efficiency of the Somali State for war, or its military operations.

ART. 201. (*Espionage Concerning Information the Disclosure of Which Has Been Prohibited*). - 1. - Whoever obtains, for the purpose of political or military espionage, information the disclosure of which has been prohibited by the competent authorities, shall be punished with imprisonment [96 P.C.] for not less than ten years.

2. - Imprisonment for life [95 P.C.] shall be imposed where the act is committed in the interest of a State at war [85' P.C.] with the Somali State.

3. - Punishment of death [94 P.C.] shall be imposed where the act has seriously affected the preparation or efficiency of the State for war, or its military operations.

ART. 202. (*Facilitation with Culpa*). - 1. - Where the execution of any of the crimes referred to in articles 198, 199, 200 and 201 has been rendered possible, or facilitated, with *culpa* [24 c, P.C.], by the person who was in possession of the paper or document or was acquainted with the information, that person shall be punished with imprisonment [96 P.C.] from one to five years.

2. - Imprisonment [96 P.C.] from three to fifteen years shall be imposed where the preparation or efficiency of the State for war, or its military operations, have been seriously affected.

3. - The same punishments shall apply where the execution of the aforesaid acts has been rendered possible, or facilitated, with *culpa* [24 c, P.C.], by the person who had the custody or supervision of the places, whether on land, water or air, to which access is forbidden in the military interest of the State.

ART. 203. (*Clandestine Penetration Into Military Areas and Unjustified Possession of Means of Espionage*). - 1. - Whoever:

a) clandestinely or by deception, penetrates into places, wether

on land, water or air, access to which is prohibited in the military interest of the State;

b) in the aforesaid places or in proximity thereto, is surprised in the unjustified possession of means suitable for committing any of the crimes referred to in articles 199, 200 and 201;

c) is surprised in the unjustified possession of documents or of any other means suitable for furnishing the information indicated in article 199, shall be punished with imprisonment [96 P.C.] from one to five years.

2. - Where any of the acts referred to in the foregoing sub-paragraphs is committed in time of war [237 P.C.], the punishment shall be imprisonment [96 P.C.] from three to ten years:

Art. 204. (*Disclosure of State Secrets*). - 1. - Whoever discloses any information of a secret nature specified in article 199 shall be punished with imprisonment [96 P.C.] for not less than five years.

2. - Where the act is committed in time of war [237 P.C.], or has seriously affected the preparation or efficiency of the State for war, or its military operations, the punishment shall be imprisonment [96 P.C.] for not less than ten years.

3. - Where the offender has acted for purposes of political or military espionage, imprisonment for life [95 P.C.] shall be imposed in the case referred to in the first paragraph of this article; and punishment of death [94 P.C.] shall be imposed in the cases referred to in the second paragraph.

4. - The punishments prescribed in the foregoing provisions shall also apply to the person who obtains the information [119 P.C.].

5. - Where the act is committed with *culpa* [24 P.C.], the punishment shall be imprisonment [96 P.C.] from six months to two years in the case referred to in the first paragraph of this article, and from three to fifteen years where the act is committed under any of the circumstances referred to in the second paragraph.

Art. 205. (*Disclosure of Information the Divulcation of Which Has Been Prohibited*). - 1. - Whoever discloses information the divulcation of which has been prohibited by the competent authorities, shall be punished with imprisonment [96 P.C.] for not less than three years.

2. - Where the act is committed in time of war [237 P.C.], or has seriously affected the preparation or efficiency of the State for war, or its military operations, the punishment shall be imprisonment [96 P.C.] for not less than ten years.

3. - Where the offender has acted for purposes of political or military espionage, imprisonment [96 P.C.], for not less than fifteen years shall be imposed in the case referred to in the first paragraph of this article; and punishment of death [94 P.C.] in the cases referred to in the second paragraph.

4. - The punishments prescribed in the foregoing provisions shall also apply to the person who obtains the information [205 n. 1 P.C.].

5. - Where the act is committed with *culpa* [24 c, P.C.], the punish-

ment shall be imprisonment [96 P.C.] from six months to two years in the case referred to in the first paragraph of this article, and from three to fifteen years where the act is committed under any of the circumstances referred to in the second paragraph.

A r t. 206. (*Utilisation of State Secrets*). - 1. - A public officer [240 a P.C.], or a person entrusted with a public service [240 b P.C.], who makes use for his own or another person's benefit of scientific inventions, or discoveries or new industrial devices, with which he is acquainted by reason of his office or service, and which ought to remain secret [199 P.C.] in the interest of the security of the State, shall be punished with imprisonment [96 P.C.] for not less than five years and with fine [97 P.C.] of not less than Sh. So. 10,000.

2. - Where the act is committed in the interest of a State at war [185' P.c.] with the Somali State, or where it has seriously affected the preparation or efficiency of the State for war, or its military operations, the offender shall be punished with death [94 P.C.].

A i t. 207. (*Unfaithfulness in Handling State Matters*). - Whoever, being charged by the Somali State to deal with State matters abroad, betrays his trust, shall be punished with imprisonment [96 P.C.] for not less than five years where the act is such as to cause detriment to the national interests.

A r t. 208. (*Political Defeatism*). - 1. - Whoever, in time of war, spreads or communicates false, exaggerated, or misleading rumours or news, which may create public alarm or despondency, or otherwise lessen the resistance of the nation to the enemy, or does anything whatsoever - imprisonment [96 P.C.] for not less than er detrimental to the national interests, shall be punished with five years.

2. - The punishment shall be imprisonment [96 P.c.] for not less than fifteen years:

a) where the act is committed by means of propaganda or communications addressed to soldiers;

b) where the act is committed as a result of intelligence with the enemy.

A r t. 209. (*Instigating Soldiers to Disobey the Law*). - 1. - Whoever instigates soldiers to disobey the law or to violate the oath taken or the duties of military discipline or other duties inherent in their status, or extols before soldiers acts contrary to law, oath discipline or other military duties, shall be punished, where the act does not constitute a more serious crime, with imprisonment [96 P.C.] from one to three years.

2. - The punishment shall be imprisonment [96 P.C.] from two to five years where the act is committed publicly.

3. - The punishment shall be increased where the act is committed in time of war [237 P.C.].

4. - For the purposes of penal law, the offence shall be considered to have been committed publicly where the act is committed:

a) by means of the press, or by other means of propaganda;

b) in a public place or a place open to the public and in the presence of more than one person;

c) at a meeting which, owing to the place in which it is held, or the number of the persons present, or its purpose or object, has the character of a meeting which is not private.

ART. 210. (*Economic Defeatism*). - 1. - Whoever, in time of war [237 P.C.], employs means directed to depress the rate of exchange, or to influence the market of stocks and securities, public or private, in such a way as to imperil the resistance of the nation to the enemy, shall be punished with imprisonment [96 P.C.] for not less than five years, and with fine [97 P.C.] of not less than Sh. So. 30,000.

2. - Where the offence has been committed as a result of intelligence with foreigners, imprisonment [96 P.C.] shall be not less than ten years; and not less than fifteen years, where the offence has been committed as a result of intelligence with the enemy.

ART. 211. (*Offences against Allied States*). - The punishments prescribed in article 190 and the articles following it shall also apply where the crime is committed to the detriment of a foreign State allied or associated with the Somali State for purposes of war.

ART. 212. (*Anti-National Activity of a citizen Abroad*). - A citizen [4¹ p.e] who, outside the territory of the State [4² P.C.], circulates or communicates false, exaggerated or misleading rumours or news concerning the internal conditions of the State, so as to lessen the credit or the prestige of the State abroad, or in any way acts in such a manner as to cause detriment to the national interests, shall be punished with imprisonment [96 P.C.] for not less than five years.

ART. 213. (*Subversive Associations*). - 1. - Whoever, within the territory of the State, promotes, constitutes, organises or directs associations whose object is to establish by force the dictatorship of one social class or to suppress by force one social class or to subvert by force the economic or social order of the State, shall be punished with imprisonment [96 P.C.] from five to twelve years.

2. - Whoever, within the territory of the State, promotes, constitutes, organises or directs associations having for their object the suppression by force of any political and legal institution shall be liable to the same punishment.

3. - Whoever participates in the associations referred to in the preceding paragraphs shall be punished with imprisonment [96 P.C.] from one to three years.

4. - The punishment shall be increased in the case of persons who reconstitute, even under a false name or form, any of the above mentioned association whose dissolution has been ordered.

ART. 214. (*Anti-National Associations*). - 1. - Whoever, apart from the cases referred to in the preceding article, within the territory of

the States promotes, constitutes, organises or directs associations which aim at pursuing or which pursue, activities directed against the national unity [1 Const.], shall be punished with imprisonment [96 P.C.] from one to three years.

2. • Whoever participates in the associations referred to in the preceding paragraphs shall be punished with imprisonment from six months to two years.

3. - The punishment shall be increased [118 P.C.] in the case of persons who reconstitute, even under a false name or form, any of the above mentioned associations whose dissolution has been ordered.

ART. 215. (*Subversive or Anti-National Propaganda*). - 1. • Whoever, in the territory of the State [4' P.C.], conducts propaganda in favour of the installation by force of the dictatorship of one social class over others, or of the suppression by force of any social class, or in favour of the subversion by force of the economic or social order of the State, or conducts propaganda in favour of the destruction of any political and legal institution, shall be punished with imprisonment [96 P.c.], from one to five years.

2. - If the propaganda is conducted in order to destroy or impair the national sentiment [1 Const.], the punishment shall be imprisonment [96 P.C.] from six months to two years.

3. - Any person who extols the acts referred to in the foregoing paragraphs shall be liable to the same punishment.

ART. 216. (*Acceptance of Honours or Benefits From an Enemy State*). - A citizen [4' P.C.] who accepts from a State at war [237 P.C.] with the Somali State, academic degrees or dignities, titles, decorations or other public honours, pension or other benefits attached to the said degrees, dignities, titles, decorations or honours, shall be punished with imprisonment [96 P.C.] up to one year.

CHAPTER II: CRIMES AGAINST THE SOMALI STATE AS AN INTERNAL PERSON

ART. 217. (*Attempts Against the Constitutional Order*) (*). - Whoever commits an act for the purpose of changing the Constitution or the form of government by means not authorised by the Constitution [104, 105 ConsL] shall be punished with imprisonment for life [95 P.C.].

Art. 218. (*Attempts Against the Constitutional Organs*). - 1. - Whoever attempts to kill the President of the Republic [70 Const.], the President of the National Assembly [49 Const.], the Prime Minister [78 Const.] or the President of the Supreme Court when the Supreme Court

(*) Art. 76 Const. (« attempt, against the constitutional order », committed by the President of the Republic).

[94 Const.) is constituted as the Constitutional Court or the High Court of Justice [99, 102 Const.), shall be punished, where the act does not constitute a more serious crime, with imprisonment for life [95 P.C.).

2. - Whoever attempts to impair the safety or personal liberty of the persons referred to in the previous paragraph shall be punished, where the act does not constitute a more serious crime, with imprisonment [96 P.C.], from five to fifteen years.

3. - Whoever commits an act directed to prevent, wholly or in part, the President of the Republic [70 Const.), the National Assembly [49 Const.), the Government [77 Const.) or the Supreme Court [94 Const.] constituted as the Constitutional Court [99 Const.) or the High Court of Justice [102 Const.] from exercising the functions conferred on them by the Constitution or by law, shall be punished, where the act does not constitute a more serious crime, with imprisonment [96 P.C.] for not less than ten years.

ART. 219. (*Bringing the Nation or the State Into Contempt*). - 1. - Whoever publicly brings into contempt the Somali Nation, the State, the National flag or emblem [1 Const.), the constitutional organs [49, 70, 78, 94, 96, 102 Const.] or the armed forces [75 Const.] of the State shall be punished with imprisonment [96 P.C.) from six months to three years.

2. - The punishment shall be increased [118 P.C.] where the act referred to in the previous paragraph is committed by a citizen [4' P.C.] in foreign territory [4' P.C.).

ART. 220. (*Offending the Honour or Prestige of the Head of the State*). - Whoever, apart from the cases referred to in the preceding articles, publicly offends the honour or prestige of the President of the Republic [70 Const.), or holds him to be blamed or responsible for the acts of the Government [76 Const.), shall be punished with imprisonment [96 P.C.] from six months to three years.

ART. 221. (*Armed Insurrection Against the Powers of the State*). - 1. - Whoever promotes an armed insurrection against the powers of the State shall be punished with imprisonment for life [95 P.C.], and, where the insurrection ensues, with death [94 P.C.).

2. - Persons who participate in the insurrection shall be punished with imprisonment [96 P.C.) from three to fifteen years.

3. - An insurrection shall be deemed to be an armed insurrection even though the arms [541 P.c.) are merely kept in a place of deposit.

ART. 222. (*Devastation, Pillage and Slaughter*). - Whoever, for the purpose of making an attempt against the security of the State, commits an act directed to carry devastation, pillage or slaughter [329 P.c.) into the territory of the State [4' P.C.) or a part thereof shall be punished with death [94 P.C.).

ART. 223. (*Civil War*). - Whoever commits an act directed to provoke civil war in the territory of the State [4' P.C.] shall be punished with

imprisonment for life [95 P.C.]. Where civil war ensues, the offender shall be punished with death [94 P.C.].

Art. 224. (Usurpation of Political Powers or Military Command). -

1. - Whoever usurps political power, or persists in its unlawful exercise, shall be punished with imprisonment [96 P.C.] from six to fifteen years.

2. - Whoever unlawfully assumes a high military command shall be liable to the same punishment.

3. - Where the act is committed in time of war [237 P.C.], the offender shall be punished with imprisonment for life [95 P.C.]; and he shall be punished with death [94 P.C.] where the act has seriously affected the outcome of military operations.

Art. 225. (Unauthorised Enlistment or Arming in the Service of a Foreign State). -

1. - Whoever, within the territory of the State [4' P.C] and without the approval of the Government, enlists or arms citizens for the purpose of serving a foreign State or in its interest, shall be punished with imprisonment [96 P.C] from three to six years.

2. - The punishment shall be increased [118 P.C] where, among the persons enlisted, there are soldiers in service.

CHAPTER III: CRIMES AGAINST THE POLITICAL RIGHT OF SOMALI CITIZENS

Art. 226. (Attempts Against the Political Rights of a Citizen). -

Whoever, by force, threat or deception, prevents, wholly or in part, the exercise of a political right [8-12 Const.], or induces someone to exercise it in a manner contrary to his wishes, shall be punished with imprisonment [96 P.C.] from one to five years.

CHAPTER IV: CRIMES AGAINST FOREIGN STATES, THEIR HEADS AND REPRESENTATIVES

Art. 227. (Attempts Against the Heads or Representatives of Foreign States). -

1. - Whoever within the territory of the State [4' P.C.], attempts [15 P.C.] to kill the Head of any foreign State shall be punished, where the act does not constitute a more serious crime, with imprisonment [96 P.C.] for not less than twenty years; where the offender attempts to impair the safety or personal liberty of the Head of any foreign State, the punishment shall be imprisonment from three to ten years.

2. - The provisions of the previous paragraph shall also apply where the acts referred to therein are committed against the representatives of foreign States accredited to the Government of the Somali Republic [75 Const.] as the Heads of diplomatic missions, by reason of or in the exercise of their functions.

Art. 228. (Bringing Into Contempt the Flag or Emblem of a Foreign State). -

Whoever, within the territory of the State, in a public place or a place open to the public, brings into contempt the flag or the official

emblem [1 Const.] of foreign State which, according to the domestic law of the Somali State, is used as such flag or official emblem, shall be punished with imprisonment [96 P.C.] up to two years.

Art. 229. (*Condition of Reciprocity*). - The provisions of the two preceding articles shall apply only insofar as the foreign penal law reciprocally guarantees to the Head of the Somali State [70 Const.] and the Somali flag [1 Const.] equivalent protection.

CHAPTER V: GENERAL PROVISIONS RELATING TO THE PRECEDING CHAPTERS

Art. 230. (*Instigation to Commit Any of the Crimes Referred to in Chapters I and II*). - 1. - Whoever instigates a person to commit any of the crimes, not with *culpa* [24 P.C.], referred to in Chapters I and II of this Part, in respect of which the law prescribes the punishment of death [94 P.C.] imprisonment for life (95 P.C.) or imprisonment [96 P.C.], shall be punished, if the instigation is not favourably received, or if it is favourably received but the crime is not committed, with imprisonment [96 P.C.] from one to eight years.

2. - The punishment applied shall, however, in all cases be less than one-half of the punishment prescribed for the crime to which the instigation refers.

Art. 231. (*Public Instigation and Extolling Crimes*). - 1. - Whoever publicly instigates the commission of any of the crimes referred to in the preceding article [230 P.C.] shall be punished, for such act alone, with imprisonment [96 P.C.] from three to twelve years.

2. - The same punishment shall apply to anyone who publicly extolls any of the crimes referred to in the preceding article [230 P.C.].

Art. 232. (*Political Conspiracy by Agreement*). - 1. - Where two or more persons agree [76 P.C.] to commit any of the crimes referred to in article 230, whoever is a party to such agreement shall be punished, if the crime is not committed, with imprisonment [96 P.C.] from one to six years. The punishment shall be increased [118 P.C.] in the case of the promoters.

2. - The punishment applied shall, however, in all cases be less than one-half of the punishment prescribed for the crime to which the agreement refers [117 P.C.].

Art. 233. (*Political Conspiracy by Association*). - 1. - Where three or more persons associate for the purpose of committing any of the crimes referred to in article 230, those who promote, constitute, organise or direct the association shall be punished, for such act alone, with imprisonment [96 P.C.] from five to twelve years.

2. - For the sole act of participating in the association, the punishment shall be imprisonment [96 P.C.] from two to eight years.

3. - The punishment shall be increased [118 P.C.] if the association aims to commit two or more of the crimes referred to above [230 P.C.].

Art. 234. (Formation of and Participating in Armed Groups). - 1. - Where, for the purpose of committing any of the crimes referred to in article 230, any armed group is formed, those who promote, constitute, organise or direct it shall be punished for such act alone, with imprisonment [96 P.C.] from five to fifteen years.

2. - For the sole act of participating in the armed group, the punishment shall be imprisonment [96 P.C.] from three to nine years.

Art. 235. (Conspiracy: Exemption From Punishment). - 1. - In the cases referred to in article 232 and 233, no punishment shall be imposed on those who, before the commission of the crime in respect of which the agreement [232 P.C.] was concluded or the association [233 P.C.] was constituted, and prior to the arrest or the commencement of criminal proceedings:

a) have dissolved or in any manner whatsoever brought about the dissolution of the association;

b) not being promoters or leaders have withdrawn from the agreement was concluded or the association was constituted.

Art. 236. (Armed Group: Exemption From Punishment). - 1. - In the cases referred to in article 234, no punishment shall be imposed on those who, before the commission of the crime [16, 230 P.C.] for which the armed group was formed, and prior to the order of the authorities or the police, or immediately following such order:

a) have dissolved or in any manner whatsoever brought about the dissolution of the armed group;

b) not being promoter or leaders of the armed group, have withdrawn from the same, or surrendered themselves without offering resistance, delivering or abandoning their weapons.

2. - Likewise, no punishment shall be imposed on any person who has in any manner prevented the commission of the crime [16, 230 P.C.] for which the armed group was formed.

Art. 237. (Time of War). - For the purposes of penal law, the term «time of war» shall also include the period of imminent danger of war, when war follows.

Art. 238. (Extenuating Circumstances Acts of Slight Importance). - The punishment prescribed for the crimes referred to in this Part shall be reduced [119 P.C.] where, by reason of the nature, type, means, characteristics or circumstances of the act, or by reason of the slighthness of the injury or danger, the act appears to be of slight importance.

Art. 239. (Expulsion of Foreigners). - A foreigner sentenced to imprisonment for any of the crimes referred to in this Part shall be expelled [181 P.C.] from the State.

CHAPTER I: CRIMES BY PUBLIC OFFICERS
AGAINST THE PUBLIC ADMINISTRATION

ART. 240. (*Definition*). - For the purposes of penal law:

a) a «public officer» means any person who, permanently or temporarily, gratuitously or for reward, voluntarily or under obligation, performs any public legislative [49 Const.], administrative [77 Const.] or judicial [92 Const.] function, on behalf or in the interest of the State or of any other public Body;

b) a «person entrusted with a public service» means any person who, not being a public officer as defined in the previous sub-paragraph, permanently or temporarily, gratuitously or for reward, voluntarily or under obligation, is entrusted by the State or any other public Body with the performance of any public service;

c) a «person performing a service of public necessity» means any private person who practises the legal or medical profession, or any other profession the practice of which is not permitted by law without the prescribed State qualification; or who performs a service which is declared to be a public necessity.

ART. 241. (*Peculation*). - 1. - A public officer [240 a) P.C.] or a person entrusted with a public service [240 b) P.C.] who, being by reason of his office or service in possession of money or other movable property belonging to the Public Administration [D.L., 20-12-1961 n. 2], appropriates it or converts it to his own use or the use of another, shall be punished with imprisonment [96 P.C.] for a term from three to ten years and fine [97 P.C.] of not less than Sh. So. 1,000.

2. - Any person convicted under the terms of the preceding paragraph shall be perpetually interdicted from public office [101 P.C.] Where however, by reason of extenuating circumstances, the punishment imposed is imprisonment for a period of less than three years, the interdiction shall be temporary [101 P.C.].

ART. 242. (*Misappropriation to the Prejudice of Private Persons*). - 1. - A public officer [240 a) P.C.] or a person entrusted with a public service [240 b) P.C.] who appropriates, or in any manner converts to his own use, or to the use of a third party, money or any movable property not belonging to the Public Administration, of which he is in possession by reason of his office or duty, shall be punished with imprisonment [96 P.C.] from three to eight years and with fine [97 P.C.] of not less than Sh. So. 1,000.

2. - The provision of the second paragraph of article 241 shall also apply to the offence referred to in this article.

ART. 243. (*Peculation by Taking Advantage of the Error of Another Person*). - A public officer [240 a, P.C.] or a person entrusted with a

public service [240 b, P.C.] who, in the exercise of his duties or service, taking advantage of another person's error wrongfully receives or retains, for himself or for a third party, money or any other benefit, shall be punished with imprisonment [96 P.C.] from six months to three years and with fine [97 P.C.] from Sh. So. 500 to 10.000.

Art. 244. (Extortion by a Public Officer). - 1. - A public officer [240 a, P.C.] who, by abusing his official position or his duties, wrongfully compels or induces anyone to give or to promise, to himself or to a third party, money or any other benefit, shall be punished with imprisonment [96 P.C.] from four to twelve years and with fine [97 P.C.] of not less than Sh. So. 3.000.

2. - The provisions of the second paragraph of article 241 shall also apply to the offence referred to in this article.

Art. 245. (Corruption for Performing an Official Act). - 1. - A public officer [240 a, P.C.] who, for the performance of an act pertaining to his office, receives, for himself or for a third party, any sum of money or any other benefit, as a reward which is not due to him, or accepts the promise of any sum of money or any other benefit, shall be punished with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] from Sh. So. 500 to 10.000.

2. - Where the public officer receives the reward for an act pertaining to his office already performed by him, the punishment shall be imprisonment [96 P.C.] up to one year and fine [97 P.C.] up to Sh. So. 3.000.

Art. 246. (Corruption for Performing an Act Contrary to the Duties of Office). - 1. - A public officer [240 a, P.Co] who, for omitting or delaying to do an act pertaining to his office, or performing an act contrary to the duties of his office, receives, for himself or for a third party, any sum of money or any other benefit, or accepts the promise thereof, shall be punished with imprisonment [96 P.Co] from two to five years and with fine [97 P.C.] from Sh. So. 3.000 to 20.000.

2. - The punishment shall be increased [118 P.C.] where the act results in:

a) the granting of public employment, salaries, pensions or honours, or the stipulation of contracts which are of interest to the Administration to which the public officer belongs;

b) favouring or prejudicing a party in a civil, criminal or administrative proceeding.

3. - Where the act results in the sentencing of a person to imprisonment for life [95 P.c.] or imprisonment [96 P.c.], the punishment shall be imprisonment [96 P.C.] from six to twenty years and fine of not less than Sh. So. 25.000. Where the act results in a sentence of death [94 P.c.], the punishment of imprisonment for life [95 P.C.] shall be imposed.

4. - Where a public officer [240 a, PoC.] receives the money or the benefit for having acted contrary to the duties of his office, or for

having omitted or delayed an act pertaining to his office, the punishment shall be imprisonment [96 P.c.] from one to three years and fine [97 P.C.] from Sh. So. 1.000 to 10.000.

Art. 247. (*Corruption of a Person Entrusted with a Public Service*). - 1. - The provisions of articles 245 and 246 shall also apply where the act is committed by a person entrusted with a public service [240 b, c.P.].

2. - In this case, the punishment shall be reduced to an extent not exceeding one-third.

Art. 248. (*Punishment of Persons Giving or Promising Money or Other Benefit*). - The punishment prescribed in articles 245, 246 and 247, shall also apply to a person who gives or promises the money or the benefit to a public officer [240 a, P.C.] or a person entrusted with a public service [240 b, P.C.].

Art. 249. (*Instigation of Corruption*). - 1. - Whoever offers or promises money or other benefit, as a ward not due, to a public officer [240 a, P.C.] or a person entrusted with a public service [240 b, P.C.], in order to induce him to perform an act pertaining to his office or service, shall be liable, where the offer or promise is not accepted, to the punishment prescribed in the first paragraph of article 245, reduced by one-third.

2. - Where the offer or promise is made in order to induce a public officer [240 a, P.c.] or a person entrusted with a public service [240 b, P.C.] to omit or delay an act pertaining to his office or service, or to perform an act contrary to his duties, the offender shall be liable, where the offer or promise is not accepted, to the punishment prescribed in the first paragraph of article 246, reduced by one-third.

Art. 250. (*Abuse of Office in Cases not Specifically Provided for by Law*). - A public officer [240 a, P.C.] who, abusing the powers inherent in his functions, commits, for the purpose of causing injury to any person or of procuring an advantage for any person, any act not deemed to be an offence [15 P.C.] by any particular provision of law [1 P.C.], shall be punished with imprisonment [96 P.c.] up to two years or with fine [96 P.c.] from Sh. So. 500 to 10.000.

Art. 251. (*Private Interest in Official Acts*). - A public officer [240 a, P.C.] who, directly or through an intermediary, or with deceptive actions, takes a private interest in any act of the Public Administration under which he serves, shall be punished with imprisonment [96 P.C.] from six months to five years and with fine [97 P.C.] from Sh. So. 1.000 to 20.000.

Art. 252. (*Utilisation of Inventions or Discoveries Known by Reason of Office*). - A public officer [240 a, P.C.] or a person entrusted with a public service [240 b, P.C.] who uses, for his own or another person's profit, scientific inventions or discoveries, or new industrial devices

with which he is acquainted by reason of his office or service, and which ought to remain secret, shall be punished with imprisonment [96 P.c.] from two to five years and with fine [97 P.C.] of not less than Sh. So. 5,000.

Art. 253. (*Disclosure of Official Secrets*). - A public officer [240 a, P.C.] or a person entrusted with a public service [1240 b, P.C.] who, in violation of the duties inherent in his functions or service or in any way abusing his position, discloses official information which ought to remain secret [199, 204, 205 P.C.], or in any manner facilitates the disclosure thereof, shall be punished with imprisonment [96 P.C.] from six months to three years. If the facilitating of the disclosure was merely through *culpa* [24 c P.C.], the punishment shall be imprisonment [97 P.c.] up to one year.

Art. 254. (*Incitement to Disparage or Bring into Contempt Public Institutions, Laws or Orders of Authorities*). - A public officer [240 a P.c.] or person entrusted with a public service [240 b P.C.] who, in the exercise of his functions, incites the disparagement of public institutions or the non-observance of the laws or orders of the authorities or of the duties pertaining to a public office or service, or who extols acts contrary to the laws or orders of the authorities or to the aforesaid duties, shall be punished, when the act is not made an offence by any particular provision of law, with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] up to Sh. So. 2,000.

Art. 255. (*Omission or Refusal to Perform Official Acts*). - 1. - A Public officer [240 a P.C.] or a person entrusted with a public service [240 b P.C.] who wrongfully refuses, omits or delays to perform an act pertaining to his office or service, shall be punished with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] up to Sh. So. 10,000.

2. - Where the public officer [240 a P.C.] is a Judge [15 D.L. 12-6-1961 n. 9] or an officer of the Office of the Attorney General [15 D.L. 12-6-1961 n. 3] there shall be deemed to be omission, refusal or deathly when the conditions required by law for a civil cause of action against him exist [38 Const.].

Art. 256. (*Collective Abandonment of Public Offices, Employments, Services or Works*). - 1. - Where three or more public officers [240 a P.C.] or persons entrusted with a public service [240 b P.C.], or private persons who, not being part of an organisation or concern, perform public services of public necessity, or employees of concerns performing a public service or service of public necessity [240 c P.C.], collectively abandon the office, employment, service or work, or perform their duty in such a manner as to disturb its continuity or regularity, they shall be punished with imprisonment [96 P.C.] up to two years.

2. - The leaders, promoters or organisers shall be punished with imprisonment [26 P.C.] from two to five years.

3. - The punishment shall be increased [118 P.C.] where the act:
- a) is motivated by political purposes [8³ P.C.];
 - b) has caused popular demonstrations, tumults or riots.

Art. 257. (Interruption of a Public Service or a Service of Public Necessity). - 1. - Where a person operating a concern performing a public service or a service of public necessity [240 b P.C.], interrupts the service or suspends the work in the establishment, office or firm, in such a manner as to disturb the regularity of the service, shall be punished with imprisonment [96 P.c.] from six months to one year and with fine of not less than Sh. So. 5,000.

2. - The leaders, promoters or organisers shall be punished with imprisonment [96 P.c.] from three to seven years and with fine [97 P.C.] of not less than Sh. So. 10,000.

3. - The provisions of the last paragraph of the preceding article shall apply to the offence referred to in this article [256 P.C.].

Art. 258. (Failure to Perform Duties of Office on the Occasion of Abandonment of a Public Office or of Interruption of a Public Service). - A public officer [240 a PoCo] or a person in charge of a public service [240 b PoC.] or a service of public necessity [240 c PoC.] who, at the time of the commission of any of the crimes referred to in the h'o preceding articles, in which he has not taken part, refuses or omits to line his endeavours towards the resumption of the service to which he::, attached or of which he is in charge, or to perform what is necessary for the rel'ular continuation of the service, shall be punished with fine [97 Poc.] up to Sh. So. 5,000.

Art. 259. (Individual Abandonment of Public Office, Service or Work). - 1. - A public officer [240 a P.C.] or a person entrusted with a public service [240 b P.C.] or a private person who, not being part of an organisation or concern, performs a public service or a service of public necessity [240 c P.c.], or an employee of a conc,ern performing a public service or a service of public necessity, who abandons his office, service or work for the purpose of disturbing the continuity or regularity thereof, shall be punished with imprisonment [96 PoC.] up to six months or with fine [97 P.C.] up to Sho So. 5,000.

20 - The same punishment shall also apply to any person who, with the same object, without abandoning the office service or work, performs his duties in such a manner as to disturb the continuity or regularity ther,eof,

30 - The punishment shall be increased [118 P.Co] where the act results in public or private injury.

Art. 260. (Cases not Punishable). - Whoever commits an act referred to in articles 256, 257, 258, and 259 in the exercise of the right to strike [27 Canst.] in the manner prescribed by law [120 Labour Code], shall not be punishable.

ART. 261. (*Removal or Damage of Property Subjected to Attachment or Sequestration*). - 1. - Whoever, for the sole purpose of benefitting the owner of a property subjected to attachment or sequestration and entrusted to his custody, removes, conceals, destroys, wastes or causes it to deteriorate, shall be punished with imprisonment [96 P.C.] from six months to four years and with fine [97 P.C.] from Sh. So. 500 to 5,000.

2. - Where the removal, concealment, destruction, waste or deterioration is committed by the owner of the property subjected to attachment or sequestration and entrusted to his custody, the punishment shall be imprisonment [96 P.C.] from three months to two years and fine [97 P.C.] from Sh. So. 300 to 3,000.

3. - Where the act is committed by the owner of the property, and such property is not entrusted to his custody, the punishment shall be imprisonment [96 P.C.] up to one year and fine [97 P.C.] up to Sh. So. 3,000.

ART. 262. (*Violation With Culpa of the Duties Inherent in the Custody of Property Attached or Sequestered*). - Whoever, having in his custody any property subjected to attachment or sequestration, with culpa [24 c P.C.] causes the destruction or waste thereof, or facilitates its removal or concealment, shall be punished with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] up to Sh. So. 3,000.

CHAPTER II: CRIMES OF INDIVIDUALS AGAINST THE PUBLIC ADMINISTRATION

ART. 263. (*Force of Threats to a Public Officer*). - 1. - Whoever uses force or threats towards a public officer [240 a P.C.] or towards a person entrusted with a public service [240 b P.C.], in order to compel him to perform an act contrary to his duties, or to refrain from doing an act pertaining to his office or service, shall be punished with imprisonment [96 P.C.] from six months to five years.

2. - Where the act is committed in order to compel any of the aforesaid persons to perform an act pertaining to his office or service or in order to influence him in any manner, the punishment shall be imprisonment [96 P.C.] up to three years.

ART. 264. (*Resistance to a Public Officer*). - Whoever uses force or threats in order to oppose a public officer [240 a P.C.] or a person entrusted with a public service [240 b P.C.] while he is performing an act pertaining to his office or service, or to oppose anyone who, having been called upon, is lending him assistance, shall be punished with imprisonment [96 P.C.] from six months to five years.

ART. 265. (*Force of Threats to a Political, Administrative or Judicial Body*). - 1. - Whoever uses force or threats towards a legislative [49 Canst.], administrative [77 Canst.] or judicial body [92 Canst.], or representatives thereof, or towards any public authority acting as a collec-

tive body, in order to prevent, wholly or in part, even temporarily, or to disturb in any manner, their activities, shall be punished with imprisonment [96 P.C.] from one to seven years, except where the act constitutes a more serious offence.

2. - Whoever commits the act in order to influence the corporate deliberations of concerns performing public services or services of public necessity [240 c P.C.], where the object of such deliberations is the organisation or the performance of the services, shall be liable to the same punishment..

Art. 266. (Aggravating Circumstances). - 1. - The punishments prescribed in the three preceding articles shall be increased where the force or threat is used with arms [541 P.C.], or by a person disguised, or by more than one person acting together, or with anonymous communication, or in a symbolic manner, or by making use of the intimidating force derived from secret associations, whether the said associations [12, 13, 26 Const.] actually exist or not.

2. - Where the force or threat is used by more than five persons acting together, accompanied by the use of arms [541 P.C.] even by one of them, or is used by more than ten persons though not accompanied by the use of arms [541 P.C.], the punishment, in the cases referred to in the first paragraph of article 263 and in articles 264 and 265, shall be imprisonment [96 P.C.] from three to fifteen years and, in the case referred to in the second paragraph of article 263, imprisonment [96 P.C.] from two to eight years.

Art. 267. (Interruption of a Public Office or Service or a Service of Public Necessity). - 1. - Whoever, where no other provision is made by law, causes an interruption or disturbs the regularity of a public office or service [240 P.C.] or of a service of public necessity [240 P.C.], shall be punished with imprisonment [96 P.C.] up to one year.

2. - The leaders, promoters and organisers shall be punished with imprisonment [96 P.C.] from one to five years.

Art. 268. (Insult to a Public Officer). - 1. - Whoever offends the honour or prestige of a public officer [240 a P.C.] in his presence, and by reason of, or in the execution of his duties, shall be punished with imprisonment [96 P.C.] from six months to two years.

2. - The same punishment shall apply in the case of a person who commits the act by means of telephone or telegraphic communication, or by writing or drawing, addressed to a public officer [96 P.C.], by reason of his duties.

3. - The punishment shall be imprisonment [96 P.c.] from one to three years where the offence consists in alleging the commission of a specific act.

4. - The punishment shall be increased [118 P.C.] where the act is committed by force or threats, or where the offence is committed in the presence of one or more persons.

1. - Whoever offends the honour or prestige of a legislative [49 Const.], administrative [77 Const.] or judicial [92 Const.] body, or of representatives thereof, or of a public authority acting as a collective body, in the presence of the body, its representatives or corporate assembly, shall be punished with imprisonment [96 P.C.] from six months to three years.

2. - The same punishment shall apply to a person who commits the act by means of telegraphic communication, or by writing or drawing, addressed to the body, its representatives or corporate assembly, by reason of their duties.

3. - The punishment shall be imprisonment [969 P.C.] from one to four years where the offence consists in alleging the commission of a specific act.

4. - The provisions of the last paragraph of the preceding article shall apply to the offence referred to in this article [268 P.C.].

1. - Whoever offends the honour or prestige of a Judge [92 Const.] during a hearing [97 Const.] shall be punished with imprisonment [96 P.C.] from one to four years.

2. - The punishment shall be imprisonment [96 P.C.] from two to five years where the offence consists in alleging the commission of a specific act.

3. - The punishment shall be increased [118 P.C.] where the act is committed by force or threat.

Whoever, as a sign of contempt towards the authorities, removes, tears or otherwise renders illegible, or in any manner unserviceable, notices or pictorial posters affixed or exhibited to the public by order of the said authorities, shall be punished with imprisonment [96 P.C.] from six months to one year or with fine [97 P.C.] up to Sr. So. 5,000.

1. - Whoever, pretending to have influence with a public officer [240 a P.c.] or person entrusted with a public service [240 b P.C.], receives or causes to be given or promised, to himself or to others, money or any other benefit, as the price of his good offices with the public officer [240 a P.C.] or person entrusted with a public service [240 b P.C.], shall be punished with imprisonment [96 P.C.] from one to five years and with fine [97 P.C.] from Sh. So. 3,000 to 20,000.

2. - The punishment shall be imprisonment [96 P.C.] from two to six years and fine [97 P.C.] from Sh. So. 5,000 to 30,000, where the offender receives or causes to be given or promised, to himself or to others, money or any other benefit, on the pretext that he must purchase the favour of a public officer [240 a P.C.] or person entrusted with a public service [240 b P.C.] or must reward him.

Art. 273. (*Usurpation of Public Functions*). - 1, Whoever usurps a public function [240 a P.C.] shall be punished with imprisonment [96 P.C.] up to two years.

2. - A public officer [240 a P.C.] who, having received notice of the order which terminates or suspends his functions or his attribuites, continues to exercise the same, shall be liable to the same punishment.

Art. 274. (*Abusive Exercise of a Profession*). - Whoever abusively exercises a profession for the practice of which a special State qualification is required shall be punished with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] from Sh. So. 1,000 to 5,000.

Art. 275. (*Tampering With Seals*). - 1, - Whoever tampers with the seals, affixed in accordance with any direction contained in any provision of law or by order of the Authorities for the purpose of ensuring the preservation or the identity of an article, shall be punished with imprisonment [96 P.C.] from six months to three years and with fine [97 P.C.] from Sh. So. 1,000 to 10,000.

2. - Where the offender is the person who has the custody of the article, the punishment shall be imprisonment [98 P.C.] from three to five years and fine [97 P.C.] from Sh. So. 3,000 to 30,000.

Art. 276. (*Facilitation With Culpa*). - Where the tampering with seals is rendered possible or in any way facilitated with *culpa* [24 c P.C.] by the person who has the custody of the article, the latter shall be punished with fine [97 P.C.] from Sh. So. 500 to 10,000.

Art. 277. (*Violation of the Public Custody of Articles*). - Whoever removes, destroys, wastes or causes to deteriorate and object of a crime [15, 183¹ P.C.], papers, documents, or other movable property kept in a public office or by a public officer [240 a P.C.] or person entrusted with a public service [240 b P.C.], shall be punished, where the act does not constitute a more serious crime, with imprisonment [96 P.C.] from one to five years.

Art. 278. (*Sale of Printed Matter the Sequestration of Which Has Been Ordered*). - Whoever sells, distributes or affixes, in a public place or a place open to the public, writings or drawings the sequestration of which has been ordered by the authorities, shall be punished with fine [97 P.C.] up to Sh. So. 5,000.

Art. 279. (*Interfering With Auctions*). - 1, - Whoever, by force or threat, or by gifts, promises, collusion or other fraudulent means, prevents or disturbs competitive bidding at public auctions or private sales [8 D.L., 29-12-1961 n. 2] on behalf of public Administrations, or sends away bidders, shall be punished with imprisonment [96 P.C.] up to two years and with fine [97 P.C.] from Sh. So. 1,000 to 10,000.

2. - Where the offender is a person appointed under any law or by the Authorities to be in charge of the aforesaid auctions or sales, the

term of imprisonment [96 P.C.] shall be from one to five years and the fine [97 P.C.] from Sh. So. 5,000 to 20,000.

3. - The punishment prescribed in this article shall apply also in the case of private sales on behalf of private individuals, supervised by a public officer [240 a P.C.] or by a person legally authorised; but the punishment shall be reduced by one-half.

ART. 280. (*Breach of Contracts for Public Supplies*). - 1. Whoever, in breach of the obligations arising under a supply contract concluded with the State or other public Body, or with a concern performing public services or services of public necessity [240 c P.C.], fails to supply, wholly or in part, articles or works necessary to a public establishment or a public service, shall be punished with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] of not less than Sh. SOo 1,000.

2. - The punishment shall be increased [118 P.C.] where the supply relates to:

a) food or medicine, or articles or works intended for land, water, air, telegraphic or telephonic communications;

b) articles or works intended for the armament or equipment of the armed forces of the State [15, 75 f Cnst.];

c) articles or works intended to obviate a common danger or a public calamity.

3. - Where the act is committed with *culpa* [24 c P.C.], the punishment shall be imprisonment [96 P.C.] up to one year or fine [97 P.C.] from Sh. So. 500 to 20,000.

4. - The aforesaid provisions shall apply to the sub-contractors, brokers and representatives of suppliers when these persons, in breach of their contractual obligations, have caused a failure of the supply.

ART. 281. (*Fraud in Public Supplies*). - Whoever commits fraud in the execution of supply contracts or in the performance of any other contractual obligation referred to in the preceding article shall be punished with imprisonment [96 P.C.] from one to five years and with fine [97 P.C.] of not less than Sh. So. 10,000.

PART III

CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

CHAPTER I: CRIMES AGAINST THE COURSE OF JUSTICE

ART. 282. (*Omission or Delay on the Part of a Public Officer or a Person Entrusted With a Public Service to Give Information of an Offence*). - 1. - A public officer [240 a P.C.] or a person entrusted with a public service [240 b P.C.] who omits to give or delays giving information to the judicial Authorities [92 Const.] or to other authorities whose duty is to notify the former authorities, of an offence [15 P.C.]

of which he has had knowledge in the exercise or by reason of his function, shall be punished with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] from Sh. So. 300 to 5,000.

2. - The provisions of the preceding paragraph shall not apply in the case of omission to give information regarding an offence punishable on the complaint of injured party [158 P.C.] only.

3. - Where the omission to give information or delay in so doing is in respect of a crime against the personality of the State [184-239 P.c.], the punishment shall be imprisonment [96 P.C.] from six months to three years.

Art. 283. (Omission by a Citizen to Give Information Regarding an Offence). - A citizen who, having had knowledge of a crime against the personality of the State [184-239 P.C.], for which the law prescribes the punishment of death [94 P.C.] or imprisonment for life [95 P.C.], does not immediately give information to the Authorities mentioned in article 282, shall be punished with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] from Sh. So. 1,000 to 10,000.

Art. 284. (Omission to Report by a Member of the Medical Profession). - 1. - Whoever, in the exercise of a medical profession, has given his assistance or services in cases which appear to have the elements of a crime which must be prosecuted on the initiative of the State, and omits or delays reporting the same to the authorities mentioned in article 282, shall be punished with fine [97 P.c.] up to Sh. So. 5,000.

2. - The foregoing provision shall not apply when the report would expose the person assisted to criminal proceedings.

Art. 285. (Refusal of Service Legally Due). - 1. - Whoever, having been appointed by the judicial Authorities [92 Const.] as expert, interpreter or custodian of articles subjected to sequestration, obtains by fraudulent means exemption from the obligation to appear or to give his services, shall be punished with imprisonment [96 P.C.] up to six months or with fine from Sh. So. 300 to 5,000.

2. - The same punishment shall apply to a person who, being summoned before the judicial Authorities [92 Const.] to perform any of the said duties, refuses to give particulars concerning himself, or to take the required oath, or to assume or perform the said duties.

3. - The foregoing provisions shall apply to a person summoned to give evidence before the judicial Authorities [92 Const.] and to any other person called upon to perform judicial duties.

4. - Where the offender is an expert or interpreter, the sentence shall entail interdiction from the profession or craft [103 P.C.].

Art. 286. (Simulation of Offence). - Whoever, by a complaint, even though anonymous or under a false name, addressed to the judicial Authorities [92 P.c.], or to other Authorities whose duty is to notify the former Authorities, falsely alleges that an offence [15 P.C.] has been committed, or simulates the traces of an offence in such a manner that

criminal proceedings may be instituted to ascertain it, shall be punished with imprisonment [96 P.c.] from one to three years.

ART. 287. (*False accusation*). - 1. - Whoever, by a complaint [81 P.C.], even though anonymous or under a false name, addressed to the judicial Authorities [22 Const.], or to other Authorities whose duty is to notify the former authorities, charges with the commission of an offence [15 P.C.] a person whom he knows to be innocent, or simulates to that person's prejudice the traces of an offence [15 P.C.], shall be punished with imprisonment [96 P.C.] from two to six years.

2. - The punishment shall be increased [116 P.C.] where a person is charged with the commission of an offence [15 P.C.] for which the law prescribes the punishment of imprisonment [96 P.C.] for more than ten years as a maximum or a more serious punishment [94, 95, 96 P.C.].

3. - The punishment shall be imprisonment [96 P.C.] from four to twelve years where the false accusation results in a sentence of imprisonment [96 P.C.] exceeding five years; from six to twelve years where it results in a sentence of imprisonment for life [95 P.C.]; and imprisonment for life where it results in a death sentence [94 P.C.].

ART. 288. (*False Self-accusation*). - Whoever, by means of a statement, even though made by an anonymous communication or under a false name, to any of the authorities mentioned in the preceding article, or by means of a confession before the judicial Authorities, accuses himself of an offence which he knows has not been committed, or of an offence committed by some other person, shall be punished with imprisonment [96 P.C.] from one to three years.

ART. 289. (*Simulation or False Accusation for an Act Constituting a Contravention*). - The punishment prescribed in the preceding articles shall be reduced [119 P.C.] where the simulation or the false accusation relates to an act deemed by the law to be a contravention [15, 23' P.C.].

ART. 290. (*Perjury by a Party to a Suit*). - 1. - Whoever, being a party to a civil suit, swears what is false shall be punished with imprisonment [96 P.C.] from six months to three years.

2. - In the case of an oath administered on the motion of the Court, the offender shall not be punishable if he retracts the false statement before final judgment is passed on the matter at issue.

3. - Conviction shall entail interdiction from public offices [101 P.C.].

ART. 291. (*False Evidence*). - Whoever, giving evidence as witness before the judicial authorities, affirms what is false or denies what is true, or conceals, wholly or in part, what he knows concerning the facts regarding which he is being questioned, shall be punished with imprisonment [96 P.C.] from six months to three years.

ART. 292. (*False Opinion of Experts or False Interpretation*). - 1. - An expert or an interpreter who, having been appointed by the

judicial authorities, gives false opinion or false interpretations, or affirms facts which are not in conformity with the truth, shall be subjected to the punishment prescribed in the preceding article.

2. - Conviction shall entail in addition to interdiction from public offices [101 P.c.], interdiction from the profession or trade [103 P.c.].

Art. 293. (*Fraud in Proceedings*). - 1. - Whoever, in the course of any civil or administrative proceedings, for the purpose of misleading the Judge, fraudulently alters the condition of any place, thing or person, shall be punished, where the act does not constitute an offence under any specific provision of law, with imprisonment [96 P.C.] from six months to three years.

2. - The same provision shall apply where the act is committed in the course of penal proceedings or prior to them; in such an event, however, liability to punishment shall be excluded in the case of an offence [15 P.C.] for which proceedings may only be taken on complaint [81 P.C.], and such a complaint has not been submitted.

Art. 294. (*Aggravating Circumstances*). - In the case referred to in the three preceding articles, the punishment shall be imprisonment [96 P.C.] from one to five years where the act results in a sentence of imprisonment [96 P.C.] not exceeding five years; imprisonment [96 P.C.] from three to twelve years, where the act results in a sentence of imprisonment exceeding five years; and imprisonment [96 P.C.] from six to twelve years, where the act results in a sentence of imprisonment for life [95 P.C.]. Where the act results in a death sentence [94 P.C.], the punishment shall be imprisonment for life [95 P.c.].

Art. 295. (*Retraction*). - 1. - In the cases referred to in articles 291 and 292, the offender shall not be punishable if, in the course of penal proceedings [97 Const.] in which he performed the said duties, he retracts what is false and discloses what is true before the preliminary enquiry is closed with a decision not to proceed with the trial, or before the hearing [97' Const.] is closed, or adjourned in consequence of the false statements.

2. - Where the false statement has been made in any civil action, the offender shall not be punishable if he retracts what is false and discloses what is true before final judgment [97' Const.] is passed.

Art. 296. (*Subordination*). - 1. - Whoever offers or promises money or other benefit to a witness, expert or interpreter, to induce him to give false evidence, opinion or interpretation, shall be liable, where the offer or promise is not accepted, to the punishment prescribed in articles 291 and 292, reduced by one-half to two-thirds.

2. - The same provision shall apply where the offer or promise is accepted, but the false statement is not made.

3. - Conviction shall entail interdiction from public offices [101 P.C.].

Art. 297. (*Assistance to a Suspected Person*). - 1. - Whoever, after the commission of a crime [15 P.C.] in respect of which the law prescribes the punishment of death [94 P.C.], imprisonment for life [95

P.C.] or imprisonment [96 P.c.], and not being himself a participant thereto, assists anyone to evade the investigation of the authorities, or to escape searches made by them, shall be punished with imprisonment [96 P.C.] up to four years. In the case of crimes [15 P.C.] for which the law prescribes a punishment other than any of the above, or in the case of contraventions [15, 23³ P.C.], the punishment shall be fine [97 P.C.] up to Sh. So. 5.000.

2. - The provisions of this article shall apply also when the person assisted is not chargeable [47 P.C.] or when he did not commit the crime.

Art. 298. (Assistance Relating to the Object of a Crime). - 1. -

Whoever, not being himself a participant to an offence, and not being within the case referred to in article 504, assists anyone to secure the proceeds, profit, or price of an offence [15 P.C.], shall be punished with imprisonment [96 P.C.] up to five years, in the case of a crime [15 PoC.]; and with fine [97 P.Co] from Sh. So. 500 to 10,000 in the case of a contravention [15, 23' P.C.].

2. - The provisions of the last paragraph of the preceding article shall apply to this article also.

Art. 299. (Unfaithful Advocates or Technical Adviser). - 1. -

An advocate or technical adviser who, being not faithful to his professional duties, causes injury to the interests of the party defended, assisted or represented by him before judicial Authorities [92 Const.], shall be punished with imprisonment [96 PoC.] from one to three years and with fine [97 PoC.] of not less than Sh. So. 50000.

2. - The punishment shall be increased [118 PoC.]:

a) where the offender has committed the act in collusion with the opposing party;

b) where the act was committed to the prejudice of an accused person.

3. - A period of imprisonment [96 P.c.] from three to ten years and fine [97 P.C.] of not less than Sh. So. 10,000 shall be imposed if the act is committed to the prejudice of a person accused of a crime for which the law prescribes death punishment [94 P.C.] or imprisonment [95 P.C.] for life for ingreachment for a term of [96 P.C.] more than five years.

Art. 300. (Other Acts of Bethayal of Trust by Advocates and Technical Advisers). - 1. -

An advocate or technical adviser who, in proceedings before the judicial Authorities [92 Const.], places his professional services or his advice at the disposal of the opposing party [38, 41 Const.], even though a third party, shall be punished, where the act does not constitute a more serious offence [15 PoC.], with imprisonment [96 P.C.] from six months to three years and with fine [97 PoC.] of not less than Sh. So. 1.000.

2. - The punishment shall be imprisonment [96 P.C.] up to one year and fine [97 P.Co] from Sho So. 500 to 5,000, where the advocate or the adviser, after having defended, assisted or represented a party, undertakes, without the consent of the latter and in the same proceedings, the defence of or the function of adviser to the opposing party [38, 41 Const.].

ART. 301. (*Advocate Pretending to Have Influence*). - An advocate who, pretending to have influence with the Judge [92 Const.] or with the Office of the Attorney General [92 Const.], or with a witness, expert or interpreter, receives or causes money or any other benefit to be given or promised to himself or to a third party by his client, on the pretext that he has to procure the favour of the judge or of the Office of the Attorney General or of the expert or interpreter, or that he has to remunerate them, shall be punished with imprisonment [96 P.C.] from two to eight years and with fine [97 P.C.] of not less than Sh. So. 10,000.

ART. 302. (*Interdiction from Public Offices*). - Conviction in respect of the crimes referred to in article 299, paragraph 1 of article 300 and article 301, shall entail interdiction from public offices [101 P.C.].

ART. 303. (*Cases Which are not Punishable*). - 1. - In the cases referred to in articles 282, 283, 284, 285, 286, 291, 292, 293 and 297, a person who has committed an act, having been forced thereto by the necessity of saving himself or a near relative from a serious and unavoidable injury to liberty or honour, shall not be punishable.

2. - In the cases referred to in articles 291 and 292, no punishment shall be imposed where the act is committed by a person who, by law, should not have been called as witness, expert or interpreter, or should have been warned of his right to refrain from giving evidence, opinion or interpretation.

ART. 304. (*Definition of Near Relative*). - 1. - For the purposes of the penal law, «near relative», means: ascendants, descendants, spouses, brothers, sisters, relatives by marriage of the same degree, and uncles, aunts, nephews and nieces.

2. - However, the term «near relative» shall not include relatives by marriage where the marriage from which the relation arose has been annulled or dissolved for any reason.

CHAPTER II: CRIMES AGAINST THE AUTHORITY OF JUDICIAL DECISIONS

ART. 305. (*Escape*). - 1. - Whoever, being lawfully arrested or imprisoned for an offence [15 P.C.], escapes shall be punished with imprisonment [96 P.C.] up to six months.

2. - The punishment shall be imprisonment [96 P.C.] up to eighteen months where the offender commits the act by force of threat to any person, or by breaking out; and imprisonment from two to five years, where the force or threat is committed with arms [541 P.C.], or by more than one person acting together.

3. - The foregoing provisions shall also apply to a person convicted, who is permitted to work outside a penal establishment.

4. - When the escaped person surrenders himself to custody before conviction, the punishment shall be reduced.

ART. 306. (*Assisting Escape*). - 1. - Whoever effects or facilitates the escape [305 P.C.] of a person lawfully arrested or imprisoned lawfully arrested or imprisoned for an offence [15 P.C.], shall be punished with imprisonment [96 P.C.] from six months to five years.

2. - Where the act is committed for the benefit of a person sentenced to death or imprisonment for life [95 P.C.], the punishment shall be imprisonment [96 P.G.] from three to ten years.

3. - The punishment shall be increased [118 P.C.] where the offender, in order to commit the act, uses any of the means in specified paragraph 2 of the preceding article [305 P.c.].

4. - The punishment shall be reduced [119 P.C.] where the offender is a near relative.

5. - Conviction in every case shall entail interdiction from public offices [101 P.C.].

ART. 307. (*Custodian Acting With Culpa*). - Whoever, having by reason of his office the custody, even temporarily, of a person arrested or imprisoned for an offence [15 P.C.], causes by *culpa* [24 c, P.C.] that person's escape shall be punished with imprisonment [96 P.c.] up to three years or fine [97 P.C.] from Sh. So. 1,000 to 10,000.

ART. 308. (*Wilful Disobedience to Execute an Order of the Judge*). - 1. - Whoever, in order to avoid the performance of the civil obligations arising from a conviction or which are in course of investigation before a judicial Authority [92 Const.], performs on his own property or the property of another, simulated or fraudulent acts, or with the same object commits other fraudulent acts, shall be punished, where he thereby disobeys an order for the execution of a judgment with imprisonment [96 P.C.] up to three years or fine [97 P.C.] from Sh. So. 1,000 to 10,000.

2. - The same punishment shall be imposed upon a person who evades the execution of an order of a civil Judge [92 Const.] concerning the custody of any minor or any other person under disability [32 Const.] or prescribing precautionary measures for the protection of property [24 Const.], possession or credit.

3. - The offender shall be punished only on the complaint of the injured party [81 P.C.].

ART. 309. (*Non-observance of Accessory Penalties*). - 1. - Whoever, having received a conviction which involves interdiction from public offices [101 P.C.], or interdiction or suspension from a profession or a craft [103 P.C.], infringes the obligations inherent in such a penalty, shall be punished with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] from Sh. So. 500 to 10,000.

2. - The same punishment shall apply to a person who infringes the obligations arising out of a provisional suspension from the exercise of public offices [101' P.C.] or of a profession or craft [107 P.C.].

ART. 310. (*Facilitating Non-observance of Punishment*). - 1. - Whoever, being a participant in an offence [71 P.C.] assists anyone to evade the execution of a punishment [90 P.C.], shall be punished with

imprisonment [96 P.C.] from three months to five years, in the case of conviction for a crime [15 P.C.], and with fine [96 P.c.] from Sh. So. 500 to 10,000 in the case of conviction for a contravention [15, 23³ P.C.].

2. - The provisions of paragraph 4 of article 306 shall apply to this article also.

Art. 311. (*Facilitating Non-observance of Measures of Detentive Security*). - 1. - Whoever effects or facilitates the escape of a person subject to a measure of detentive security [172² P.C.], or harbours the escaped person [305 P.C.] or in any way assists him in evading the search of the authorities, shall be punished with imprisonment [96 P.C.] up to two years. The provisions of paragraph 4 of article 306 shall apply to this article also.

2. - If the escape takes place through the *culpa* [24¹ c, P.C.] of the person who, by reason of his office, has the custody, even temporarily, of the person subjected to the security measure, the offender shall be punished with fine [97 P.C.] up to Sh. So. 10,000.

CHAPTER III: ARBITRARY PROTECTION OF PRIVATE RIGHTS

Art. 312. (*Unauthorised Exercise of Private Rights*). - 1. - Whoever, for the purpose of exercising an alleged right in a case in which it would be possible to have recourse to a judicial Authority [92 Const.], takes the law into his own hands and uses force against persons or property, shall be punished with imprisonment [96 P.c.] up to one year or with fine [97 P.c.] up to Sh. So. 4,000.

2. - Whoever, for the purpose of exercising an alleged right, in a case in which it would be possible to have recourse to a judicial Authority [92 Const.], takes the law into his own hands and uses threat against persons, shall be punished, on the complaint of the injured party [81 P.C.], with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] up to Sh. So. 2,000.

PART IV

CRIMES AGAINST RELIGIOUS FEELINGS AND REVERENCE FOR THE DEAD

CHAPTER I: CRIMES AGAINST THE RELIGION OF THE STATE AND OTHER FORMS OF WORSHIP

Art. 313. (*Bringing the Religion of the State into contempt*). - 1. - Whoever publicly brings the religion of Islam [1 Const.] into contempt shall be punished with imprisonment [96 P.C.] up to two years.

2. - Whoever publicly insults the religion of Islam [1 Const.] by bringing into contempt persons professing it or places or objects dedicated to worship, shall be liable to the same punishment.

ART. 314. (*Disturbance of Religious Functions*). - Whoever impedes or disturbs the exercise of functions, ceremonies or religious practices of the Islamic faith [1 Const.] in a place intended for the purpose, or in a public place or a place open to the public, shall be punished with imprisonment [96 P.C.] up to two years.

ART. 315. (*Crimes Against Forms of Worship Permitted in the State*). - Whoever commits any of the acts referred to in articles 313 and 314 against a religion permitted in the State [29 Const.] shall be punished in accordance with the provisions of the aforesaid articles.

CHAPTER II: CRIMES AGAINST REVERENCE FOR THE DEAD

ART. 316. (*Violation of or Bringing Contempt Upon Tombs or Disturbance of Funerals or Funeral Service*). - Whoever violates or brings into contempt a tomb, sepulchre or sepulchral urn or objects intended for the reverence of the dead, or disturbs or prevents a funeral or a funeral service, shall be punished with imprisonment [96 P.C.] up to two years.

ART. 317. (*Bringing into Contempt Dead Bodies*). - Whoever brings into contempt, disfigures, mutilates or commits acts of brutality or obscenity on a dead body, shall be punished with imprisonment [96 P.C.] from one to three years.

ART. 318. (*Destruction, Concealment or Removal of Dead Bodies*). - Whoever destroys, removes or conceals a dead body or any part thereof, shall be punished with imprisonment [96 P.C.] up to three years.

ART. 319. (*Unlawful Use of Dead Bodies*). - Whoever dissects or uses a dead body, or any part thereof, shall be punished with imprisonment [96 P.C.] up to six months.

PART V

CRIMES AGAINST PUBLIC ORDER

ART. 320. (*Instigation to Delinquency*). - Whoever publicly incites another to commit one or more offences [15 P.C.] shall be punished, for the sole act of instigation:

a) with imprisonment [96 P.C.] from one to five years, where the instigation has been to commit a crime [15 P.C.];

b) with imprisonment [96 P.C.] up to one year, or with fine [97 P.C.] up to Sh. So. 2,000 where the instigation has been to commit a contravention [15, 23³ P.C.].

ART. 321. (*Instigation to Disobey the Laws*). - Whoever publicly incites another to disobey the laws relating to public order, or stir up ha-

tred between the social classes, shall be punished with imprisonment [96 P.C.] from six months to five years, from three to seven years.

Art. 322. (*Association for Purpose of Committing Crimes*). - 1.

Where three or more persons associate for the purpose of committing more than one crime [158 P.C.], those who promote, constitute or organise the association shall be punished, for that act alone, with imprisonment [96 P.C.] from three to seven years.

2. - The punishment for the sole act of participating in the association shall be imprisonment [96 P.C.] from one to five years.

3. - The leaders shall be liable to the same punishment as is prescribed for the promoters.

4. - Where the persons associated, being armed [541 P.C.], roam about the countryside or public streets, imprisonment [96 P.C.] from five to fifteen years shall be imposed.

5. - The punishment shall be increased [118 P.C.] where the number of persons associating is ten or more.

Art. 323. (*Security Measures*). - In the case of a conviction for the crime referred to in the preceding article, a security measure [161 C.P.] shall always be ordered.

Art. 324. (*Devastation and Pillage*). - 1. - Whoever, other than in the cases referred to in article 222, commits acts of devastation or pillage, shall be punished with imprisonment [96 P.C.] from eight to fifteen years.

2. - The punishment shall be increased where the act is committed in respect of arms [541 C.P.], ammunition or foodstuffs in places where they are kept for sale or in storage.

Art. 325. (*Intimidation of the Public by Means of Explosive Materials*). - Whoever, with the sole object of causing public fear or arousing tumult or public disorder, causes the explosion of bombs, fire-crackers, or other explosive machines or materials [541 c) P.C.], shall be punished, where the act does not constitute a more serious offence, with imprisonment [96 P.C.] from six months to three years.

Art. 326. (*Intimidation of the Public*). - Whoever threatens to commit crimes against public safety, or acts of devastation or pillage [324 P.C.], so as to cause public panic, shall be punished with imprisonment [96 P.C.] up to one year.

Art. 327. (*Giving False Alarm to Authorities*). - Whoever, by announcing non-existing disasters, accidents or dangers, gives alarm to the Authorities or to Bodies or persons who carry on a public service [240 P.C.], shall be punished with imprisonment [196 P.C.] up to one year, or fine [97 P.C.] up to Sh. So. 6,000.

Art. 328. (*Publication or Circulation of False, Exaggerated or Tendency News Capable of Disturbing Public Order*). - Whoever publishes or circulates false, exaggerated or tendency news so as to

disturb public order shall be punished, where the act does not constitute a more serious offence [15 P.C.], with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] up to Sh. So. 3,000.

PART VI
CRIMES AGAINST PUBLIC SAFETY

CHAPTER I: CRIMES ENDANGERING PUBLIC SAFETY BY FORCE

Art. 329. (*Carnage*). - 1. - Whoever, other than in the cases referred to in article 222, with the intention of causing death, commits any act so as to endanger public safety, shall be punished with imprisonment [96 P.C.] up to fifteen years; where the act results in the physical injury of any person [440 P.C.], the punishment shall be imprisonment for life [95 P.C.]; where the act results in the death of any person the punishment of death [94 P.C.] shall be imposed.

2. - The term «endangering public safety,» means exposing the public to the danger of death [434 P.C.] or physical injury [440 P.C.].

Art. 330. (*Causing Disaster*). - Whoever causes fire, flood, shipwreck or sinking of a ship or any other floating structure, crashing of all aircraft, destruction of any public means of transport, demolition of a building or any other disaster, endangering public safety [329' P.C.], shall be punished, where the act does not constitute a more serious offence [15 P.C.], with imprisonment [96 P.C.] from three to ten years.

Art. 331. (*Unlawful Omission to Take or Removal of Precautions Against Accidents*). - Whoever omits to place in position machinery, apparatus or signals the object of which is to prevent disaster or accidents, or removes or injures the same, shall be punished with imprisonment [96 P.C.] from one to five years.

Art. 332. (*Attempts Endangering Public Safety*). - Whoever, other than in the cases referred to in the three preceding articles, commits any act so as to endanger public safety, shall be punished with imprisonment [96 P.C.] from one to five years.

Art. 333. (*Causing impediments to Protection of Public Safety*). - Whoever, on the occasion of a disaster, conceals or renders useless any material intended for the protection, salvage or assistance, or in any other manner impedes or hinders such operation, shall be punished with imprisonment [96 P.C.] from two to seven years.

CHAPTER II: CRIMES ENDANGERING PUBLIC SAFETY BY FRAUD

Art. 334. (*Epidemics*). - Whoever causes an epidemic by diffusing noxious germs shall be punished with imprisonment for life [95 P.C.],

Where death of any person results from such act the punishment of death [94 p.e.] shall be imposed.

A rt. 335. (*Pollution of Water and Food*). - Whoever pollutes water or any substance which is used for food before, it has been distributed or has reached the consumer, shall be punished with imprisonment [96 p.e.] for not less than fifteen years. Where death of any person results from such act, the punishment of death [94 P.c.] shall be imposed,

A rt. 336. (*Adulteration and Simulation of Food*). - 1. - Whoever adulterates or simulates any substance intended for food, before it has been distributed or has reached the consumer, and thereby makes it dangerous to public health, shall be punished with imprisonment [96 p.e.] from three to ten years.

2. - The punishment shall be increased [118 P.c.] where any medicinal substance is polluted, adulterated or simulated.

A rt. 337. (*Adulteration or Simulation of Other Articles to the Detriment of Public Health*). - Whoever adulterates or simulates in a manner dangerous to public health, any article intended for sale, other than those specified in the preceding article, shall be punished with imprisonment [96 p.e.] from one to five years or with fine [97 P.c.] of not less than Sh. So. 3,000.

A rt. 338. (*Sale of Adulterated or Simulated Food*). - Whoever, not being a party to any of the crimes referred to in the two preceding articles [334, 335, 336, 337 p.e.], has in his possession for sale, offers for sale, or distributes for consumption water or any substance or article which has been poisoned, adulterated or simulated by other persons in a manner dangerous to public health, shall be liable to the punishments respectively prescribed in the said articles.

A rt. 339. (*Sale of Noxious Food*). - 1. - Whoever has in his possession for sale, offers for sale or distributes for consumption any substance intended for food, not simulated or adulterated, but dangerous to public health, shall be punished with imprisonment from six months to three years and with fine of not less than Sh. So. 500.

2. - The punishment shall be reduced if the noxious nature of the substance is known to the person who buys or receives it.

A rt. 340. (*Sale and Supply of Spoiled Medicinal Substances*). - Whoever has in his possession for sale, offers for sale or supplies any spoiled or defective medicinal substance, shall be punished with imprisonment from six months to three years and with fine of not less than Sh. So. 1,000.

A rt. 341. (*Supply of Medicinal Substances in a Manner Dangerous to Public Health*). - Whoever, being engaged, even in an unauthorised manner, in trading in medicinal substances, supplies them in kind, quality

or quantity not corresponding to the medical prescriptions or different from what is stated or agreed upon shall be punished with imprisonment from six months to two years and with fine from Sh. So. 1,000 to 10,000.

Art. 342. (*Trading in Narcotics*). - 1. - Whoever, other than in the cases allowed by law, trades in narcotics [56 P.C.], or has them in his possession for the purpose of sale, or supplies them or procures them for others, shall be punished with imprisonment [96 P.c.] from one to three years and with fine [97 P.C.] of not less than Sh. So. 1,000.

2. - The punishment shall be increased [118 P.C.] where any of the aforesaid substances is sold or delivered to a person under the age of 18 years, or to a person of unsound mind or mentally deficient, or to a person addicted to the use of narcotics [56, 57 P.C.].

Art. 343. (*Abetting of the Use of Narcotics*). - 1. - Whoever, not being a party to the crime referred to in the preceding article, uses or permits the use of premises, public or private, for the meeting of persons for the purpose of consuming narcotics [56 P.C.], shall be punished with imprisonment [96 P.C.] from six months to two years and with fine from Sh. So. 500 to 10,000.

2. - Whoever enters any such place for the purpose of consuming narcotics [56 P.C.] shall be liable to imprisonment [96 P.c.] up to six months and fine [97 P.c.] from Sh. So. 1,000 to 5,000.

CHAPTER III: CRIMES WITH CULPA ENDANGERING PUBLIC SAFETY

Art. 344. (*Crimes with Culpa Involving Damage*). - Whoever with *culpa* [24' c P.C.] causes a fire or other disaster [330 P.C.] referred to in Chapter I of this Part, shall be punished with imprisonment [96 P.C.] from one to five years.

Art. 345. (*Crimes with Culpa Involving Danger*). - 1. - Whoever, by his own culpable act or omission [24' c P.C.], creates or continues the danger of a disaster [330 P.C.], shall be punished with imprisonment [96 P.C.] up to two years.

2. - The term of imprisonment [96 P.c.] shall not be less than one year where the offender has infringed a particular order of the authority directed to the elimination of the danger.

Art. 346. (*Culpable Omission or Removal of Precautions or Protections Against Disasters or Accidents*). - Whoever culpably omits to put in place or removes or makes unserviceable any device or apparatus, or other means for salvage or assistance intended to be used at the time of accidents [330 P.C.], or for the prevention thereof, shall be punished with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] from Sh. So. 1,000 to 10,000.

Art. 347. (*Crimes with Culpa Against Public Health*). - 1. - Whoever, with *culpa* [24' P.C.], commits any of the acts referred to in articles 334 and 335, shall be punished with:

a) imprisonment [96 P.c.] from three to twelve years, in the cases in which the punishment of death [94 P.C.] is prescribed;

b) imprisonment [96 P.C.] from one to five years, in the cases in which imprisonment for life [95 P.C.] is prescribed;

c) imprisonment [96 p.e.] from six months to three years, in the cases in which (he punishment of imprisonment for a period [96 P.C.] is prescribed.

2. - When any of the acts referred to in articles 336, 337, 338, 340 and 341 is committed with *culpa* [24' c P.C.], the punishment therein respectively prescribed shall apply, reduced by one sixth to one third.

PART VII

CRIMES RELATING TO ABUSE OF THE GOOD FAITH OF THE PUBLIC

CHAPTER I: COUNTERFEITING CURRENCY, SECURITIES AND STAMPS

Art. 348. (*Counterfeiting Currency, Spending or Introducing into the State Counterfeit Currency by Concerted Action*). - 1. - The following shall be punished with imprisonment [96 P.C.] from three to twelve years and with fine [97 P.C.] from Sh. So. 5,000 to 30,000:

a) whoever counterfeits national or foreign currency, being legal tender in the State or abroad;

b) whoever in any manner alters genuine currency by giving it the appearance of a higher value, or by decreasing its actual value;

c) whoever, not having been a party to the counterfeiting or alteration, but acting in concert with the person who has carried out the process or through an intermediary, introduces into the territory of the State [4 Canst., 4 P.c.] counterfeit or altered currency, or holds, spends or otherwise places it in circulation;

d) whoever, for the purpose of putting it into circulation, purchases or in any way receives counterfeit or altered currency from the person who has counterfeited it, or from an intermediary.

2. - The punishment shall be increased [118 P.C.] where, as a consequence of the act, the value of the national currency is decreased or its credit in the internal or external market is adversely affected [7 c P.C.].

Art. 349. (*Introducing Counterfeit Currency into the State, Without Concerted Action*). - Whoever, other than in the cases referred to in the preceding article, introduces into the territory of the State [4 Canst., 4 p.e.], purchases or holds counterfeit or altered currency, for the purpose of putting it into circulation, shall be liable to the punishment prescribed in the said article, reduced by one-third to one-half.

Art. 350. (*Spending Counterfeit Currency Received in Good Faith*). - Whoever spends, or otherwise puts into circulation, counterfeit or altered currency which he has received in good faith, knowing that such currency is counterfeit or altered, shall be punished with imprisonment [96 P.C.] up to six months, or with fine [97 P.C.] up to Sh. So. 10,000.

Art. 351. (*Equivalence of Securities to Currency*). - 1. - For the purposes of penal law, securities shall be deemed to be equivalent to currency [7 c, 349, 350 P.C.].

2. - For the purposes of penal law, " securities " mean, in addition to those which are legal tender as money, the certificates and coupons to bearer issued by Governments, and all others which are legal tender issued by Institutions authorised to do so.

Art. 352. (*Counterfeiting of Stamps and Introduction into the State, Purchase, Possession or Placing in Circulation of Counterfeit Stamps*). -

1. - The provisions of article 348, 349 and 350 shall also apply to the counterfeiting or alteration of stamps and to the introduction into the territory of the State, or the purchase, possession and placing in circulation of counterfeit stamps [7 c P.C.]; the punishment, however, shall be reduced by one-third [117 P.c.].

2. - For the purpose of penal law, «stamps» mean stamped paper, receipt stamps, postage stamps and other papers of value to which they are made equivalent by special laws.

Art. 353. (*Counterfeiting of Water-Marked Paper Used for the Manufacture of Securities or Stamps*). -

Whoever counterfeits water-marked paper in use for the manufacture of securities or stamps, or purchases, possesses or disposes of such counterfeit paper, shall be punished, where the act does not constitute a more serious offence [15 P.C.], with imprisonment [96 P.C.] from two to six years and with fine [97 P.C.] from Sh. So. 3,000 to 10,000.

Art. 354. (*Manufacturing or Possessing of Water-Marks or Instruments Intended for Counterfeiting Currency Stamps or Water-Marked Paper*). -

Whoever manufactures, purchases, possesses or disposes of water-marks or instruments, intended solely for the counterfeiting or alteration of currency [348 P.C.], stamps [352 P.C.] or water-marked paper, shall be punished, where the act does not constitute a more serious offence [15 P.C.], with imprisonment [96 P.C.] from one to five years and with fine [97 P.C.] from Sh. So. 1,000 to 5,000.

Art. 355. (*Counterfeiting of Tickets of Public Transport*). -

Whoever counterfeits or alters tickets of public transport, or, not having been a party to the counterfeiting or alteration, purchases or possesses, or puts into circulation such counterfeit or altered tickets, shall be punished with imprisonment [96 P.c.] up to one year and with fine [97 P.c.] from Sh. So. 100 to 2,000.

ART. 356. (*Exemption from Punishment*). - Whoever, having committed any of the acts referred to in the preceding articles, succeeds in preventing the counterfeiting, alteration, manufacture or circulation of the articles specified in the said articles, before the authorities obtain information thereof, shall not be liable to punishment.

ART. 357. (*Use of Counterfeit or Altered Stamps*). - 1. - Whoever, not having been a party to the counterfeiting or alteration, makes use of counterfeit or altered stamps [352 P.C.], shall be punished with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] up to Sh. So. 5,000.

2. - Where the stamps were received in good faith, the punishment prescribed in Article 350 shall be reduced by one-third [117 P.C.].

ART. 358. (*Use of Counterfeit Tickets of Public Transport*). - Whoever, not having been a party to the counterfeiting or alteration, makes use of counterfeit or altered tickets of any public transport, shall be punished with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] from Sh. So. 100 to 2,000. Where the ticket was received in good faith, only fine [97 P.C.] up to Sh. So. 300 shall be imposed.

ART. 359. (*Alteration of Marks on Used Stamps or Tickets and Use of Articles Thus Altered*). - 1. - Whoever cancels, or in any manner causes to disappear from stamps [352 P.C.] or tickets of any public transport the marks placed thereon to indicate that they have already been used, and makes use of them, or allows another to make use of them, shall be punished with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] from Sh. So. 100 to 2,000.

2. - Whoever, without having been a party to the alteration, makes use of the altered stamps [352 P.C.] or tickets, shall be liable to the same punishment. Where the articles were received in good faith only fine [97 P.C.] up to Sh. So. 300 shall be imposed.

CHAPTER II: COUNTERFEITING OF SEALS, INSTRUMENTS OR MARKS OF AUTHENTICATION, CERTIFICATION OR IDENTIFICATION

ART. 360. (*Counterfeiting the Seal of the State, and Use of the Counterfeit Seal*). - Whoever counterfeits the seal of the State, intended to be affixed to Government documents, or, without having participated in the counterfeiting, makes use of such seal counterfeited by others, shall be punished with imprisonment [96 P.C.] from three to six years and with fine [97 P.C.] from Sh. So. 1,000 to 20,000.

ART. 361. (*Counterfeiting of Other Public Seals or Instruments Intended for Public Authentication or Certification, and Use of Such Counterfeit Seals and Instruments*). - 1. - Whoever counterfeits the seal of a public body or a public office or, not having participated in the

counterfeiting, makes use of such counterfeit seal, shall be punished with imprisonment [96 P.C.] from one to five years and with fine [97 P.C.] from Sh. So. 1,000 to 10,000.

2. - The same punishment shall apply to any person who counterfeits other instruments intended for public authentication or certification or, without having participated in the counterfeiting, makes use of such instruments.

Art. 362. (*Counterfeiting the Impressions of a Public Authentication or Certification*). - Whoever, by means other than the instruments mentioned in the preceding articles, counterfeits the impression of a public authentication or certification or, not having participated in the counterfeiting, makes use of the article bearing the counterfeit impression, shall be liable to the punishments respectively prescribed in the two preceding articles [360, 361 P.C.], reduced by one-third.

Art. 363. (*Improper Use of Genuine Instruments*). - Whoever, having procured the genuine seals or the genuine instruments intended for public authentication or certification, makes use of them to the prejudice of others, or for his own or another person's profit, shall be punished with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] up to Sh. So. 3,000.

Art. 364. (*Use or Possession of Measures or Weights with False Stamp*). - 1. - Whoever to the prejudice of another makes use of measures or weights counterfeiting or altering the legal stamp thereon or of measures or weights in any manner altered, shall be punished with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] up to Sh. So. 5,000.

2. - The same punishment shall apply to any person who, in the course of commercial activities, or in a shop open to the public, keeps measures or weights with a legal stamp counterfeit or altered, or measures or weights in any manner altered.

3. - For the purposes of penal law, measures and weights include instruments of any kind used for measuring or weighing.

Art. 365. (*Counterfeiting, Alteration or Use of Identification Marks of Literary or Artistic Works, or Industrial Products*). - 1. - Whoever counterfeits or alters the trade or identification marks, national or foreign, of literary or artistic or industrial products or, without having been a party to the counterfeiting or alteration, makes use of such counterfeit or altered marks, shall be punished with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] up to Sh. So. 20,000.

2. - Whoever counterfeits or alters patents, industrial designs or models, national or foreign or without having participated in the counterfeiting or alteration, makes use of such counterfeit or altered patents, designs or models, shall be liable to the same punishment.

3. - The foregoing provisions shall apply provided that the person entitled to the protection has complied with the provisions of domestic

law or international conventions for the protection of literary, artistic or industrial property.

CHAPTER III: FALSIFICATION OF DOCUMENTS

Art. 366. (Falsification of Public Documents by a Public Officer). - A public officer [240 a P.C.] who, in the performance of his duties, makes wholly or in part, a false document, or alters a genuine document, shall be punished with imprisonment [96 P.C.] from one to eight years.

Art. 367. (Falsification of Administrative Certificates or Authorisations by a Public Officer). - A public officer [240 a P.C.] who, in the performance of his duties, counterfeits or alters administrative certificates or authorisations, or, by means of counterfeiting or alteration, causes it to appear that the conditions required for their validity have been complied with, shall be punished with imprisonment [96 P.C.] from six months to three years.

Art. 368. (Falsification of Authentic Copies of Public or Private Documents and of Certificates of the Contents of Documents by a Public Officer). - 1. - A public officer [240 a P.C.] who, in the performance of his duties, simulates a copy of a public or private document, and issues it in legal form, or issues a copy of a public or private document different from the original, shall be punished with imprisonment [96 P.C.] from one to six years.

2. - If the falsification is committed by a public officer [240 a P.C.] in a certificate of the contents of public or private documents, the punishment shall be imprisonment [96 P.C.] from one to three years.

Art. 369. (False Certification of Public Documents by a Public Officer). - A public officer [240 a P.C.] who, when receiving or drawing up a document in the performance of his duties, falsely certifies that an act has been performed by him or has taken place in his presence, or certifies as received by him declarations which have not been made to him, or omits or alters declarations received by him, or in any manner falsely certifies facts of which the document is intended to prove the truth, shall be liable to the punishment prescribed in article 366.

Art. 370. (False Certification of Administrative Certificates or Authorisations by a Public Officer). - A public officer [240 a P.C.] who, in the performance of his duties, falsely certifies, in administrative certificates or authorisations, facts of which the document is intended to prove the truth, shall be punished with imprisonment [96 P.C.] from three months to two years.

Art. 371. (False Certification by a Person Performing a Service of Public Necessity). - 1. - Whoever, in the exercise of a medical or legal profession, or of another service of public necessity, falsely certifies in a document facts of which the document is intended to prove the truth,

shall be punished with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] from Sh. So. 500 to 5,000.

2. - The said punishments shall be applied together where the act is committed for the purpose of gain.

Art. 372. (*False Certification by a Private Individual*). - Where any of the acts referred to in articles 366, 367 or 368 is committed by a private individual, or by a public officer [240 a P.C.], not within the performance of his duties, the punishments prescribed in the said articles, shall be reduced by one-third.

Art. 373. (*False Certification of a Public Document by a Private Individual*). - 1. - Whoever falsely certifies to a public officer [240 a P.C.], for inclusion in a public document, facts of which the document is intended to prove the truth, shall be punished with imprisonment [96 P.C.] up to two years.

2. - The period of imprisonment [96 P.C.] shall not be less than three months in cases of false certification of documents relating to personal status.

Art. 374. (*Falsification of Registers and Notifications*). - Whoever, being obliged by law to keep registers which are subject to inspection by the competent authorities, or to give notifications to the said authorities concerning his industrial, commercial or professional operations writes or allows to be written false particulars, shall be punished with imprisonment [96 P.C.] up to six months, or with fine [97 P.C.] up to Sh. So. 3,000.

Art. 375. (*Falsification of Private Deed*). - 1. - Whoever, for the purpose of procuring for himself or another any advantage, or of causing harm to another, makes wholly or in part, a false private deed, or alters a genuine private deed, shall be punished, if he makes use of it or allows another to make use of it, with imprisonment [96 P.C.] from six months to three years.

2. - Additions falsely inserted in a genuine deed, after it has been finally drawn up, shall be considered to be alterations.

Art. 376. (*Falsification of Paper Signed in Blank: Private Document*). - 1. - Whoever, for the purpose of procuring for himself or another any advantage, or of causing harm to another, makes wrongful use of a paper signed in blank, which is in his possession, and which he has a right or a duty to fill it up, and writes or causes to be written thereon a private document which produces legal effects different from the one which he was under obligation or was authorised to write, shall be punished, if he makes use or allows another to make use of the paper, with imprisonment [96 P.C.] from six months to three years.

2. - A paper in which the signatory has left blank any space intended to be filled up shall be deemed to be signed in blank.

Art. 377. (*Falsification of Paper Signed in Blank: Public Document*). -- A public officer [240 a P.C.] who, making wrongful use of a paper signed in blank of which he has possession by reason of his office and which he has a right or duty to fill it up, writes or causes to be written thereon a public document different from the one which he was under obligation or was authorised to write, shall be liable to the punishment respectively prescribed in articles 369 and 370.

Art. 378. (*Use of False Document*). -- 1. - Whoever, not being a party to the falsification, knowingly makes use of a false document, shall be subject to the punishments prescribed in the preceding articles [366-377 P.c.], reduced by one-third.

2. - In cases of private deeds, the person committing the act shall be punishable only if he acted for the purpose of procuring for himself of another any advantage or of causing harm to another..

Art. 379. (*Suppression, Destruction or Concealment of Genuine Documents*). -- 1. - Whoever, wholly or in part, destroys, suppresses or conceals a genuine public document or private deed shall be liable respectively to the punishments prescribed in articles 366, 367, 372 or 375, according to the provisions therein contained.

2. - The provisions of paragraph (2) of the preceding article shall apply to this article also.

Art. 380. (*Documents Deemed Equivalent to Public Documents for the Purposes of Punishment*). -- 1. - Where any of the falsifications referred to in the preceding articles relates to a holograph will, or a bill of exchange, or other negotiable instrument, instead of the punishment prescribed in article 375 for falsification of private deeds, the punishments respectively prescribed in paragraph (1) of article 366 and in article 372 shall apply.

2. - In the case of counterfeiting or alteration of any of the aforesaid documents, a person making use of them without having taken part in the falsification shall be liable to the punishment prescribed in article 378 for the use of a false public document..

Art. 381. (*Authentic Copies of Missing Originals*). -- For the purposes of the preceding provisions, public documents and private deeds include original documents and the authentic copies thereof when, according to law, they take the place of the missing originals.

Art. 382. (*Falsification Committed by Persons Entrusted With a Public Service*). -- The provisions of the preceding articles relating to false acts committed by public officers [240 a P.C.] shall likewise apply to persons entrusted with a public service [240 b P.C.], and to officers of any other public body with relation to the documents which they draw up in the performance of their duties.

CHAPTER IV: PERSONATION

ART. 383. (*Substitution of Person*). - Whoever, for the purpose of procuring for himself or another any advantage or of causing harm to another, deceives someone by unlawfully impersonating another, or by attributing to himself or another a false name, or a false status, or a capacity to which the law attributes juridical effects, shall be punished, where the act does not constitute a more serious crime, with imprisonment [96 P.C.] up to one year.

ART. 384. (*False Certification or Declaration to a Public Officer*). - 1. - Whoever falsely states or certifies to a public officer [240 a P.C.], in a public document, the identity or status or other capacity of himself or another, shall be punished with imprisonment [96 P.C.] up to three years.

2. - Whoever, commits the act in a declaration intended to be reproduced in a public document shall be liable to the same punishment.

3. - The term of imprisonment [96 P.C.] shall not be less than one year:

a) in cases of declarations in documents of identification;

b) where the false declaration regarding his own identity, status or personal capacity is made by an accused person to the judicial Authorities [92 Const.], or where, in consequence of the false declaration, a penal conviction is entered in court records under a false name.

ART. 385. (*False Statements as to the Identity or Personal Capacity*). - Whoever, other than in the cases referred to in the preceding articles, being questioned regarding the identity, status or other capacity of himself or another, makes inaccurate declarations to a public officer [240 a P.C.] in the performance of his duties, shall be punished with imprisonment [96 P.C.] up to one year or with fine up to Sh. So. 5,000.

ART. 386. (*Usurpation of Titles or Honours*). - 1. - Whoever wrongfully wears in public the uniform or the distinctive marks of a public office or post [240 P.C.], or of a legislative, administrative or judicial body [49, 77, 92 Const.], or of a profession for which a special authorisation from the public authorities is required, shall be punished with fine [97 P.C.] from Sh. So. 1,000 to 10,000.

2. - The same punishment shall apply to a person who assumes academic dignities or degrees, titles, decorations or other public honorific insignia, or capacities inherent in any of the offices, posts or professions specified in the preceding paragraph.

CHAPTER I: CRIMES AGAINST NATIONAL ECONOMY

ART. 387. (*Destruction of Raw Materials or Agricultural or Industrial Products or Means of Production*). - Whoever, by destroying raw materials, or agricultural or industrial products or means of production causes serious injury to the national production or a substantial shortage of goods of common consumption, shall be punished with imprisonment [96 P.c.] from three to twelve years and with fine [97 P.C.] of not less than Sh. So. 20,000.

ART. 388. (*Diffusion of Diseases of Plants or Animals*). - Whoever causes the spread of any disease to plant or animals, which is prejudicial to agriculture, or to livestock, shall be punished with imprisonment [96 P.C.] from one to five years.

ART. 389. (*Fraudulent Raising or Lowering of Prices in the Public Market*). - 1. Whoever, for the purpose of disturbing the domestic market in securities or goods, publishes or otherwise spreads false, exaggerated or tendentious news, or employs other means of deception capable of causing a rise or fall in the price of goods, or of the securities which are on the Stock Exchange lists or are negotiable in the public market; shall be punished with imprisonment [96 P.c.] up to three years and with fine [97 P.c.] of not less than Sh. So. 3,000.

2. - Where the rise or fall in the price of goods or securities takes place, the punishment shall be increased [118 P.c.].

3. - The punishment shall be doubled where:

a) the act is committed by a citizen [4 P.C.] for the purpose of favouring foreign interests;

b) the act results in a depreciation of the national currency, or in a rise in price of goods of common consumption.

4. - The punishment prescribed in the foregoing provisions shall also apply where the act is committed abroad [4 P.C.] to the prejudice of the national currency or of Somali public securities.

5. - Conviction shall involve interdiction from public offices [101 P.C.].

ART. 390. (*Lockouts and Strikes*). - 1. - An employer who, other than in the cases allowed by law [27 Const.J, wholly or in part, in his establishment or office, shall be punished with fine [97 P.C.] of not less than Sh. So. 10,000.

2. - Employers engaged in any establishment or office who, other than in the cases allowed by law [27 Const., 120 Labour Code], collectively abandon their work or perform their work in such a manner as to disturb the continuity or regularity thereof, shall be punished with fine [97 P.C.] up to Sh. So. 1,000.

ART. 391. (*Unauthorised Occupation of Agricultural or Industrial Undertaking and Sabotage*). - 1. - Whoever, with the sole object of

preventing or disturbing the normal course of work, invades or occupies any agricultural or industrial undertaking belonging to another, or disposes of the machines, equipment, apparatus or implements intended for agricultural or industrial production and belonging to another, shall be punished with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] of not less than Sh. So. 1,000.

2. - Whoever damages buildings used for agricultural or industrial undertakings or any of the articles specified in the foregoing provision, shall be liable, where the act does not constitute a more serious offence to imprisonment from six months to four years and to fine of not less than Sh. So. 5,000.

ART. 392. (*Accessory Penalty*). - Conviction for any of the crimes provided for in the two preceding articles shall involve interdiction from any office in a trade union for a period of five years.

CHAPTER II: CRIMES AGAINST INDUSTRY AND COMMERCE

ART. 393. (*Infringement of Freedom of Industry and Commerce*). - Whoever uses violence on objects or fraudulent means in order to prevent or disturb the conduct of an industrial or commercial concern, shall, on the complaint of the party injured [81 P.C.], be punished, where the act does not constitute a more serious offence [15 P.C.], with imprisonment [96 P.C.] up to two years and with fine [97 P.C.] from Sh. So. 1,000 to 10,000.

ART. 394. (*Fraud Against National Industries*). - Whoever, by offering for sale or otherwise putting into circulation, on national or foreign markets, industrial products with counterfeit or altered distinctive names, marks or signs, causes injury to national industry, shall be punished with imprisonment [96 P.C.] from one to five years and with fine [97 P.C.] of not less than Sh. So. 5,000.

ART. 395. (*Fraud in the Exercise of Commerce*). - 1. - Whoever, in the exercise of commercial activity, or in a shop open to the public, delivers to the purchaser an article instead of another, or an article different in origin, source, quality or quantity from the one stated or agreed upon, shall be punished, where the act does not constitute a more serious offence [15 P.C.], with imprisonment [96 P.C.] up to two years or with fine [97 P.C.] up to Sh. So. 20,000.

2. - In the case of precious objects, the punishment shall be imprisonment up to three years or fine of not less than Sh. So. 1,000.

ART. 396. (*Sale of Non-Genuine Food Products as Genuine*). - Whoever offers for sale or otherwise trades non-genuine food products as genuine, shall be punished, where the act does not constitute a more serious offence, with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] up to Sh. So. 10,000.

ART. 397. (*Sale of Industrial Products Under False Signs*). - Whoever offers for sale or otherwise puts into circulation literary or artistic works or industrial products with trade or other marks, national or foreign, likely to deceive the purchaser as to the origin, source or quality of the work or product, shall be punished, where the act does not constitute a more serious offence [15 P.C.], with imprisonment [96 P.C.] up to one year or with fine [96 P.C.] up to Sh. So. 10,000.

PART IX

CRIMES AGAINST MORALS AND DECENCY

CHAPTER I: CRIMES OF SEXUAL VIOLENCE

ART. 398. (*Carnal Violence*). — 1. - Whoever with violence or threats has carnal intercourse with a person of the other sex, shall be punished with imprisonment [96 P.C.] for five to fifteen years.

2. - The same punishment shall be imposed on anyone who has carnal intercourse with a person of the other sex who is incapable of giving consent or with a person who has been deceived by the offender personating as another person.

3. - The same punishment shall be imposed also on a public officer [240 a P.C.] who, by abusing his power, has carnal intercourse with a person of the other sex who is under arrest or detained in custody under the said officer by reason of his office or entrusted to him in execution of an order of the competent authority.

4. - For purposes of penal law [398, 400 P.C.], penetration of the male sexual organ shall constitute carnal intercourse.

ART. 399. (*Acts of Lust Committed with Violence*). - Whoever by, employing the means or under the condition specified in the preceding article, commits upon a person of the other sex acts of lust other than carnal intercourse, shall be punished with imprisonment [96 P.C.] from one to five years.

ART. 400. (*Unnatural Offences Committed with Violence*). - Where any of the acts referred to in articles 398 and 399 is committed against a person of the same sex or a person of different sex, against nature, the punishment shall be increased [118 P.C.].

ART. 401. (*Abduction for Purposes of Lust or Marriage*). - 1. - Whoever, with violence, threat or deceit, abducts or detains a person for purposes of carnal violence [398 P.C.] or lust [399 P.C.] shall be punished with imprisonment [96 P.C.] from two to five years.

2. - Whoever, with violence, threat or deceit, abducts or detains for purposes of marriage an unmarried person, shall be punished with imprisonment [96 P.C.] from one to three years.

3. - Whoever abducts or detain a person who is incapable of giving consent [47 P.C.], for purposes of carnal violence [398 P.C.], or lust [399 P.C.], or marriage, shall be subject to the punishments prescribed respectively in the two preceding articles.

CHAPTER II: OFFENCE AGAINST MODESTY AND SEXUAL HONOUR

Art. 402. (*Obscene Acts*). - 1. - Whoever, in a public place or a place open to the public, commits obscene acts [404 P.C.], shall be punished with imprisonment [96 P.C.] from six months to three years.

2. - Where the act is committed through culpable negligence [24 P.C.], the punishment shall be fine from S. So. 300 to 3,000.

Art. 403. (*Obscene Publications and Performances*). - 1. - Whoever, for purposes of sale or distribution, or public exhibition, manufactures, introduces into the territory of the State, purchases, holds, exports or puts into circulation any obscene paper, drawing, representation or any other obscene object [404 P.C.] of any nature, shall be punished with imprisonment [96 P.C.] from three months to three years and with fine [97 P.C.] of not less than Sh. So. 1,000.

2. - A person who trades, even clandestinely, in the articles mentioned in the preceding paragraph or distributes or exhibits them publicly, shall be liable to the same punishment.

3. - The said punishment shall also apply in the case of a person who:

a) employs any means of publicity intended to facilitate the circulation or sale of the objects specified in paragraph 1. of this article;

b) gives public theatrical or cinematographic performances, or public concerts or recitals, which have an obscene character.

4. - In the case referred in letter b) of the preceding paragraph, the punishment shall be increased [118 P.C.] where the act is committed notwithstanding the prohibition of the authorities.

Art. 404. (*Definition of Obscene Acts and Objects*). - For purposes of penal law [402, 403 P.C.], acts and objects are deemed to be obscene where they, in the general opinion, are offensive to modesty.

Art. 405. (*Prostitution*). - 1. - Whoever practises prostitution in any form, shall be punished with imprisonment [96 P.C.] from two months to two years and with fine [97 P.C.] from Sh. So. 100 to 2,000.

2. - Where the act is committed by a married person, the punishment shall be increased [118 P.C.].

Art. 406. (*Incitement to lewd Acts*). - Whoever, in a public place or a place open to the public, incites anyone to lewd acts, even in an indirect manner, shall be punished, where the act does not constitute a more serious offence, with imprisonment [96 P.C.] up to one year or with fine up to Sh. So. 2,000.

Art. 407. (*Instigation, Aiding and Exploitation of Prostitution*). -

1. - Whoever instigates another to commit prostitution, or aids or in any manner facilitates prostitution, or exploits, wholly or in part, the proceeds of prostitution, shall be liable to the punishment provided for in paragraph 1 of article 405.

2. - The punishment shall be increased [118 P.C.] where:

a) the act is committed against a person who is incapable of giving consent [47 P.C.];

b) the offender is an ascendant, spouse, brother, sister or guardian of the person;

c) the act is committed against a person entrusted to the offender for care, education, instruction, supervision or custody.

Art. 408. (*Compulsion to Prostitution*). -

1. - Whoever, by violence or threats, compels another to commit prostitution shall be punished with imprisonment [96 P.C.] from two to six years and with fine [97 P.C.] from Sh. So. 5,000 to 15,000.

2. - Where any of the conditions referred to in paragraph 2 of the preceding article exists, the punishment shall be increased [118 P.C.].

Art. 409. (*Homosexuality*). -

Whoever has carnal intercourse with a person of the same sex shall be punished, where the act does not constitute a more serious crime, with imprisonment [96 P.C.] from three months to three years. Where the act committed is an act of lust different from carnal intercourse, the punishment imposed shall be reduced by one third [119 P.C.].

Art. 410. (*Security Measures*). -

A security measure [161 s. P.C.] may be added to a sentence for the crimes referred to in articles 407, 408 and 409.

CHAPTER III: OTHER CRIMES AGAINST MORALS

Art. 411. (*Supply or Sale of Alcoholic Beverages*). -

1. - Whoever sells or otherwise supplies to a Somali citizen [4 P.C.] or to a muslim [1 Const.] of a foreign nationality any alcoholic beverage [417 P.C.], shall be punished with imprisonment [96 P.C.] up to three months or with fine [97 P.C.] up to Sh. So. 1,000.

2. - Where any alcoholic beverage [417 P.C.] is sold or supplied to a person under the age of 14 years or to a person who is afflicted with mental disease or is in a condition of mental deficiency owing to any other infirmity, the punishment shall be increased [118 P.C.].

Art. 412. (*Consumption of Alcoholic Beverages*). -

1. - In cases other than those referred to in the preceding article, a Somali citizen [4 P.C.] or a muslim [1 Const.] of a foreign nationality, who acquires for

his consumption or the consumption of another Somali citizen or a muslim of a foreign nationality or consumes in any form whatsoever any alcoholic beverage [417 P.C.], shall be punished with imprisonment [96 P.C.], up to four months or with fine [97 P.C.] up to Sh. So. 1,000.

2. - Where the act is committed in a public place or a place open to the public, the punishment shall be increased [118 P.C.].

ART. 413. (*Drunkenness*). - 1. - Whoever, in a public place or a place open to the public, is in a state of manifest drunkenness [53, 54 P.C.], shall be punished with imprisonment [46 P.C.] up to six months or with fine [97 P.C.] up to Sh. So. 2,000.

2. - The punishment shall be imprisonment [96 P.C.] from three to six months where the act is committed by a person who has previously been convicted of a crime against human life or safety committed not with «culpa» [434-444, 447-450 P.C.].

3. - The punishment shall be increased [118 P.C.], where the drunkenness is habitual [55 P.C.].

ART. 414. (*Causing a State of Drunkenness in Other Persons*). - Whoever, other than in the cases referred to in article 411, in a public place or a place open to the public, causes the drunkenness [413 P.C.] of other persons by supplying alcoholic beverages [417 P.C.], shall be punished with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] up to Sh. So. 2,000.

ART. 415. (*Supply of Alcoholic Beverages to a Person in a State of Manifest Drunkenness*). - 1. - Whoever, other than in the cases referred to in articles 411 and 414, supplies alcoholic beverages [417 P.C.] to a person in a state of manifest drunkenness [413 P.C.] shall be punished with imprisonment [96 P.C.] up to one year.

2. - Where the offender is the keeper of a public establishment for the sale of food or beverage, conviction shall entail suspension of the license [107 C.P.] or permit for running the establishment.

ART. 416. (*Unlawful Manufacture of or Trade in Liquors or Substances Intended for the Preparation of Same*). - 1. - Whoever, without observing the provisions of the law or the orders of the authorities, manufactures, introduces into of the territory the State [4 Const., 4 P.C.], holds for the purpose of sale, or sells, liquors or other alcoholic beverages [96 P.C.], shall be punished with imprisonment [97 P.C.] up to one year or with fine [97 P.C.] from Sh. So. 500 to 5,000.

2. - The same punishment shall be imposed on any person who, without observing the provisions of the law or the order of the authorities, manufactures or introduces into the territory of the State [4 Const., 4 P.C.] substances intended for the preparation of liquors [417 P.C.].

ART. 417. (*Definition*). - For purposes of penal law [411-416 P.C.], «alcoholic beverage» means any alcoholic beverage of a strenght exceeding 3 per centum of proof spirit.

ART. 418. (*Abortion Without Consent*). - 1. - Whoever causes the abortion of a woman, without her consent, shall be punished with imprisonment [96 P.C.] from three to seven years.

2. - The same punishment shall be imposed on any person who causes the abortion of a woman who is incapable of giving consent [47 P.C.], where the consent is extorted by violence, threat or undue influence, or is induced by fraud.

ART. 419. (*Abortion with Consent*). - 1. - Whoever causes the abortion of a woman, with her consent, shall be punished with imprisonment [96 P.C.] from one to five years.

2. - The same punishment shall apply to a woman who consents to such abortion or by any means causes it herself.

ART. 420. (*Instigation to Abortion*). - Whoever, other than in the cases referred to in the preceding article, instigates a pregnant woman to commit abortion [420 P.C.] by administering to her appropriate means thereto, shall be punished with imprisonment [96 P.C.] from six months to two years.

ART. 421. (*Death or Injury of the Woman*). - 1. - Where the act referred to in article 418 results in the death [441 P.C.] of the woman, the punishment imposed shall be imprisonment [96 P.C.] from ten to fifteen years; where hurt [440 P.C.] results, the punishment imposed shall be imprisonment [96 P.C.] from three to eight years.

2. - Where the act referred to in paragraph 1. of article 419 results in the death of the woman, the punishment imposed shall be imprisonment [96 P.C.] from four to eight years; where hurt results, the punishment imposed shall be imprisonment [96 P.C.] from two to six years.

ART. 422. (*Abortion for Reasons of Honour*). - Where any of the acts referred to in articles 418, 419, 420 and 421 is committed for the purpose of safeguarding one's own honour or that of a near relative, the punishments prescribed therefor shall be reduced by one-half to two thirds.

ART. 423. (*Procuring the Impotence of a Person to Procreate*). - 1. - Whoever performs on a person of either sex, with the consent of the latter, acts directed to render that person impotent to procreate, shall be punished with imprisonment [96 P.C.] from six months to two years and with fine [97 P.C.] from Sh. So. 1,000 to 5,000.

2. - Whoever consents to such acts on his own person, shall be liable to the same punishment.

ART. 424. (*Aggravating Circumstances and Accessory Penalty*). - 1. - Where the person guilty of one of the crimes referred to in article

418, paragraph 1, of article 419, articles 420 and 421 and paragraph 1, of article 423, exercise a medical profession, the punishment shall be increased [118 P.C.].

2. - In the event of repetition [61 P.C.], interdiction from the medical profession [103 P.C.] shall be permanent.

PART XI

CRIMES AGAINST THE FAMILY

CHAPTER I: CRIMES AGAINST FAMILY DECENCY AND MORALS

ART. 425. (*Illegal Marriage*). - Whoever contracts a marriage [31¹ Const.] when, owing to his personal status [30 Const.], such marriage is not allowed, shall be punished with imprisonment [96 P.C.] from six months to three years.

ART. 426. (*Adultery*). - 1. - Whoever, being bound by a marriage having civil effects [30, 31¹ Const.], has carnal intercourse [39⁴ P.C.] with a person other than his or her spouse, shall be punished with imprisonment [96 P.C.] up to two years. The same punishment shall be imposed on the accomplice [71 P.C.].

2. - The offence shall be prosecuted on the complaint of the party injured [81 P.c.].

ART. 427. (*Incest*). - 1. - Whoever has carnal intercourse [39⁴ P.C.] with a person whom he or she is forbidden to marry by his or her personal status [30 Const.], shall be punished with imprisonment [96 P.C.] from two to five years.

2. - The punishment shall be increased [118 P.c.] in case of incestuous relationship.

CHAPTER II: CRIMES AGAINST FAMILY STATUS

ART. 428. (*Simulation or Suppression of Entries in Civil Register*). - 1. - Whoever causes an entry in the civil registers of the State of a birth which never took place, shall be punished with imprisonment [96 P.C.] from one to five years.

2. - Whoever, by concealing a newly-born child, prevents its name from being entered in the civil register, shall be punished with fine [97 P.C.] up to Sh. So. 100.

ART. 429. (*Alteration of Entries in Civil Register*). - 1. - Whoever, by substituting a newly-born child, alters an entry relating to it in the civil register, shall be punished with imprisonment [96 P.C.] from six months to one year.

2. - A term of imprisonment [96 P.c.] from six months to two

years shall be imposed on any person who, in drawing up a certificate of birth, alters the entry in the civil register relating to a newly-born child by means of any false certification, or other false statement.

CHAPTER III: CRIMES ARISING OUT OF DERELICTION OF DUTY TOWARDS FAMILY

Art. 430. (*Violation of Duty Towards Family*). - 1. - Whoever avoids the obligations relating to the exercise of parental authority, legal guardianship, or marriage [31 Const.], shall be punished, where the act does not constitute a more serious crime [65 P.C.], with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] from Sh. So. 1,000 to 10,000.

2. - The same punishment shall apply to a person who misuses or squanders the estate of a minor child or ward.

Art. 431. (*Abuse of Measures of Correction or Discipline*). - 1. - Whoever abuses measures of correction or discipline to the detriment of a person subject to his authority, or entrusted to him for the purpose of education, instruction, treatment, supervision or custody, or for the exercise of a profession or craft, shall be punished with imprisonment [96 P.C.] up to six months where the act results in the danger of a disease of body or mind.

2. - Where the act results in hurt [440 P.C.], the punishment prescribed in article 440 shall be reduced to one-third; where death [441 P.C.] results, the punishment shall be imprisonment [96 P.c.] from three to eight years.

Art. 432. (*Ill-treatment of Children and Members of the Family*). - 1. - Whoever, other than in the cases referred to in the preceding article, ill-treats a member of the family [31 ConsL], or a person under the age of 14 years, or a person subject to his authority, or entrusted to him for the purpose of education, instruction, treatment, supervision or custody, or for the exercise of a profession or craft, shall be punished with imprisonment [96 P.C.] from one to five years.

2. - Where the act results in a serious or a very serious hurt [440 P.C.], the punishment shall be imprisonment [96 P.C.], from two to eight years; where death [441 P.c.] results, the punishment shall be imprisonment [96 P.c.] from ten to fifteen years.

Art. 433. (*Abduction of Persons under Legal Incapacity*). - 1. - Whoever abducts a person under 14 years of age, or a person mentally infirm from a parent exercising parental authority, or from a guardian or trustee, or detain such person against the will of the aforesaid people, shall be punished, on the complaint [81 P.C.] of the parent exercising parental authority, the guardian or trustee, with imprisonment [96 P.c.] from one to three years.

2. - Whoever abducts or detain a minor who has attained 14 years of age, without the minor's consent, for purposes other than lust or

marriage, shall be liable to the same punishment, on the complaint [81 P.C.] of the parent exercising parental authority, the guardian or trustee.

PART XII

CRIMES AGAINST THE PERSON AND SAFETY OF INDIVIDUAL

CHAPTER I: CRIMES AGAINST THE LIFE AND SAFETY OF INDIVIDUALS

Art. 434. (*Murder*). - Whoever commits murder shall be punished with death [16' Const., 94 P.C.].

Art. 435. (*Infanticide for Reason of Honour*). - 1. - Whoever causes the death of a child immediately after its birth, or of an unborn child during the delivery, for the purpose of safeguarding one's own honour, or that of a descendant or ascendant, shall be punished with imprisonment [96 P.C.] from ten to fifteen years.

2. - The same punishment shall be imposed upon the persons abetting the commission of the crime [71 s. P.c.].

Art. 436. (*Death Caused to a Person With His Own Consent*). - 1. - Whoever causes the death of a person with the latter's consent, shall be punished with imprisonment [96 P.C.] from six to fifteen years.

2. - The offender shall be punished with death [94 P.C.] where the act has been committed:

- a) against a person under the age of eighteen;
- b) against an insane person;
- c) against a person whose consent has been obtained by the offender by violence, threat, suggestion, or fraud.

Art. 437. (*Attempt to Commit Suicide*). - Whoever attempts [16. 17 P.C.] to cause his own death by committing an act sufficient to cause it, shall be punished with imprisonment [96 P.c.], up to five years or fine [97 P.C.] up to Sh. So. 10,000.

Art. 438. (*Instigating or Aiding to Commit Suicide*). - 1. - Whoever instigates or aids another to commit suicide or in any manner facilitates the commission of suicide, shall be punished, where the suicide takes place, with imprisonment [96 P.c.], from five to ten years. Where the suicide does not take place, he shall be punished with imprisonment [96 P.c.], from one to five years, provided that the attempt results in a serious or very serious personal injury [440', 440', P.C.].

2. - The punishment shall be increased [118 P.C.] where the person instigated or aided falls in one of the categories of persons referred to in letters (a) and (b) of paragraph (2) of Article 436. However, where the aforesaid person is below the age of 14, or is in any way incapable of giving consent [47 P.c.], provisions relating to murder [434 P.C.] shall apply.

ART. 439. (*Assault*). - 1. - Whoever strikes another and no physical or mental illness results therefrom, shall be punished, on the complaint of the party injured [81 P.G.I. with imprisonment [96 p.e.] up to six months or with fine [97 p.e.] up to Sh. So. 3,000.

2. - The above provision shall not apply when the law deems the act to be a constitutive element [20 p.e.] or an aggravating circumstance [39 P.c.] of another offence [v. 484 P.c.].

ART. 440. (*Hurt*). - 1. - Whoever causes hurt to another from which physical or mental illness results, shall be punished with imprisonment [96 p.e.] from three months to three years.

2. - The hurt shall be deemed to be grievous and imprisonment [96 P.c.] from three to seven years shall be imposed:

a) where the act results in an illness which endangers the life of the person injured, or in an illness or incapacity which prevents him from attending to his ordinary occupation for a period exceeding forty days;

b) where the act produces a permanent weakening of a sense or organ;

c) where the party injured is a pregnant woman and the act results in the acceleration of the birth.

3. - The hurt shall be deemed to be very grievous, and imprisonment [96 p.e.] from six to twelve years shall be imposed, where the act results in:

a) an illness certainly or probably incurable;

b) the loss of a sense;

c) the loss of a limb, or a mutilation which renders the limb useless, or the loss of the use of an organ or of the capacity to procreate, or a permanent and serious difficulty in speech;

d) deformity, or the permanent disfigurement of the face;

e) the miscarriage of the person injured.

ART. 441. (*Preterintentional Homicide*). - Whoever, with acts directed to commit one of the crimes referred to in articles 439 and 440, causes the death of another, shall be punished with imprisonment from ten to fifteen years [96 p.e.].

ART. 442. (*Homicide or Hurt Caused by Parent*). - 1. - Where any of the crimes referred to in articles 434, 436, 438, 440 and 441 is committed by a parent in the exercise of his paternal authority, the punishment prescribed in the aforesaid articles shall be modified as follows:

a) the punishment of death [94 p.e.] shall be reduced to imprisonment [96 P.c.] from ten to fifteen years;

b) the punishment of imprisonment [96 p.e.] shall be reduced from one-third to one half.

2. - The parent who commits the act referred to in article 439 shall not be punishable.

ART. 443. (*Homicide and Hurt for Reasons of Honour*). - 1. - Whoever finds his or her spouse, a daughter, or a sister, committing

fornication, and in the sudden heat of rage for the offence caused to his or her honour and to the honour of his or her family, causes the death of such spouse, daughter or sister, shall be punished with imprisonment [96 P.C.] from five to ten years. The same punishment shall be imposed upon a person who, under the same circumstances, causes the death of the person whom he or she finds committing fornication with his or her spouse, daughter or sister.

2. - Where the offender, under the same circumstances, causes hurt [440 P.C.] to the aforesaid persons, the punishment prescribed in article 440 shall be reduced to one-third; where death results from the hurt, the punishment shall be imprisonment from two to eight years.

3. - Whoever, under the same circumstances, commits against the aforesaid persons the act referred to in article 439, shall not be punishable.

Art. 444. (*Affray*). - 1. - Whoever takes part in an affray shall be punished with imprisonment [96 P.C.] up to one year or fine [97 P.C.] up to Sh. So. 1,000.

2. - Where, in the course of the affray, someone is killed, or receives hurt [434, 440 P.C.], the punishment for the act of participating in the affray shall be imprisonment [96 P.C.] from three months to five years. The same punishment shall apply where death or hurt occurs immediately after the affray and in consequence thereof.

3. - The punishment prescribed in the two preceding articles shall be increased [118 P.C.] where the affray is caused for political reasons or by rivalry between ethnical groups.

Art. 445. (*Death Caused by Negligence*). - 1. - Whoever by culpable negligence [24' c P.C.] causes the death of another, shall be punished with imprisonment [96 P.C.] from six months to five years.

2. - In the case of the death of more than one person, or the death of a person and hurt to one or more persons [434, 440 P.C.], the provisions of article 44 shall apply, but the punishment shall not exceed in the aggregate twelve years.

Art. 446. (*Hurt caused by Negligence*). - 1. - Whoever by culpable negligence [24' c P.C.] causes hurt [440 P.C.] to another shall be punished with imprisonment [96 P.C.] up to three months or fine [97 P.C.] up to Sh. So. 5,000.

2. - Where the hurt is grievous [440' P.C.], the punishment shall be imprisonment [96 P.C.] from one to six months or fine from Sh. So. 2,000 to 10,000; where it is very grievous [440' P.C.], imprisonment [96 P.C.] shall be from three months to two years or fine [97 P.C.] from Sh. So. 5,000 to 20,000.

3. - In the case of hurt [440 P.C.] to more than one person, the provisions of article 44 shall apply, but the punishment of imprisonment [96 P.C.] shall not exceed, in the aggregate, five years.

4. - In the case referred to in the first paragraph of this article, the offender shall be punished on the complaint of the party injured [81 P.C.].

ART. 447. (*Death or Hurt Caused as a Consequence of Another Crime*). - In cases other than those provided for in article 441, whenever the death or hurt of a person results from an act which is made a crime committed with criminal intent [24' a P.Co] by law, as a consequence not intended by the offender, the provisions of articles 445 and 446 shall apply, but the punishment shall be increased [118 P.C.].

ART. 448. (*Abandonment of Minors or Incapable Persons*). - 1. - Whoever abandons a person, under the age of 14, or a person incapable of looking after himself for reason of his mental or physical infirmity or old age or any other cause, when such person is entrusted to him for custody or care, shall be punished with imprisonment [96 P.Co] from six months to five years.

2. - Whoever abandons in a foreign territory any Somali citizen [4 P.C.] under the age of 18, entrusted to his care in the territory of the State [4 Const., 4 P.C.] for the purpose of work, shall be liable to the same punishment.

3. - The punishment shall be imprisonment [96 P.c.] from one to six years where the act results in hurt [440 P.C.], and from three to eight years where death [441 P.Co] results therefrom.

4. - The punishment shall be increased [118 PoC.] where the act is committed by a parent, child, guardian or spouse, or by an adoptive parent or child.

ART. 449. (*Abandonment of a Newly-Born Child for Reasons of Honour*). - 1. - Whoever abandons a newly-born child, immediately after its birth, for the purpose of safeguarding one's own honour or the honour of an ascendant or a descendant, shall be punished with imprisonment [96 P.Co] from three months to one year.

2. - The punishment shall be imprisonment [96 P.C.] from six months to two years where the act results in hurt [441 P.Co] and from two to five years where it results in the death [441 P.C.] of the newly-born child.

30 - The circumstances referred to in article 39 shall not aggravate the offence.

ART. 450. (*Failure to render Assistance*). - 1. - Whoever, finding an abandoned or lost child under the age of 10 years, or any other person incapable of looking after himself, for reason of his mental or physical infirmity, or old age, on any other cause, fails to give immediate information to the authorities, shall be punished with imprisonment [96 P.c.] up to three months or fine [97 P.C.] up to Sh. So. 3,000.

2. - Whoever, finding a human body which is or appears to be lifeless, or a person wounded or otherwise in danger, fails to afford the necessary assistance or to give immediate information to the Authorities, shall be liable to the same punishment.

3. - Where by reason of the offender's conduct, hurt [440 PoC.] results, the punishment shall be increased [118 PoC.]; where death [445 PoC.] results, the punishment shall be doubled.

ART. 451. (*Insult*). - 1. - Whoever offends the honour or dignity of a person by words or act in presence, or by writing, or drawing, or by telephonic or telegraphic communications to that person, shall be punished, on the complaint [81 P.Co] of the party injured, with imprisonment [96 P.Co] up to one year or with fine [97 PoC.] up to Sh. So. 1,000.

2. - The punishment shall be increased up to double:

- a) where the insult is committed in the presence of more than one person, or in such a manner that it directly comes to their knowledge;
- b) where the act consists in the attribution of a specific act;
- c) where the insult is also directed to the nationality, ethnical community or family to which the party injured belongs;
- d) where the insult is committed by means of word, act, writing, drawing or communication which, according to the social customs, tends directly to provoke the party injured or which, even where no such provocation is caused, is of a particularly serious nature.

3. - The prosecution for the offence shall be initiated by the State [81 P.C.] where any of the circumstances referred to in letter (c) or (d) of the preceding paragraph is present.

4. - Where the insult is reciprocal, the court may declare that one of the parties or both are not punishable, notwithstanding that one of the parties has filed the complaint [81 P.c.].

ART. 452. (*Defamation*). - 1. - Whoever other than in the cases referred to in the preceding article, by communicating with more than one person, injures the reputation of another, shall be punished, on the complaint of the party injured [81 P.Co], with imprisonment [96 PoCo] up to one year or with fine [97 PoCo] up to Sh. So. 2,000.

2. - The punishment shall be increased up to double where any of the circumstances referred to in letters b), c) or d) of paragraph 2 of the preceding articles is present.

3. - Where the act is committed by means of the press or by any other means of publicity, the punishment shall be imprisonment [97 PoC.] from six months to three years or fine [97 P.Co] not less than Sh. So. 4,000.

ART. 453. (*Proof of Truth*). - 1. - In the cases referred to in articles 451 and 452, whenever the offence consists in the attribution of a specific act, the proof of the truth of such act shall be admitted in penal proceedings, provided that the party injured makes an express request before the commencement of the proceedings.

20 - The offender shall in all cases have the right to prove the truth:

- a) where the party injured is a public officer [240 a Poc.] and the act attributed to him relates to the exercise of the functions of such officer;

b) where criminal or disciplinary proceedings are pending against the party injured in respect of the act attributed to him, or where such proceedings are about to be instituted.

3. - Where the truth of the act attributed to the party injured is proved, the offender shall not be punishable.

Art. 454. (*Provocation*). - Whoever commits any of the acts referred to in Articles 451 and 452 in a state of anger caused by an unlawful act of another person, and immediately after the same, shall not be punishable.

CHAPTER III: CRIMES AGAINST INDIVIDUAL LIBERTY

Section I: *Crimes Against Human Personality.*

Art. 455. (*Reduction to Slavery*). - Whoever reduces a person to slavery [17 Const.] or to a similar condition, shall be punished with imprisonment [96 P.C.] from five to twenty years.

Art. 456. (*Dealing and Trading in Slaves*). - Whoever deals or in any manner trades in slaves [17 ConsL] or persons in a condition similar to slavery, shall be punished with imprisonment [96 P.C.] from five to twenty years.

Art. 457. (*Sale and Purchase of Slaves*). - Whoever, other than in the cases referred to in the preceding article, disposes of or transfers a person who is in a state of slavery [17 ConsL] or a similar condition, or takes possession of or purchases or holds such person in such state, shall be punished with imprisonment [96 P.C.] from three to twelve years.

Art. 458. (*Enforced Subjection*). - Whoever compels another to submit to his own power, so as to reduce him to a total state of subjection, shall be punished with imprisonment [96 P.C.] from five to fifteen years.

Art. 459. (*Crimes Committed Abroad*). - Notwithstanding the provisions of article 8, the provisions of this Section shall also apply when the act is committed abroad [4 Const., 4 P.C.] to the prejudice of a Somali national, provided that the offender is within the territory of the State when criminal proceedings are initiated.

Section II: *Crimes Against Personal Liberty.*

Art. 460. (*Seizure of a Person*). - Whoever deprives another of personal liberty shall be punished with imprisonment [96 P.C.] from six months to eight years.

Art. 461. (*Illegal Arrest*). - A public officer who, other than in the cases allowed by law effects an arrest, or, being in charge of a prison, receives therein any person without an order from the competent Authorities, or unduly delays the execution of the punishment [90 P.C.]

or security measures [172 P.C.], shall be punished with imprisonment [96 P.C.] up to three years.

Art. 462. (*Abuse of Authority Towards Person Arrested or Detained*). - 1. - A public officer [240 a P.C.] who subjects to rigorous measures not allowed by law a person arrested or detained [18 Const.] of whom he has the custody, even temporarily, or who is entrusted to him in execution of an order of the competent Authorities [17 Const.], shall be punished with imprisonment [96 P.C.] up to three years.

2. - The same punishment shall apply where the act is committed by another public officer vested, by reason of his office, with any authority over the person in custody.

Art. 463. (*Arbitrary Personal Search and Inspection*). - A public officer [240 a P.C.] who, by abusing the powers inherent in his functions, carries out a personal search or inspection [17 Const.], shall be punished with imprisonment [96 P.C.] up to one year.

Section III: *Crimes Against the Right to Work.*

Art. 464. (*Compulsory Labour*). - Apart from the cases of military or civil emergency, or the cases in which compulsory labour is expressly provided for by law [2 Labour Code], whoever forces another to compulsory labour [36 Const.] or avails himself of the services of persons forced to compulsory labour, shall be punished, where the act does not constitute a more serious offence, with imprisonment [96 P.C.] from six months to five years and fine [97 P.C.] from Sh. So. 5,000 to 20,000.

Art. 465. (*Violation of the Right to Engage Workers or to Participate in a Trade Union*). - 1. - Whoever by violence or threats, forces an employer to engage one or more workers or prevents him from engaging them, shall be punished with imprisonment [96 P.C.] up to four years and fine [97 P.C.] up to Sh. So. 10,000.

2. - The same punishment shall be imposed where violence or threats are used to force one or more persons to participate in a trade union or to prevent them from participating therein [13 Const.].

Section IV: *Crimes Against Moral Liberty.*

Art. 466. (*Private Violence*). - Whoever, by violence or threats, compels another to do, or omit an act which, under the law, is left to his option, shall be punished, where the act does not constitute a more serious crime, with imprisonment [96 P.C.] up to three years.

Art. 467. (*Violence or Threats Used to Cause the Commission of an Offence*). - 1. - Whoever uses violence or threat to compel or cause another to commit an act which constitutes an offence, shall be punished with imprisonment [96 P.C.] up to five years.

2. - The punishment shall be increased [118 P.C.] if the conditions referred to in article 266 exist.

ART. 468. (*Threats*). - 1. - Whoever threatens another with unlawful harm shall be punished, on the complaint of the party injured [81 P.C.], with fine [97 P.c.] up to Sh. So. 500.

2. - Where the threat is serious, or is made in any of the ways referred to in article 266, the punishment shall be imprisonment up to one year, and the prosecution shall be initiated by the State [81 P.C.].

ART. 469. (*State of Incapacity Produced Through Violence*). -

1. - Whoever, by means of hypnotic suggestion or by administering alcoholic [417 P.C.] or narcotic [56 P.C.] substances, or by any other means renders a person, without the latter's consent, incapable of giving consent [47 P.C.], shall be punished with imprisonment [96 P.c.] up to one year.

2. - Consent given by the persons referred to in paragraph 2 of article 436 shall not exclude liability to punishment.

3. - The punishment shall be imprisonment [96 P.C.] up to five years:

1) where the offender acted with the object of causing an offence [15 P.C.] to be committed;

2) where the person rendered incapable commits, in such a state, an act which is made a crime [15 P.C.] by law.

Section V: *Crimes Against the Privacy of the Home.*

ART. 470. (*Violation of the Privacy of the Home*). - 1. - Whoever enters the dwelling house of another or any other place of private residence [21 Const.], or the appertenances thereof, against the will of the person who has the right to exclude him, or enters therein clandestinely or fraudulently, shall be punished with imprisonment [96 P.C.] up to three years.

2. - Whoever stays in the said places against the express will of the person who has the right to exclude him, or remains there clandestinely or fraudulently, shall be subject to the same punishment.

3. - The crime shall be punishable on the complaint of the party injured [81 P.C.].

4. - The punishment shall be imprisonment [96 P.C.] from one to five years, and the prosecution shall be initiated by the State [81 P.c.], where the act is committed with violence against objects or persons, or where the offender is openly armed [541 P.C.].

ART. 471. (*Violation of the Privacy of the Home Committed by a Public Officer*). - 1. - A public officer [240 a P.C.] who, by abusing the powers inherent in his functions, enters or remains in the places indicated in the preceding article, shall be punished with imprisonment [96 P.C.] from one to five years.

2. - Where the abuse consist in entering the said places without

observing the formalities prescribed by law, the punishment shall be imprisonment [96 P.C.] up to one year.

Section VI: *Crimes Against Secrecy.*

ART. 472. (*Interception, Removal and Suppression of Correspondence*). - 1. - Whoever ascertains the contents of a closed correspondence [22 Const.], not addressed to him, or removes or diverts a closed or open correspondence, not addressed to him, for the purpose of ascertaining its contents or enabling another to ascertain its contents, or destroys or suppresses the same, wholly or in part, shall be punished, where the act is not deemed to be a crime [15 P.C.] by another provision of law, with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] from Sh. So. to 5,000.

2. - Where the offender, without good cause, discloses, wholly or in part, the contents of the correspondence, he shall be punished, where harm results from the act and the said act does not constitute a more serious offence, with imprisonment [96 P.C.] up to three years.

3. - The crime shall be punishable on the complaint of the party injured [81 P.C.].

4. - For the purposes of the provisions of the present Section, the term "correspondence" includes letters, telegram or telephone [22 Const.].

ART. 473. (*Fraudulent Ascertainment, Interruption and Prevention of Telegraphic or Telephonic Communications of Conversations*). -

1. - Whoever, by fraudulent means, ascertains the contents of a telegraphic communication not addressed to him, or of a telephonic conversation between other persons, or interrupts or prevents the same, shall be punished with fine [97 P.C.] from Sh. So. 100 to 3,000.

2. - Where the offender, without good cause, discloses, wholly or in part, the contents of the communication or conversation, he shall be punished, where the act results in harm, with imprisonment [96 P.C.] up to three years.

3. - The crime shall be punishable on the complaint of the party injured [81 P.C.].

ART. 474. (*Disclosing the Contents of Correspondence*). -

1. - Whoever, apart from the cases referred to in article 472, having wrongfully ascertained the contents of correspondence not addressed to him, which ought to have remained secret, discloses the same, wholly or in part, without good cause, shall be punished, where the act results in harm, with imprisonment [96 P.C.] up to six months or with fine [97 P.C.] from Sh. So. 1,000 to 5,000.

2. - The crime shall be punishable on the complaint of the party injured [81 P.C.].

ART. 475. (*Interception, Removal and Suppression of Correspondence Committed by a Person Employed in the Postal, Telegraph or Telephone Services*). -

1. - Any person employed in the postal, telegraph or telephone services who, by abusing his position [240 b P.C.], commits

any of the acts referred to in paragraph 1 of article 472, shall be punished with imprisonment [96 P.C.] from six months to three years.

2. - Where the offender, without good cause, discloses, wholly or in part, the contents of the correspondence, he shall be punished, where the act does not constitute a more serious offence, with imprisonment [96 P.C.] from six months to five years and with fine [97 P.C.] from Sh. So. 300 to 5,000.

ART. 476. (*Disclosure of Contents of Correspondence by a Person Employed in the Postal, Telegraph or Telephone Services*). - Any person employed in the postal, telegraph or telephone services, who has, in such capacity, knowledge of the contents of open correspondence, or of a telegraphic communication, or of a telephonic conversation, and discloses the same, without good cause, to persons other than the one for whom it is intended, or to a person other than those between whom the communication or the conversation took place, shall be punished with imprisonment [96 P.C.] from six months to three years.

ART. 477. (*Disclosing the Contents of Secret Documents*). - 1. - Whoever, having wrongfully obtained knowledge of the contents, which are intended to be secret, of deeds or documents, public or private, belonging to others and not constituting correspondence, discloses the same without good cause, or employs them to his own advantage or to the advantage of another, shall be punished, where harm results from the act, with imprisonment [96 P.C.] up to three years or with fine from Sh. So. 1,000 to 10,000.

2. - The crime shall be punishable on the complaint [81 P.C.] of the party injured.

ART. 478. (*Disclosing Professional Secrets*). - Whoever having knowledge of a secret, by reason of his status or office, or his profession or craft, discloses it without good cause, or employs it to his own advantage or to the advantage of another, shall be punished, where harm results from the act, with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] from Sh. So. 300 to 5,000.

ART. 479. (*Disclosing Scientific or Industrial Secrets*). - 1. - Whoever, having knowledge, by reason of his profession or craft, of information intended to remain secret relating to scientific discoveries or inventions or industrial appliances, discloses the same or uses them to his own advantage or to the advantage of another, shall be punished with imprisonment [96 P.C.] up to two years.

2. - The crime shall be punishable on the complaint the party injured [818 P.C.].

CHAPTER I: CRIMES AGAINST PROPERTY BY MEANS OF VIOLENCE

Art. 480. (*Theft*). - 1. - Whoever, for the purpose of deriving wrongful gain for himself or for another, takes any movable property of another [24 Const.], by depriving him of the possession thereof, shall be punished with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] from Sh. So. 300 to 5,000.

2. - For the purposes of penal law, electric power and any other power which has an economic value are deemed to be movable property.

Art. 481. (*Aggravating Circumstances*). - 1. - The punishment shall be imprisonment [96 P.C.] from one to six years and fine [97 P.C.] from Sh. So. 1,000 to 10,000:

a) where the offender, in order to commit the act, enters or remains in a building or other place intended for habitation [470 P.C.];

b) where the offender employs violence against objects or avails himself of any fraudulent means;

c) where the offender carries upon his person arms [541 P.C.] or narcotics, even without making use of them;

d) where the act is committed by sleight of hand, or by snatching any movable property from the hand or person of another;

e) where the act is committed by three or more persons, or even by a single person disguised as or pretending to be a public officer [240 a p.e] or a person entrusted with a public service [240 b P.C.];

f) where the act is committed on the luggage of travellers in any kind of vehicle, in stations, on platforms or quays, in hotels or in other places where food or drinks are supplied;

g) where the act is committed on movable property in public offices or establishments, or on any movable property under sequestration or attachment or exposed by reason of necessity, custom or in public trust, or destined for public service, use, defence or worship;

h) where the act is committed on three or more head of cattle assembled in a flock or herd, or on bovine or equine animals, even though not gathered in a herd.

2. - Where there is a concurrence of two or more of the circumstances referred to in the preceding paragraph, or where one of the said circumstances exists along with one of those referred to in Article 39, the punishment shall be imprisonment [96 P.C.] from three to ten years and fine [97 P.C.] from Sr. So. 2,000 to 15,000.

Art. 482. (*Thefts Punishable on the Complaint of the Party Injured*). - 1. - In the case referred to in article 480, a term of imprisonment [96 P.C.] up to one year and fine [97 P.C.] up to Sh. So. 2,000 shall be imposed, and the crime shall be punishable on the complaint of the party injured [81 P.C.]:

shall be punished 'Nith imprisonment [96 P.C.] from eight to fifteen years and with fine [97 P.C.] from S. So. 10,000 to 20,000.

2. - The terms of imprisonment [96 P.C.] shall be from twelve to eighteen years where the offender achieves his object.

ART. 487. (*Trespas*). - Whoever, for the purpose of appropriating, wholly or in part, the immovable property of another, removes or alters the boundaries thereof, shall be punished with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] up to Sh. So. 10,000.

488. (*Deflection of Waters and Alteration of Place Features*). - Whoever, for the purpose of obtaining for himself or for another a wrongful gain, deflects public or private water-courses, or alters place features in the property of another, shall be punished with imprisonment (96 p.c.) up to three years and with fine (97 p.c.) up to Sh. So. 10,000.

ART. 489. (*Trespass on Lands or Buildings*). - 1. - Whoever arbitrarily trespasses on public or private lands or buildings of another, with the object of occupying them or otherwise deriving gain therefrom, shall be punished, on the complaint [81 P.C.] of the party injured, with imprisonment [96 P.C.] up to two years or with fine [97J] from Sh. So. 1,000 to 10,000.

2. - Both the punishments shall apply and proceedings shall be initiated by the State, where the act is committed by more than five persons, of whom at least one is openly armed, or by more than ten persons, even though unarmed [541 P.C.J].

ART. 490. (*Violent Disturbance of the Possession of Immovable Property*). - 1. - Whoever, in cases other than those referred to in the preceding article, disturbs, with violence against the person or with threats, the peaceful possession of another over any immovable property, shall be punished with imprisonment [96 P.C.] up to two years and with fine [97 P.C.] from Sh. So. 1,000 to 3,000.

2. - The act shall be deemed to have been committed with violence or threats where it is committed by more than ten persons.

ART. 491. (*Damage to Property*). - 1. - Whoever destroys, disperses, spoils or renders wholly or partly unserviceable the movable or immovable property [24 Const.J] of another, shall be punished, on the complaint of the party injured [81 P.C.], with imprisonment [96 P.C.] up to one year and with fine [97 P.C.] up to Sh. So. 3,000.

2. - The punishment shall be imprisonment [96 P.C.] from six months to three years and proceedings shall be initiated by the State [81 P.C.], where the act is committed :

a) with violence against the person or with threats;

b) by employers of labour on the occasion of lock-outs [390' P.C.], or by workers on the occasion of strikes [390' P.C.], or on the occasion of any of the crimes referred to in Articles 256, 257 and 259;

c) upon public buildings or buildings intended for public use,

or for the worship of a religious body, or upon movable properties specified in letter (g) of article 481;

d) upon works intended for irrigation;

e) upon plantations of trees or fruit-bearing shrubs, or upon woods, thickets or forests, or upon nurseries intended for re-afforestation purposes.

ART. 492. (*Trespass by Animals*). - 1. - Whoever takes animals in flocks or herds into another person's property, or leaves them there, shall be punished with fine [97 P.c.] from Sh. So. 100 to 1,000.

2. - Where the animals, though not in flocks or herds, are taken into or left with the intention of making them graze on another person's property, the punishment shall be imprisonment [96 P.C.] up to one year or fine [97 P.C.] from Sh. So. 200 to 2,000.

3. - Where the grazing takes place, or the land is damaged [491 C.P.] as a result of the animals being taken into it or being left thereon, the offender shall be punished with imprisonment [96 P.C.] up to two years and with fine [97 P.C.] from Sh. So. 500 to 5,000.

ART. 493. (*Wrongful Entry Upon Enclosed Property*). - Whoever enters the property of another [24 Const.] which is surrounded by a diicht, hedge or other permanent boundary, shall be punished, on the complaint of the party injured [81 P.C.], with fine [97 P.C.] up to Sh. So. 1,000.

ART. 494. (*Killing or Injuring of Animals*). - 1. - Whoever, without necessity, kills or renders useless, or in any manner impairs the value of animals belonging to another, shall be punished, on the complaint of the party injured [81 P.C.], with imprisonment [96 P.C.] up to one year or with fine [97 P.C.] up to Sh. So. 3,000.

2. - Where the act is committed upon three or more head of cattle assembled in a flock or a herd, or upon bovine or equine animals or camels, even though not in a herd, the punishment shall be imprisonment [96 P.C.] from six months to four years and proceedings shall be initiated by the State [81 P.C.].

ART. 495. (*Disfigurement and Contamination of Property*). - Whoever, other than in the cases referred to in Article 491, disfigures or contaminates movable or immovable property belonging to another, shall be punished, on the complaint of the party injured [81 P.C.], with fine [97 P.C.] up to Sh. So. 1,000.

CHAPTER II: CRIMES AGAINST PROPERTY BY FRAUD

ART. 496. (*Cheating*). - Whoever, by deceit or subterfuge, leads another into error and obtains for himself or another a wrongful gain to the detriment of another, shall be punished with imprisonment [96 P.C.] from six months to three years and with fine [97 P.C.] from Sh. So. 500 to 10,000.

2. - The punishment shall be imprisonment [96 P.C.] from one to five years and fine [97 P.C.] from Sh. So. 3,000 to 15,000:

a) where the act is committed to the detriment of the State or of any public Body, or under the pretext of securing exemption for anyone from military service;

b) where the act is committed by inducing in the party injured the fear of an imaginary danger or an erroneous belief of having to comply with an order of the Authorities.

ART. 497. (*Fraudulent Insolvency*). - Whoever, by concealing his state of insolvency, contracts an obligation with the intention of not performing it, shall be punished, in the event of the obligation not being performed, and on the complaint of the party injured [81 P.C.], with imprisonment [96 P.C.] up to two years or with fine [97 P.C.] up to Sh. So. 5,000.

2. - The performance of the obligation before conviction shall extinguish the crime.

ART. 498. (*Issuing Cheques Which Will Not Be Honoured*). - Whoever issues a cheque when he has not funds or when the funds are not sufficient, or withdraws wholly or in part the funds after issuing the cheque, so that the availability of funds becomes insufficient to honour the cheque, shall be punished, where the act does not constitute a more serious offence, with fine [97 P.C.] up to Sh. So. 2,000.

ART. 499. (*Fraudulent Destruction of One's Own Property and Fraudulent Self-Mutilation*). - 1. - Whoever, for the purpose of securing for himself or another the amount of an insurance against accidents, destroys, disperses, spoils or conceals any property belonging to himself, shall be punished with imprisonment [96 P.C.] from six months to three years and with fine [97 P.C.] up to Sh. So. 10,000.

2. - Whoever with the aforesaid object, causes hurt [440 P.C.] to himself, or renders more serious the consequences of a hurt resulting from an accident, shall be liable to the same punishment.

3. - Where the offender attains his object, the punishment shall be increased [118 P.C.].

4. - The provisions of this article shall also apply if the act is committed abroad [4 P.C.], to the prejudice of a Somali insurer carrying on business in the territory of the State [4 P.C.], but the crime shall be punishable on the complaint of the party injured [81 P.C.].

ART. 500. (*Undue Influence on Persons Under Disability*). - Whoever, in order to secure a gain for himself or another, taking advantage of the needs, passions or inexperience of a person under 14 years of age, or taking advantage of the state of mental infirmity or deficiency of another, although the latter is not interdicted or declared to be a person under disability, induces him to to any act which has any legal effect detrimental to him or another, shall be punished with imprisonment [96 P.C.] from two to six years and with fine [97 P.C.] from Sh. So. 2,000 to 20,000.

Art. 501. (*Usury*). - 1. - Whoever, other than in the cases referred to in the preceding article, taking advantage of the state of need of another, causes that person, in consideration of a loan of money or other movable property, to give or promise him, under any form whatsoever, for himself or another, usurious interest or other benefits, shall be punished with imprisonment [96 P.C.] up to two years and with fine [97 P.C.] from Sh. So. 1,000 to 20,000.

2. - Whoever, other than in the cases referred to in the preceding paragraph, obtains for a person in a state of need a sum of money or other movable property, by securing a gift or promise to himself or another of an usurious reward as the price of the negotiation, shall be liable to the same punishment.

Art. 502. (*Misappropriation*). - 1. - Whoever, in order to secure for himself or another a wrongful gain, appropriates money or any movable property belonging to another of which he comes into possession, under any title whatsoever, shall be punished, on the complaint of the party injured [81 P.C.], with imprisonment [96 P.C.] up to three years and with fine [97 P.C.] up to Sh. So. 10,000.

2. - Where the act is committed in respect of properties held by way of necessary deposit, the punishment shall be increased.

3. - Proceedings shall be initiated by the State where the circumstance specified in the preceding paragraph or any of the circumstances specified in letter (k) of Article 39 exist.

Art. 503. (*Misappropriation of Articles Lost, Treasure Trove, or Articles Obtained Through Error or Chance*). - 1. - Imprisonment [96 P.C.] up to one year or fine [97 P.C.] from Sh. So. 300 to 3,000 shall be imposed, on the complaint of the party injured [81 P.C.] any person who:

a) having found money or any movable property lost by others, appropriates it without observing the directions of the civil law regarding the acquisition of ownership of movable properties found;

b) appropriates movable properties of which he has come into possession through the mistake of another or by chance;

c) having found a treasure, appropriates, wholly or in part, the share due to the owner of the land.

2. - In the cases referred to in letters (a) and (b) of the preceding paragraph, if the offender knew the owner of the property which he appropriated, the punishment shall be imprisonment [96 P.C.] up to two years and fine [97 P.C.] up to Sh. So. 3,000.

Art. 504. (*Receiving*). - 1. - Whoever, other than in the cases of participating in the crime, for the purpose of securing for himself or another a wrongful gain, knowing that it is a stolen property, purchases, receives or conceals money or property in respect of which a crime has been committed, or in any manner takes part in causing them to be purchased, received or concealed, shall be punished with imprisonment [96 P.C.] up to six years or with fine [27 P.C.] up to Sh. So. 20,000.

2. - The provisions of this article shall also apply when the crime in respect of the money or property was committed by a person not chargeable [47 P.C.] nor punishable.

BOOK III

CONTRAVENTIONS

PART I

CONTRAVENTIONS RELATING TO PUBLIC ORDER AND PUBLIC TRANQUILITY

Art. 505. (*Non-Observance of Orders of the Authorities*). - Whoever fails to observe an order lawfully given by any public Authority, in the interests of justice, public security, public order or hygiene, shall be punished, where the act does not constitute a more serious offence, with imprisonment [98 P.C.] up to three months or with fine [99 P.C.] up to Sh. So. 3,000.

Art. 506. (*Refusal to Give Particulars Regarding One's Personal Identity*). - Whoever, on being requested by a public officer [240 a, P.C.] in the performance of his duties, refuse to give particulars regarding his personal identity, status, or other personal capacity, shall be punished with imprisonment [98 P.C.] up to one month or with fine [99 P.C.] up to Sh. So. 1,000.

Art. 507. (*Refusal to Lend Assistance on the Occasion of a Riot*). - 1. - Whoever, on the occasion of a riot or a public disaster or a common danger, or during the commission of an offence, refuses, without just reason, to lend aid or assistance or to give the information or particulars requested of him by a public officer [240 a, P.C.] or by a person entrusted with a public service [240 b, P.C.] in the performance of the duties or the service, shall be punished with imprisonment [98 P.C.] up to three months or with fine [99 P.C.] up to Sh. So. 3,000.

2. - Where the offender supplies inaccurate information or particulars, he shall be punished with imprisonment [98 P.C.] from one to six months or with fine [99 P.C.] from Sh. So. 300 to 6,000.

Art. 508. (*Formation of Armed Bodies not Intended for the Commission of Offences*). - Whoever, without authorisation, forms an armed Body not intended for the commission of offences, shall be punished with imprisonment [98 P.C.] up to one year [v. 322 P.C.]..

Art. 509. (*Seditious Cries and Manifestations*). - Whoever, at a meeting not to be deemed private according to letter (c) of paragraph 4 of article 209, or in a public place or a place open or exposed to the

public, makes seditious manifestations or utters seditious cries, shall be punished, where the act does not constitute a more serious offence, with imprisonment [98 P.C.] up to one year.

Art. 510. (*Seditious Assembly*). - 1. - Whoever takes part in a seditious assembly of ten or more persons, shall be punished, for the act of such participation, with imprisonment [98 P.C.] up to one year.

2. - Where the person who takes part in the assembly is armed [541 P.C.], the punishment shall be imprisonment for not less than six months.

3. - Whoever, before an order given by any public Authority, or in compliance therewith, withdraws from the assembly, shall not be punishable.

Art. 511. (*Cries or News Capable of Disturbing Public or Private Tranquillity*). - Whoever, for the purpose of selling or distributing papers or drawings in a public place or a place open or exposed to the public, announces or shouts news, whereby public or private tranquillity may be disturbed, shall be punished with fine [99 P.c.] up to Sh. So. 1,000.

Art. 512. (*Disturbing the Occupations or the Repose of Individuals*). - Whoever, by shouting or noises, or by the misuse of sound producing instruments or acoustic signals, or by causing or not hindering loud noises from animals, disturbs the occupations or the repose of individuals, or public performances, gatherings or entertainment, shall be punished with imprisonment [98 P.C.] up to three months or with fine [99 P.c.] up to Sh. So. 3,000.

2. - Fine [99 P.C.] from Sh. So. 1,000 to 5,000 shall be imposed on a person who exercise a noisy profession or craft, in defiance of any prohibition contained in any provision of law or order of the authorities.

Art. 513. (*Molestation or Disturbance of Individuals*). - Whoever, in a public place open to the public, or by means of the telephone, wantonly or with any improper motive [24' P.C.], causes molestation or disturbance to anyone, shall '0e punished with imprisonment [98 P.C.] up to six months or with fine [99 P.C.] up to Sh. So. 5,000.

Art. 514. (*Abusing the Credulity of the Public*). - Whoever, in public seeks by any kind of imposture, eventhough done for no reward, to abuse the credulity of the public, shall be punished, where the act is capable of resulting in the disturbance of the public order [22 P.C.], with imprisonment [98 P.C.] up to three months or with fine [99 P.c.] up to S^h. S^o. 10,000.

Art. 515. (*Wrongful Exercise of the Typographic Art*). - Whoever, without a licence from the Authorities, or without observing the directions of the law, exercises the typographi~, lithographic, photograhic or any other art for printing or for mechanical or chemical reproduction in several copies, shall be punished with imprisonment [98 P.c.] up to six months or with fine [99 P.C.] from Sh. So. 300 to 5,000.

Art. 516. (*Wrongful Sale, Distribution or Posting of Papers or Drawings*). - 1. - Whoever, in a public place or a place open to the public, sells or distributes or in any manner places in circulation papers or drawings, without having obtained the authorisation required by the law, shall be punished with fine [99 P.C.] up to Sh. So. 500.

2. - Whoever, without a licence from the Authority, in a public place or a place open or exposed to the public, affixes papers or drawings, or makes use of luminous or acoustic means for making communications to the public, or in any way puts up inscriptions or drawings, shall be liable to the same punishment.

Art. 517. (*Destruction or Defacement of Posters*). - 1. - Whoever detaches, tears or in any manner renders unserviceable or illegible posters or drawings which have been affixed by the Authorities, shall be punished with fine [99 P.C.] up to Sh. So. 3,000.

2. - In the case of papers or drawings which private individuals have caused to be affixed in the places and in the manner allowed by the law or the Authorities, the punishment shall be fine [99 P.C.] up to Sh. So. 1,000.

Art. 518. (*Unauthorised or Prohibited Business Agencies and Public Trading Concerns*). - 1. - Whoever, without a licence from the Authorities, or without a prior declaration to the latter, when such licences or declarations are required, opens or conducts business agencies or public establishments or concerns, or against payment affords lodging to persons or receives them as boarders or as patients for treatment, shall be punished with imprisonment [98 P.C.] up to six months or with fine [99 P.C.] up to Sh. So. 5,000.

2. - Where the licence has been refused, revoked or suspended, the punishments of imprisonment and fine shall be imposed together.

3. - Where the permit has been obtained and there is a failure to comply with the other directions of the law or the Authorities, the punishment shall be imprisonment [98 P.C.] up to three months or fine [99 P.C.] up to Sh. So. 3,000.

Art. 519. (*Public Performances or Entertainments Without Licence*). - 1. - Whoever, without a licence from the Authorities, in a public place or a place open or exposed to the public, gives performances or entertainments of any nature whatsoever, or opens clubs or dancing or concert halls, shall be punished with fine [99 P.C.] from Sh. So. 100 to 5,000.

2. - Where the licence has been refused, revoked or suspended, the punishment shall be imprisonment [98 P.C.] up to one month.

Art. 520. (*Wrongful Performance of Acts Intended for Reproduction by the Cinematograph*). - 1. - Whoever causes to be performed in a public place or a place open or exposed to the public acts intended for reproduction by the cinematograph, without having given prior notice thereof to the Authorities, shall be punished with fine [99 P.C.] from Sh. So. 1,000 to 5,000.

2. - Whoever manufactures, introduces into the territory of the State [4' P.C.], or exports, or in any manner deals in cinematographic films, without having given prior notice thereof to the Authorities, shall be liable to the same punishment.

3. - Where any of the acts referred to in the foregoing provisions is committed in defiance of the prohibition of the Authorities, the punishment shall be imprisonment [98 P.C.] up to one month.

ART. 521. (*Wrongful Theatrical or Cinematographic Performances*).

1. - Whoever recites in public dramas or other works, or gives in public theatrical representations of any kind, without first having given information thereof of the Authorities, shall be punished with imprisonment [98 P.C.] up to six months or with fine [99 P.C.] up to Sh. So. 3,000.

2. - Whoever causes to be shown in public cinematographic films which have not been previously submitted for censorship to the Authorities shall be liable to the same punishment.

3. - Where the act is committed in defiance of the prohibition of the Authorities, the punishments of fine and imprisonment shall be imposed together.

4. - The act shall be deemed to be committed in public where any of the circumstances referred to in letters (b) and (c) of paragraph 4 of article 209 exists.

ART. 522. (*Wrongful Exercise of Itinerant Callings*).

1. - Whoever carries on an itinerant calling without a licence from the Authorities or without observing the other regulations prescribed by the law, shall be punished with imprisonment [98 P.C.] up to two months or with fine [99 P.C.] from Sh. So. 50 to 1,000.

2. - A parent or guardian who employs in itinerant callings a young person under the age of 14 years without having obtained a licence or observed the other provisions of the law, shall be liable to the same punishment.

3. - The punishment shall be imprisonment [98 P.C.] from one to four months or fine [99 P.C.] from Sh. So. 100 to 2,000 and police surveillance [178 P.C.] may be ordered;

a) where the act is committed in defiance of the prohibition of the Authorities;

b) where the person who carries on, without authorisation, the itinerant calling has previously been sentenced to a detentive punishment [91' P.C.] for a crime which is not committed with *culpa* [24 a, b P.C.].

ART. 523. (*Begging*).

1. - Whoever, not being in a position of grave need, begs in a public place or a place open to the public, shall be punished with imprisonment [98 P.C.] up to three months.

2. - The punishment shall be imprisonment [98 P.C.] from one to six months, where the act is committed in a repugnant or vexatious manner, or by a pretended deformity or disease, or by the use of fraudulent means in order to excite the compassion of others.

Art. 524. (*Failure to Exercise Custody and Detective Control of Animals*). - 1. Whoever leaves at large, or does not guard with due precautions dangerous animals in his possession, or entrusts their care to an inexperienced person, shall be punished with imprisonment [98 P.C.] up to three months or with fine [99 P.C.] up to Sh. So. 3,000.

2. - The same punishment shall be imposed on anyone who:

a) in open places, leaves unattended animals which are used for drawing, carrying or racing or in any manner leaves them unguarded, even though they are not let loose, or tethers them or drives them in such a manner as to endanger public safety, or entrusts them to an inexperienced person;

b) excites or frightens animals in such a manner as to imperil the safety of individuals.

Art. 525. (*Failure to Place or Removal of Signals or Means of Protection*). - 1. - Whoever omits to place the signals or measures of protection prescribed by the law or the Authorities to avoid danger to persons in a place of public transit, or removes the aforesaid signals or protections, or extinguishes lamps placed as signals, shall be punished with imprisonment [98 P.C.] up to three months or with fine [99 P.C.] up to Sh. So. 5,000.

2. - Where the act does not constitute a more serious offence, the same punishment shall be imposed, on any person who removes devices or signals other than those specified in the foregoing provision and intended for a public service or a service of public necessity, or extinguishes lamps used for public lighting.

Art. 526. (*Dangerous Throwing of Articles*). - Whoever, in a place of public transit, or in a private place used jointly with or by others, throws or pours matter capable of injuring, soiling or molesting persons, or in cases not permitted by law, causes the emission of gas, steam or smoke likely to cause the above results, shall be punished with imprisonment [98 P.C.] up to one month or with fine [99 P.C.] up to Sh. So. 2,000.

Art. 527. (*Dangerous Placing of Articles*). - Whoever, without due precautions, places or suspends articles which, by falling in a place of public transit or a private place used jointly with or by others, may injure, soil or molest persons, shall be punished with fine [99 P.C.] up to Sh. So. 1,000.

Art. 528. (*Collapse of Buildings or Other Constructions*). - 1. - Whoever has taken part in the planning or work relating to a building or other construction which subsequently collapses through his fault, shall be punished with fine [99 P.C.] of not less than Sh. So. 1,000.

2. - Where the act results in danger to individuals, the punishment

shall be imprisonment [98 P.C.] up to six months or fine [99 P.C.] of not less than Sh. So. 3,000.

Art. 529. (*Failure to Perform Work on Buildings or Constructions Which Threaten to Collapse*). - 1. - The owner of a building or construction which threatens to collapse, or the person who is obliged on the former's behalf to preserve or watch over the building or construction, who fails to provide the work necessary to abate the danger, shall be punished, where the act does not constitute a more serious offence, with fine [99 P.C.] of not less than Sh. So. 1,000.

2. - Whoever, being under the same obligation, fails to abate danger caused by a collapsed building or construction, is liable to the same punishment.

3. - If any person is endangered in consequence of the acts provided for in the preceding provisions the punishment shall be imprisonment [98 P.C.] up to six months or fine [99 P.C.] not less than Sh. So. 3,000.

Art. 530. (*Unlawful Manufacture of and Trade in Explosive Materials*). - Whoever, without a licence from the Authorities or without the prescribed precautions, manufactures, or introduces into the State, or holds in stock, or sells or transports explosive materials or substances intended for the composition or manufacture of the same, shall be punished with imprisonment [98 P.C.] up to six months and with fine [99 P.C.] up to Sh. So. 2,000.

Art. 531. (*Failure to Declare Explosive Materials*). - 1. - Whoever omits to declare to the Authorities that he holds explosive materials of any description, or inflammable materials which are dangerous owing to their quality or quantity, shall be punished with imprisonment [98 P.C.] up to four months or with fine [99 P.C.] up to Sh. So. 3,000.

2. - Whoever, having knowledge that in a place inhabited by him there are explosive materials, fails to declare the same to the Authorities, shall be liable to fine [99 P.C.] up to Sh. So. 2,000.

3. - In the event of infringement of an order lawfully given by the Authorities to hand over, within the prescribed periods, the explosive materials, the punishment shall be imprisonment [98 P.C.] from one month to one year or fine [99 P.C.] from Sh. So. 300 to 5,000.

Art. 532. (*Aggravating Circumstances*). - The punishment for the contraventions referred to in the two preceding articles shall be increased [118 P.C.] where the act is committed by any of the persons to whom the law prohibits the grant of a licence, or where the same has been refused or withdrawn.

Art. 533. (*Unlawful Opening of Places of Public show or Entertainment*). - Whoever opens or keeps open places of public show, entertainment or resort, without having observed the regulation of the Authorities for the protection of public safety, shall be punished with imprisonment [98 P.C.] up to six months and with fine [99 P.C.] of not less than Sh. So. 1,000.

PART III

CONTRAVENTIONS CONCERNING THE PREVENTION OF CERTAIN CASES OF OFFENCES

Art. 534. (*Unauthorised Entry Into Places Where Admittance is Forbidden in the Military Interest of the State*). - Whoever enters places, access to which is prohibited in the military interest of the State, shall be punished, where the act does not constitute a more serious offence, with imprisonment [98 P.C.] from three months to one year, or with fine [99 P.C.] from Sh. So. 3,000.

Art. 535. (*Holding of Illegal Measures or Weights*). - 1, - Whoever, in the exercise of commercial activities, or in an establishment for sale open to the public, holds measures or weights different from those prescribed by law, or employs measures or weights without observing the directions of the law, shall be punished with fine [99 P.C.] from Sh. So. 100 to 2,000 [364 P.C.].

2. - Where the offender has previously been convicted in respect of crimes against property [480-504 P.C.], public faith [348-386 P.C.] or public economy, industry or commerce [387-397 p.e], or other crimes of the same nature [63 P.C.], may be placed under Police surveillance [178 P.C.].

Art. 536. (*Refusal of Coins Which are Legal Tender*). - Whoever refuses to receive, for their value, coins which are legal tender in the State, shall be punished with fine [99 P.C.] up to Sh. So. 300.

Art. 537. (*Failure to Deliver up Coins Recognised as Counterfeit*). - Whoever, having received as genuine counterfeit or altered coins to an aggregate value of not less than Sh. So. 20, does not deliver them up to the authorities within three days from the date on which he becomes aware of the falsity or alteration, together with a statement of the source if he knows the same, shall be punished with fine [99 P.C.] up to Sh. So. 2,000 [349, 350 p.e].

Art. 538. (*Unauthorised Publication of Documents or Information Relating to Criminal Proceedings*). - Whoever, where prohibited by law, publishes, wholly or in part, even by way of a summary, deeds or documents forming part of a criminal proceedings, or names of Judges with a statement of the individual votes attributed to them in the deliberations held in a criminal case, shall be punished with fine [99 P.C.] up to Sh. So. 1,000.

Art. 539. (*Failure to Keep Arms in Custody*). - A person shall be punished with fine [99 P.C.] up to Sh. So. 1,000 even though he has a licence to carry arms, where he:

a) delivers arms [541 p.e] to, or allows them to be carried by, a person below 14 years of age, or anyone incapable or inexperienced in the handling of arms;

b) neglects to adopt, in keeping arms [541 P.C.], precautions sufficient to prevent any of the persons mentioned in the preceding letter from easily acquiring possession of them;

c) carries a loaded gun in a place where there is an assembly or throng of people.

Art. 540. (*Dangerous Ignitions and Explosions*). - 1. - Whoever without a licence from the Authorities, in an inhabited place or in proximity thereto or along a public road or in the direction of the same, discharges firearms [541 P.C.], ignites fireworks, throws squibs or sends up air balloons with flames, or, in general, makes dangerous ignitions or explosions, shall be punished with fine [99 P.C.] up to Sh. So. 1,000.

2. - Where the act is committed in a place where people are assembled, the punishment shall be imprisonment [98 P.C.] up to one month.

Art. 541. (*Arms*). - For the purpose of Penal law "arms" means:

a) firearms and any other arms which are intended to cause injury to persons;

b) any instruments of attack, which are forbidden to be carried or which can be carried only for justifiable reasons;

c) bombs, any machine or case containing explosive materials, and asphyxiating or blinding gas.

Art. 542. (*Unjustified Possession of Altered Keys or Pick-Locks*).

— Whoever, having been convicted for crimes actuated by motives of wrongful gain, or for contraventions relating to the prevention of crimes against property [480-504 P.C.], or of begging, or having been admonished or subjected to a measure of personal security, is apprehended in possession of altered or false keys, or genuine keys or instruments suitable for opening or forcing locks, without being able to prove the purpose for which he has them, shall be punished with imprisonment [98 P.C.] from six months to two years.

Art. 543. (*Unjustified Possession of Valuables*). -

Whoever, being in any of the personal conditions referred to in the preceding article, is apprehended in possession of money or articles of value, or other articles, not in keeping with his status, and without being able to show legitimate possession thereof, shall be punished with imprisonment [98 P.C.] from three months to one year.

Art. 544. (*Unjustified Possession of Animals*). -

Whoever is found in possession of camels, cattle or mules which may be suspected to have been stolen, and is not able to justify the legitimacy of the possession thereof, shall be punished with imprisonment up to one year or with fine [99 P.C.] up to Sh. So. 1,000.

Art. 545. (*Failure to Declare Articles Which Are Stolen Property*).

— Whoever, having received money or purchased or in any manner come into possession of articles which are stolen property, without being aware

of the source thereof, fails, after obtaining knowledge of the same, to declare them immediately to the Authorities, shall be punished with imprisonment [98 P.C.] up to six months or with fine [99 P.c.] up to Sh. So. 5,000.

ART. 546. (*Sale or Delivery of Keys or Pick-Locks to an Unknown Person*). - Whoever manufactures keys of any description, at the request of a person other than the owner or possessor of the place or object for which the keys are intended, or of an agent of the said persons, or, in the exercise of the craft of blacksmith, or other similar craft, delivers or sells to any person whatsoever pick-locks or other instruments suitable for opening or forcing locks, shall be punished with imprisonment [98 P.C.] up to six months and with fine [99 P.C.] from Sh. So. 100 to 1,000.

ART. 547. (*Unauthorised Opening of Places or Objects*). - Whoever, in the exercise of the craft of blacksmith, or other similar craft, opens locks or other similar devices affixed for the protection of a place or object, at the request of a person not known to him as the owner or possessor of the place or object, or as an agent of these persons, shall be punished with imprisonment [98 P.c.] up to three months and with fine [99 P.C.] up to Sh. So. 2,000.

ART. 548. (*Purchase of Articles Suspected to be Stolen property*). -
1. - Whoever, purchases or receives, under any pretext whatsoever, articles which, by their quality, or by the condition of the person who offers them, or by the amount of their price, may be suspected to be stolen property without first ascertaining whether or not the person from whom the property is purchased or received had lawful possession, shall be punished with imprisonment [98 P.c.] up to six months or with fine [99 P.C.] of not less than Sh. So. 100 [504 P.C.].

2. - Whoever endeavours to have any of the above mentioned articles bought by another, or receives them in any manner whatsoever, shall be subject to the same punishment.

ART. 549. (*Failure to Retain in Custody or Unauthorised Custody of Persons of Unsound Mind or Minors in Asylums or Reformatories*). -

1. - Whoever, without an order or authorisation from the Authorities, receives in an establishment for treatment a person declared to be of unsound mind, or receives a person under age in a public reformatory, shall be punished with fine [99 P.c.] from Sh. So. 300 to 3,000.

2. - The same punishment shall apply whenever, no order or authorisation being required, anyone receives in an establishment for treatment a person of unsound mind, and fails to give notice to the Police Authorities.

3. - Whoever, without complying with the provisions of law, discharges from one of the above-mentioned establishments a person who is lawfully lodged therein, shall be liable to imprisonment [98 P.C.] up to six months or to fine [99 P.C.] from Sh. So. 300 to 5,000.

Art. 550. (*Failure to Retain in Private Custody or Unauthorised Private Custody of Persons of Unsound Mind*). — 1. - Whoever, other than in the case referred to in paragraph 2 of the preceding article, without authorisation receives in custody persons of unsound mind, shall be punished with imprisonment [98 P.C.] up to three months or with fine [99 P.C.] from Sh. So. 100 to 2,000.

2. - Whoever fails to observe the obligations inherent in the custody of the persons referred to in the foregoing provision shall be liable to the same punishment.

Art. 551. (*Failure to Notify the Authorities of the Escape or Flight of Persons of Unsound Mind or Minors*). - 1. - A public officer [240 P.C.] or a person belonging to the staff of an establishment for the execution of punishments [90 P.C.] or security measures [172 P.C.], or of an establishment for treatment, or of a public reformatory, who omits to give immediate notice to the Police Authorities of the escape [305 P.C.] or flight of a person detained or lodged there, shall be punished with fine [99 P.C.] from Sh. So. 100 to 2,000.

2. - The same provision shall apply to any person to whom, by law or order of the Authorities, a person has been entrusted for the purpose of custody or supervision.

Art. 552. (*Failure to Declare Dangerous Mental Infirmities*). - 1. - Whoever, in the exercise of a medical profession, having attended or examined a person of unsound mind who proves or is suspected to be dangerous to himself or to others, fails to give information of the case to the judicial Authorities, shall be punished with fine [99 P.C.] from Sh. So. 300 to 3,000.

3. - The same provision shall apply where the person attended or examined is afflicted by chronic intoxication caused by alcohol or stupefying substances [57 P.C.].

PART IV

CONTRAVENTIONS RELATING TO MORALS AND DECENCY

Art. 553. (*Conduct of Games of Change*). - Whoever, in a public place or a place open to the public, or in private clubs of any kind, holds or facilitates the conduct of a game of change [556 P.C.], shall be punished with imprisonment [98 P.C.] from three months to one year and with fine [99 P.C.] of not less than Sh. So. 2,000.

Art. 554. (*Aggravating Circumstances*). - The punishment for the offence referred to in the preceding article shall be doubled:

- a) where the offender has established or kept a gaming house [556 P.C.];
- b) where the act is committed in a public establishment;
- c) where heavy stakes are engaged in the game;

e) where among the persons who take part in the game there are persons under the age of 14 years.

Art. 555. (*Participation in Games of Change*). - 1. - Whoever, in a public place or a place open to the public, or in private clubs of any kind, without having been a party to the contravention referred to in article 553, is apprehended while taking part in a game of change [556 P.C.), shall be punished with imprisonment [98 P.C.) up to six months or with fine [99 P.c.) up to Sh. So. 5,000.

2. - The punishment shall be increased [118 P.C.):

a) where the offence is detected by surprise inspection in a gaming house or in a public establishment;

b) where the game is played for high stakes.

Art. 556. (*Essential Elements of a Game of Change; Gaming House*). - For the purposes of the preceding provisions:

a) games of chance are those which are played with the object of gain and in which success or failure is entirely or nearly entirely dependent on chance;

b) a gaming house is a place where people meet for the purpose of games of change, even though the object of the game is disguised in any form whatsoever.

Art. 557. (*Confiscation*). - In the cases referred to in articles 553, 554 and 555, an order shall be made for the confiscation [182 P.C.) of the money staked on the game and of the implements or objects intended for the same.

Art. 558. (*Unlawful Holding of Games not of Chance*). - 1. - Whoever, being authorised to keep a billiards room, permits the playing of a game which is not a game of change [556 P.C.), but is nevertheless forbidden by the Authorities to be played there, shall be punished with fine [99 P.C.) up to Sh. So. 1,000.

2. - In the cases referred to in letters (c) and (d) of article 554, the punishment shall be imprisonment [98 P.C.) up to three months or fine [99 P.C.) from Sh. So. 500 to 5,000.

3. - In the case of a person who is apprehended while taking part in the game, the punishment shall be fine up to Sh. So. 500.

Art. 559. (*Blasphemy and Offensive Acts Towards the Dead*). -

1. - Whoever publicly blasphemes, with invectives or insulting words, the Deity or the symbols or the person venerated in the religion of the State, [I Const.), shall be punished with fine [99 P.C.) from Sh. So. 100 to 3,000.

2. - Whoever publicly commits any offensive acts towards the dead, shall be subject to the same punishment.

Art. 560. (*Trade in Writings, Drawings or Other Articles Contrary to Public Decency*). - Whoever exhibits to the public view or, in a public place or a place open to the public, offers for sale or distributes

writings, drawings or any other figurative object offensive to public decency, shall be punished with fine [99 p.e.] from Sh. So. 100 to 1,000 [403 P.C.].

ART. 561. (*Acts Contrary to Public Decency; Foul Language*). -

1. - Whoever, in a public place or a place open or exposed to the public, performs acts contrary to public decency, shall be punished with imprisonment [98 P.C.] up to one month or with fine [99 P.C.] up to 2,000 [402 p.e.].

2. - Whoever, in a public place or a place open to the public, uses language contrary to public decency, shall be liable to fine [99 p.e.] up to Sh. So. 500.

ART. 562. (*Cruelty to Animals*). -

1. - Whoever uses cruelty to animals or, without necessity, subjects them to excessive labour or to torture, or employs them in work for which they are unsuitable owing to illness or age, shall be punished with fine [99 P.C.] up to Sh. So. 3,000.

2. - Whoever, even though solely for scientific or educational purposes, in a public place or a place open or exposed to the public, subjects living animals to experiments of such a nature as to arouse disgust, shall be liable to the same punishment.

3. - The punishment shall be increased [118 p.e.] where the animals are employed in games or public shows, entailing torture or cruelty.

PART V

CONTRAVENTION AGAINST PUBLIC HEALTH

ART. 563. (*Treatment Capable of Depriving Another of Consciousness or Will*). -

1. - Whoever puts another person, with the latter's consent, in a state of stupefaction or hypnotism, or subjects him to a treatment which deprives him of his consciousness or will, shall be punished, where the act results in danger to the person's safety, with imprisonment [98 P.C.] from one to six months or with fine [99 P.C.] from Sh. So. 300 to 5,000 [458 P.C.].

2. - This provision shall not apply where the act is committed for a scientific or curative purpose by a person practising a medical profession.

ART. 564. (*Abuse of Stupefying Substances*). -

Whoever, in a public place or a place open to the public, or in private clubs of any kind, is apprehended in a state of serious mental unbalance owing to use of stupefying substances, shall be punished with imprisonment [98 P.C.] up to six months or with fine [99 P.C.] up to Sh. So. 2,000 [416 P.C.].

ART. 565. (*Supply of Poisonous or Harmful Substance to Minors*). -

Whoever, being authorised to sell or trade in medicinal products, delivers to a person under the age of 14 years poisonous or harmful substances, even on a medical prescription, shall be punished with fine [99 P.C.] up to Sh. So. 5,000.