

A CODE  
OF THE CRIMINAL LAW  
OF PALESTINE

E. D. GORDON



משרד המשפטים  
הספריה 3871

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הספרייה  
3871

A CODE OF THE CRIMINAL LAW OF PALESTINE

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BY THE HONORABLE MR. J. H. COHEN

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IN PALESTINE

IGNORANTIA LEGIS NEMINEM EXCUSAT. NEMINEM OPORTET SAPIENTIER LEGIBUS ESSE.

A CODE OF THE CRIMINAL LAW OF PALESTINE

3871  
משרד המשפטים  
הרשם  
התביעה  
המרכזית  
בירושלים

# A CODE OF THE CRIMINAL LAW OF PALESTINE

A COMPILATION OF SUBSTANTIVE LAW

BY

E. D. GORDON, LL. B. (Lond.)

WITH A FOREWORD

BY

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PRINTED IN PALESTINE

משרד המשפטים  
הספרים

To The Memory  
of  
Five Gallant Officers  
of  
The Palestine Police,

Deputy Superintendent S. Schiff, M. B. E.,

Assistant Superintendent Halim Bey Basta,

and Inspectors

Nachum Goldman, Ahmad Naif, E. T. Burton.



## FOREWORD

by Michael Hogan, LL. B. (Hons.), B. A. (Hons.), Crown Counsel

THE COMPLEXITY of life to-day and the incessant demand for control have brought about a great increase in legislation, which in its turn has multiplied the problems, not only of those directly concerned with the law, but also of that important if mythical being, called "The man in the Street".

The state, in response to popular demand, has constantly increased its control over the activities of its subjects. In order to make this control effective, it has had to bring within the orbit of the criminal law many matters which previously enjoyed the freedom of mere propriety.

It has been an increasing problem for all of us, both those who have to enforce the criminal law and the great majority, whose sole desire is to keep away from the law courts, to know precisely what field is now covered by criminal sanctions. This short summary of criminal offences, prepared by Inspector Gordon of the Palestine Police Force, should be of great assistance in solving this problem.

It does not purport to cover the great field of war crimes or crimes created by emergency legislation. These, one hopes, will pass with the war into history. But it does cover crimes created by legislation of a permanent character. These are likely to remain with us, I am afraid, until human nature is greatly changed.

If, until that happy event comes to pass, Inspector Gordon's book serves, as I hope it will, to guide us with ease and confidence over this complex ground, it will have fully justified the energy and enterprise of its author.

Jerusalem, 1943.

Michael Hogan

משרד המשפטים  
הספרייה

## PREFACE

THIS COMPILATION is starting upon its career under the title of a Code, and criticism in this connection must be anticipated. It should suffice, perhaps, merely to remark that the volume is essentially a concise and, I trust, accurate summary of all criminal offences known to the Law of Palestine, so far as they have been created by ordinances. Ordinances, it may be observed, are the normal form of enactment of laws in Palestine (Royal Instructions, 'Laws of Palestine', p. 2663).

A feature of this work is what may be regarded as a nucleus, but no more than that, of a digest of Palestine Case Law, prepared with greater attention to Substantive Criminal Law, and in a lesser degree to Evidence, than to matters of Procedure. I refer to 'Summaries' of select judgments of the Supreme Court, forming Part Four of this Code.

Bearing in mind the deplorable lack of a text-book of the Criminal Law of Palestine, which this volume has no pretensions of being, I have appended to the principal parts some Notes, mainly for the benefit of students of the subject.

This class of persons should indeed be multitudinous, — and should certainly include members of my own profession, the Police Service; for, if 'Law is of the texture of our well-being' (as a famous Judge, Sir Henry Slessor, once said), the dictum is particularly true of the Law of Crime.

As learned Crown Counsel remarks in the Foreword, the ascertainment of the law in this branch has become somewhat laborious. To render it less so is the object of this work.



I take this opportunity to express my gratitude to the Chief Justice of Palestine, Mr. F. Gordon-Smith, K.C., for having kindly permitted to quote from the judgments of the learned Judges of the Supreme Court.

To Mr. M. J. Hogan, LL. B., B. A., Crown Counsel, but for whose generous encouragement and helping hand this volume might not see the light of day, I am indeed greatly indebted.

Mr. H. Baker, M. A., B. C. L., LL. B., the Legal Draftsman, has been good enough to peruse the proofs of a small part of this work, and I thank him for his helpful criticism.

My Chief, Lt.-Colonel A. T. Barker, M. C., Superintendent of Police at Haifa, has extended valued advice, for which I tender my thanks.

Space will not permit mentioning the numerous friends of the legal profession who have given wise counsel; but I must express my thanks to Mr. J. Salomon, the head of the Haifa office of Messrs. S. Horowitz & Co., Barristers-at-Law, and to his staff, for I feel that I have exploited their excellent library (and kindness) to the full.

The printers, Messrs. "OTH" Cooperative Printing Press, Haifa, had undertaken a difficult task in producing this book, and I wish to thank them for their unfailing courtesy and cooperation.

September, 1943.

E. D. G.

P.S. To keep the book up-to-date, supplements may have to be published from time to time, and I should be grateful if any inaccuracies or omissions, to exclude which I have made every effort, would be brought to my notice. Criticism will be welcome from all quarters.

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EXPLANATORY NOTE  
AND ABBREVIATIONS.

## THE LAW.

The law is stated as at September, 20th, 1943. Slight alterations effected in the law while the book was passing through the press are noted in 'Supplement', p. 229.

METHOD OF INDICATING CLASS OF OFFENCES AND PENALTIES.  
(Parts II & III).

Capital letters printed in thick type following the definitions of offences denote respectively:—

F. — Felony; M — Misdemeanor; C — Contravention.

Capital letters printed in ordinady type (following the aforementioned symbols) denote respectively:—

I. — Imprisonment for...; F. — Fine of..., and always indicate the maximum penalty applicable.

## REFERENCE TO CASES.

An asterisk (\*) denotes that a judgment of the Supreme Court of Justice, dealing with the section of the law, or Ordinance, so marked, is to be found in Part IV.

If an asterisk occurs in Part I or II, refer to Division I of Part IV, and find the judgment in question opposite the relevant section of the Criminal Code Ordinance shown in the margin. These sections are given in numerical order.

If an asterisk occurs in Part III, the relevant judgment (or judgments) will be found in Division II of Part IV, in which 'summaries' of judgments are given under the titles of Ordinances, in alphabetical order.

## METHOD OF CITING PALESTINE CASES.

See page 232.

## CRIMINAL CODE ORDINANCE (Part II).

A general note on this Ordinance is at page 32.

Definitions of expressions contained in Section 5 of the said Ordinance are to be found in Note 75 at pages 105—107.

Sections 90 and 91 of the Ordinance. Observe that the provisions of these sections (see page 42) have been applied to the whole of Palestine (with the exception of certain areas) by Order published in Palestine Gazette, Supplement No. 2, page 81, for the year 1937.



# STATUTORY PROVISIONS AS TO PROSECUTIONS AND STATUTORY DEFENCES.

These are invariably stated in Notes under the headings 'Prosecution' or 'Defences' in appropriate places in Parts II and III.

## INDEX.

With the exception of Companies Ordinance, sections of ordinances epitomised in Part III are not noted in the Index as it is more expeditious to find any particular provision by glancing at the words printed in the text in heavy type.

See also a Note to the Index.

## ABBREVIATIONS.

In addition to abbreviations explained in paragraph 2 (*supra*) the following are used in this Code :—

ag. — against;

AO. — Amending Ordinance;

AO. 37/37 — Criminal Code (Amendment) Ordinance No. 37 of 1937;

AO. 59/39 — Criminal Code (Amendment) Ordinance No. 59 of 1939;

Cap... — Chapter... of the 'Laws of Palestine';

Co., Cos. — company, companies;

C. C. O. or Cr. C. O. — Criminal Code Ordinance, 1936;

Cn. — Commission;

Cr. Pr.... O. — Criminal Procedure.... Ordinance;

drg. — during;

Gvt. — Government;

L. P. — Mr. Drayton's 'Laws of Palestine', 1934;

m., ms. — month, months;

o., os. — offence, offences;

O. — Ordinance;

p., ps. — person, persons (or page);

pvn., pvns. — provision(s);

r., rs. — rule(s);

Reg. — regulations;

S., SS. — section(s);

yrs. — years.

As to abbreviations used in citing cases, see p. 232.

## PART ONE

# INTRODUCTORY



## Felonies, Misdemeanours and Contraventions.

### A COMPARATIVE TABLE.

NOTE. All criminal offences (i. e., acts, attempts or omissions punishable by law — S. 5, C.C.O., 1936) are classified in the Criminal Code Ordinance, 1936, either as felonies, or as misdemeanours or contraventions. The definition of these classes of offences, which is to be found under head I of the Table (misdemeanours are described in the Ordinance as offences which are neither felonies nor contraventions), must be regarded as applicable to all offences known to the law of Palestine, — although most ordinances refer simply to offences. For example, the Criminal Procedure (Trial Upon Information) Ordinance, (S. 3 as amended by Ordinance No. 44 of 1939) specifically refers to felonies and misdemeanours 'within the meaning of the Criminal Code Ordinance, 1936.'

Considerable differences of procedure depend on this classification and, accordingly, in this book the class of offences is always indicated.

For convenience the principal differences have been summarised in the Table. Yet it is to be borne in mind that slight deviations from the rules stated in the Table exist in respect of some offences; but these are in most cases alluded to in Notes immediately after the definition of such offences in this Code.



Felonies	Misdemeanours	Contraventions
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### I. DEFINITION AND MAXIMUM PUNISHMENT.

Acts, attempts or omissions punishable with—

Death or imprisonment for more than three years.

(S. 5, C.C.O., 1936).

Imprisonment not exceeding three years, but exceeding one week; or if punishable with fine only, with a fine exceeding LP. 5, the maximum fine not to exceed LP. 100.

(SS. 5 & 47, C.C.O., 1936).

Acts or omissions punishable with imprisonment for not more than one week; or if punishable with a fine only, with a fine not exceeding LP. 5.

(S. 5, C.C.O., 1936).

NOTE. The capital offence of **TREASON** (SS. 49 & 50, C.C.O., 1936) should be treated as being *sui generis*, as in English Law, although it falls within the definition of 'felony' within the meaning of S. 5 C.C.O., 1936.

### II. ATTEMPTS.

Generally punishable with —

Half the maximum penalty prescribed for the completed offence unless:—

(a) the completed offence is punishable with death, when attempts are punishable with imprisonment for life;

(b) the completed offence is punishable with imprisonment for life, when attempts are punishable with imprisonment for ten years;

Half the period of imprisonment prescribed for the completed offence.

(S. 29, C.C.O., 1936).

Not punishable.

(S. 28, C.C.O., 1936).

Felonies	Misdemeanours	Contraventions
----------	---------------	----------------

or (c) the offence is attempted manslaughter, which is punishable with imprisonment for fourteen years.

(S. 29, C.C.O., 1936).

### III. CONSPIRACY TO COMMIT AN OFFENCE.

Punishable with imprisonment for a period —

not exceeding seven years.

(S. 34, C.C.O., 1936).

not exceeding two years.

(S. 35, C.C.O., 1936).

Not punishable.

(S. 28, C.C.O., 1936).

### IV. OFFENCES COMMITTED IN PROSECUTION OF A COMMON PURPOSE.

If an offence is committed which is a probable consequence of the prosecution of an unlawful purpose to execute which a common intention had been formed by two or more persons, each of such persons who is present at the commission of the 'resultant' offence is deemed to have committed it.

(S. 24, C.C.O., 1936).

Does not apply.

(S. 22, C.C.O., 1936).

### V. PARTIES TO OFFENCES.

The following are punishable:—  
**PRINCIPALS.**

(a) Persons actually committing the offence.

(b) Persons doing or omitting to do an act to enable another to commit the offence.

(c) Persons aiding another to commit an offence.

(d) Persons counselling or procuring others to commit the offence.

(S. 23, C.C.O., 1936).

Only persons actually committing the offence are punishable.

(S. 33, C.C.O., 1936).



Felonies	Misdemeanours	Contraventions
<b>ACCESSORIES AFTER THE FACT.</b>		
Every person (other than a parent, son, daughter, husband or wife of the offender) who knowing an offence to have been committed by another person, receives or assists such other person in order to enable him to escape punishment is an accessory after the fact (unless the would-be accessory is the wife of a person who took part in the commission of the same offence and she so receives or assists the offender in her husband's presence and by his authority), and is punishable with —		
imprisonment for three years. (S. 26, C.C.O., 1936).	imprisonment not exceeding half the period to which the perpetrator of the offence is liable. (S. 26, C.C.O., 1936).	
<b>VI. FAILURE TO PREVENT AN OFFENCE —</b>		
is a punishable offence in respect of a felony. (S. 33, C.C.O., 1936).	is not an offence.	
<b>VII. COMPOUNDING OR CONCEALING OFFENCES —</b>		
is a punishable offence in respect of a felony. (S. 129, C.C.O., 1936).	is not an offence in respect of a misdemeanour or contravention.	
<b>VIII. POWERS OF ARREST WITHOUT A WARRANT (or Magistrate's direction)</b>		
By POLICE OFFICERS (and 'Public Officers upon whom such powers have been conferred' — SS. 3(3) & 4, Cr. Pr. (Arrest & Searches) O.) :		

Felonies	Misdemeanours	Contraventions
If the officer has reasonable ground to believe that a felony has been committed. (S. 3(1) (b), <i>ibid</i> ).	No such power exists in respect of misdemeanours or contraventions.	
If an offence punishable with imprisonment for more than six months has been recently committed or committed in the officer's presence. (S. 3(1) (c) <i>ibid</i> ).	No such power in respect of contraventions.	
If an offence is committed, or the officer on reasonable grounds believes it to have been committed by the accused and the latter refuses to give his name and address or has no known or fixed abode, or refuses to accompany the officer to the police station. (S. 3(1) (e) & S. 3(2), <i>ibid</i> ).		
By PRIVATE PERSONS. The following may be arrested : —		
(a) Any person who has escaped from lawful custody. (S. 5 (b), <i>ibid</i> ).		
(b) Any person committing a felony in the presence of the person effecting arrest. (S. 5 (c), <i>ibid</i> ).	Such power does not exist in respect of misdemeanours or contraventions.	
<b>IX. DUTY OF POLICE TO DETAIN IN CUSTODY PERSONS ARRESTED WITHOUT A WARRANT.</b>		
<b>Note.</b> This duty is imposed on police officers in charge of police stations. (S. 9(1), <i>ibid</i> ).		
i. Persons accused of felonies may not be released. (S. 9(2) (a), <i>ibid</i> ).	ii. Persons accused of misdemeanours who have no known or fixed abode may not be released. (S. 9(2) <i>ibid</i> ).	
iii. Persons reasonably believed to have escaped or attempted to escape from lawful custody may not be released. (S. 9(2) (a), <i>ibid</i> ).		



Felonies	Misdemeanours	Contraventions
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### X. POWER TO ENTER UPON PREMISES WITHOUT A WARRANT (Police Officers).

- i. When the officer has a reason to believe that a **felony** is being, or has recently been, committed on the premises.  
(S. 18(a), *ibid*).
- ii. If the occupier of the premises calls in the assistance of the Police.
- iii. If any other person on the premises does so and there is reason to believe that an offence is being committed on the premises. (S. 18 (b) & (c), *ibid*).

### XI. RELEASE ON BAIL.

Persons charged with **capital offences** may not be released on bail at any stage of criminal proceedings.

(S. 3(1), Cr. Pr. (Release on Bail) O.)

Those charged with **offences of violence** punishable with imprisonment for ten years or more may be released before committal only by the President of District Court.

(S. 3(3), *ibid*).

Those charged with other felonies may be released by the Examining Magistrate.

(S. 3(4), *ibid*).

Unless the Magistrate before whom the accused is brought sees any reason to the contrary, the accused **must be released** on bail by him.

(S. 3(5), *ibid*).

Felonies	Misdemeanours	Contraventions
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### XII. POWER TO DISPENSE WITH PERSONAL APPEARANCE OF ACCUSED AT TRIAL.

Does not obtain in respect of felonies or misdemeanours.

(But see the proviso to S. 2, Summary Offences (Procedure) O., 1935-36).

Such power is vested in Magistrates only where the accused pleads guilty in writing or by an advocate. (Rule 244, Magistrates' Courts Procedure Rules, 1940.)

### XIII. COURTS OF TRIAL.

Court of Criminal As-  
size or District Courts.

Not triable by Magistrates (unless the charge is in respect of a felony contrary to — S. 285, C.C.O., 1936, and the value of the subject matter of the offence involved does not exceed five pounds, or S. 295 (excluding burglary), or S. 296, S. 297, S. 298, S. 301, S. 325, S. 326(2), or S. 331, C.C.O., 1936, and the Magistrate thinks it expedient to try the charge summarily, and the accused, after having been informed by the Magistrate of his right to be tried 'upon information', consents to summary trial — in which case the Magistrate has jurisdic-

Triable by Magist-  
rates.

(or District Courts).  
(S. 3(a), Magistrates' Courts Jurisdiction O. 1939, & SS. 3(b)&(c) & 4(1), Cr. Pr. (Trial Upon Information) O.

Triable by Magist-  
rates.

(S. 3(a), Magistrates' Courts Jurisdiction O., 1939.)



Felonies	Misdemeanours	Contraventions
tion to try the accused. (S. 30, Magistrates' Courts Jurisdiction O., 1939 (as amended by O. No. 13/1942). (SS. 3(a) & 4(1), Cr. Pr. (Trial Upon Information) O.		

#### XIV. RIGHT OF ACCUSED TO ELECT COURT OF TRIAL.

Does not exist except as stated above, (see XIII).	Persons charged with a Misdem. may elect to be tried by a British Magistrate or District Court (if brought for trial before a Palestinian Magistrate), or by the District Court* (if brought for trial before a British Magistrate). (S. 6, Magistrates' Courts Jurisdiction O., 1939.)	Does not exist.  * The right to elect trial by a District Court is suspended during the continuance in force of Defence (Judicial) Regulations (N. 2), 1942 (Reg 7.)
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#### XV. PROCEDURE AT TRIAL.

Trial 'Upon Information.' (Preliminary Enquiry by an 'Examining' Magistrate followed by the filing of an 'information' by the Attorney General (SS. 3 (a), 28(1) & (2), Cr. Pr. (Trial Upon Information) O.).	Summary trial. (S. 3(a), Magistrates' Courts Jurisdiction O., 1939, S. 2, Summary Offences (Procedure) O., 1935, Rules 242 - 280 inclusive Magistrates' Courts Procedure Rules, 1940.).	Summary trial. (ibid).
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Felonies	Misdemeanours	Contraventions
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Note. Misdemeanours which the Attorney General may order (under S. 8, Magistrates' Courts Jurisdiction O., 1939,) to be so tried, are triable 'upon information'. (S. 3(b), Crim. Proc. (Trial Upon Inform.) (Amendment) O. No. 44 of 1939). Ditto in respect of misdemeanours joined in the same information with a charge of felony (S.3(c)ibid).

#### XVI. RIGHT TO APPEAL BY ACCUSED UPON CONVICTION (without leave of Court).

i. Where sentence of death has been passed, or ii. imprisonment exceeding one year, or a fine exceeding LP.100, was awarded in a trial 'upon information'. (S. 63(1)Cr. Pr. (Trial Upon Information) O. as amended by O. No. 44/1939).	If the penalty imposed by a Magistrate exceeds imprisonment for seven days or a fine of LP. 10. (S. 11(1), Magistrates' Courts Jurisdiction O., 1939).  Appeal against a sentence of imprisonment passed by a Municipal Court is without leave of Court. (S. 6, Municipal Courts O.).	Does not exist (unless, probably, if penalty imposed for several contraventions in a single judgment exceeds imprisonment for 7 days or a fine of LP. 10.). (ibid).
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#### XVII. PRESCRIPTION.

Punishment (after judgment) prescribes by the lapse of 20 years from the date of judgment. (Art. 479, Ottoman Code of Criminal Procedure).	Punishment (after judgment) prescribes by the lapse of 5 years from the date of judgment, (calculated from the date on which an appeal ceases to be possible). (Art. 480, ibid).	After judgment. As in Misdemeanours. (Art. 483, ibid).  Prosecution may not be undertaken (or continued) on the expiration of one year from the date of the commission of the offence (or if after conviction therefor within that period notice of appeal has been given, then on the expiration of one year
Prosecution may not be undertaken on the expiration of — 10 years	3 years	
from the date of commission of the offence if no steps have been taken by way of investigation or prosecution.		



Felonies	Misdemeanours	Contraventions
Prosecution may not be continued (or undertaken) on the expiration of —		from the date of such notice.).
10 years	3 years	(Art. 484, <i>ibid</i> ).
from the date of last step in the investigation or prosecution of the offence.		
(Art. 481, <i>ibid</i> ).	(Art. 482, <i>ibid</i> ).	

## XVIII. EXTRADITION.

No contravention is an 'extradition crime' under any ordinance schedule, or order in force.

## General Principles of Criminal Responsibility of Persons.

NOTE. The following sections of Criminal Code O. (S. 25 of the Interpretation O., and S. 30(2) of Cr. Pr. (Trial Upon Inform). O.) are reproduced hereunder as setting out the general rules of criminal responsibility of persons under the Palestine law. Reference to 'Code' in these sections is reference to Criminal Code O., 1936.

### IGNORANCE OF LAW.

Ignorance of the law does not afford any excuse for any act or omission which would otherwise constitute an offence unless knowledge of the law by the offender is expressly declared to be an element of the offence. S. 8, C. C. O., 1936.

### IMMATURE AGE.

A person under the age of nine years is not criminally responsible for any act or omission.

A person under the age of twelve years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission. — S. 9, *ibid*

### BONA FIDE CLAIMS OF RIGHT.

A person is not criminally responsible in respect of any offence relating to property if the act done or omitted to be done by him with respect to the property was done in the exercise of an honest claim of right and without intention to defraud or injure. S. 10, *ibid*.

### INTENTION.

(1) Subject to the express provisions of this Code relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident.

(2) Unless the intention to cause a particular result is expressly declared to be an element of the offence constituted, in whole or in part, by an act or omission, the result intended to be caused by an act or omission is immaterial. — S. 11(1) & (2), *ibid*.

### MOTIVE.

Unless otherwise expressly declared, the motive by which a person is induced to do or omit to do an act, or to form an intention, is immaterial so far as regards criminal responsibility. — S. 11(3), *ibid*.\*



**MISTAKE OF FACT.**

(1) A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

(2) The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject. — S. 12, *ibid.*\*

**PRESUMPTION OF SANITY.**

Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved. — S. 13, *ibid.*\*

**INSANITY.**

A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind incapable of understanding what he is doing, or of knowing that he ought not to do the act or make the omission. But a person may be criminally responsible for an act or omission, although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act or omission. — S. 14, *ibid.*\*

**INTOXICATION.**

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

(2) Intoxication shall be a defence to any criminal charge if by reason thereof the person charged at the time of the act or omission complained of did not know that such act or omission was wrong or did not know what he was doing and :— (a) the state of intoxication was caused without his consent by the malicious or negligent act of another person: or (b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.

(3) Where the defence under the preceding sub-section is established, then in a case falling under paragraph (a) thereof the accused person shall be discharged, and in a case falling under paragraph (b) the provisions of section 14 of this Code shall apply.

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

(5) For the purposes of this section 'intoxication' shall be deemed to include a state produced by narcotics or drugs. — S. 15, *ibid.*

**PROTECTION OF JUDICIAL OFFICERS.**

Except as expressly provided by this Code, a judicial officer is not criminally responsible for anything done or omitted to be done by him in the exercise of his judicial functions, although the act done is in excess of his judicial authority or although he is bound to do the act omitted to be done. — S. 16, *ibid.*

**CONSTRAINT.**

Except murder and offences against the state punishable with death, no act is an offence which is done by a person who is compelled to do it by threats which at the time of doing it reasonably cause the apprehension that instant death or grievous harm to that person will otherwise be the consequence :

Provided that the person doing the act did not, of his own accord, place himself in the situation by which he became subject to such constraint. — S. 17, *ibid.*

**NECESSITY.**

An act or omission which would otherwise be an offence may be excused if the person accused can show that it was done or omitted to be done only in order to avoid consequences which could not otherwise be avoided, and which if they had followed would have inflicted grievous harm or injury to his person or to his honour or his property or to the person or honour of others whom he was bound to protect or to property placed in his charge :

Provided that in so acting he did no more than was reasonably necessary for that purpose, and that the harm inflicted by the act or omission was not disproportionate to the harm avoided, — S. 18, *ibid.*

**JUSTIFICATION.**

A person is not criminally responsible for an act or omission if he does or omits to do the act under any of the following circumstances, that is to say :—

(a) in execution of the law ;

(b) in obedience to the order of a competent authority which he is bound by law to obey, unless the order is manifestly unlawful.

Whether an order is or is not manifestly unlawful is a question of law. — S. 19, *ibid.*

**RIOTERS.**

Any District Commissioner or District Officer, or Magistrate, or, in his absence, any Police Officer of or above the rank of Inspector, in whose view three or more persons are riotously assembled, or who apprehends that a riot is about to be committed by three or more persons assembled within his view may, after notifying his presence by blowing a bugle or whistle or by some similar means, or by the firing from a pistol of a Verey light, order the rioters or persons so assembled to disperse peacefully.



If on the expiration of a reasonable time after such notification and order made, or after the making of such notification or order has been prevented by force, three or more persons continue riotously assembled together, any person authorised to make notification and order as in the last preceding section mentioned or any Police Officer, or any other person acting in aid of such person or Police Officer, may do all things necessary for dispersing the persons so continuing assembled, or for apprehending them or any of them, and, if any person makes resistance, may use all such force as is reasonably necessary for overcoming such resistance, and shall not be liable in any criminal or civil proceeding for having, by the use of such force, caused harm, death or damage to any person or property. — SS, 82 & 83, *ibid*.

#### COMPULSION BY HUSBAND.

A married woman is not free from criminal responsibility for doing or omitting to do an act merely because the act or omission takes place in the presence of her husband. — S. 20, *ibid*.

#### NO ONE IS TWICE CRIMINALLY RESPONSIBLE FOR SAME OFFENCE.

A person cannot be twice criminally responsible either under the provisions of this Code or under the provisions of any other law for the same act or omission, except in the case where the act or omission is such that by means thereof he causes the death of another person, in which case he may be convicted for the offence of which he is guilty by reason of causing such death, notwithstanding that he has already been convicted of some other offence constituted by the act or omission. — S. 21, *ibid*.\*

Where an act or omission constitutes an offence under two or more Ordinances, or under an Ordinance and under an Ottoman or other law, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any such Ordinance or under such Ottoman or other law, but shall not be liable to be punished twice for the same offence. — S. 25, Interpretation O. (L. P. Cap. 69).

No more than one sentence shall, in any case, be passed upon any person upon the same facts. — S. 30(2), Cr. Pr. (Trial Upon Inform.) O.

As to Principal Offenders (S. 23), see p. 5.

As to Offences committed in prosecution of a common purpose (S. 24), see p. 5.

#### MODE OF EXECUTION IMMATERIAL.

(1) When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence committed is the same as that counselled or a different one, or whether the offence is committed in the way counselled or in a different way, provided in either case that the facts con-

stituting the offence actually committed are a probable consequence of carrying out the counsel.

(2) In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by him:

Provided that if any person who has procured or counselled in any way another person to commit an offence and before the commission thereof has countermanded the commission, he shall not be deemed to have committed the offence if it is subsequently committed. — S. 25, C. C. O., 1936.

As to Accessories after the fact (S. 26), see p. 6, (and note that an accessory after the fact may be tried and punished whether the principal has been tried or not; and he may be tried either alone or together with the principal, or with any other 'accessory' to the same o. — S. 27).

As to Attempts (S. 30), and their punishment (S. 29); Incitement (S. 31); and Conspiracy to commit an o. (SS. 34, 35 & 36), see p. 33. (and pp. 4 & 5).

#### DUTIES RELATING TO THE PRESERVATION OF LIFE AND HEALTH. PERSONS WHO HAVE THE CHARGE OF ANOTHER.

It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or any other cause to withdraw himself from such charge, and who is unable to provide himself with the necessaries of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessaries of life; and he is held to have caused any consequences which result to the life or health of the other person by reason of any omission to perform that duty. — S. 228, C. C. O., 1936.

(See S. 242, Part II.)

#### HEADS OF FAMILIES.

It is the duty of every person who, as head of a family, has charge of a child under the age of fourteen years, being a member of his household, to provide the necessaries of life for such child; and he is held to have caused any consequences which result to the life or health of the child by reason of any omission to perform that duty, whether the child is helpless or not. — S. 229, *ibid*.

(See S. 242, Part II.)

#### DUTY OF MASTER

It is the duty of every person who as master or mistress has contracted to provide necessary food, clothing or lodging, for any servant or apprentice under the age of sixteen years to provide the same; and he or she is held to have caused any consequences which result to the life or health of the servant or apprentice by reason of any omission to perform that duty. — S. 230, *ibid*.

(See S. 187, Part II.)



**DANGEROUS ACTS.**

It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to observe or perform that duty. — S. 231, *ibid.*

**PERSONS IN CHARGE OF DANGEROUS THINGS.**

It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that in the absence of care or precaution in its use or management the life, safety or health of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger, and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty. — S. 232, *ibid.*

**PUBLICATION BY AGENT.**

On the trial of any person for the publication by his agent of words alleged to have a seditious intention as defined in section 60 of the Code, or defamatory matter as in chapter XX (SS. 201-209), such person shall be entitled to be discharged if he proves that:—

- (a) the publication was made without his authority, consent or knowledge; and
- (b) the publication did not arise from any want of due care or caution on his part; and
- (c) he did everything in his power to assist in ascertaining the identity of the persons responsible for writing and publishing respectively such words or matter. — S. 61, Cr. C. O., 1936.

**ABSOLUTELY PRIVILEGED PUBLICATIONS (DEFAMATION).**

(1) The publication of defamatory matter is absolutely privileged, and no person shall under any circumstances be liable to punishment under this Code in respect thereof, in any of the following cases:—

- (a) if the matter is published by the High Commissioner or by the Executive Council or the Legislative Council or the Advisory Council, in any official document or proceeding; or
- (b) if the matter is published in the Executive Council or the Legislative Council or the Advisory Council by the High Commissioner or by any member of any such Council; or
- (c) if the matter is published by order of the High Commissioner in Council; or
- (d) if the matter is published concerning a person subject to military,

naval or police discipline for the time being, and relates to his conduct as a person subject to such discipline, and is published by some person having authority over him in respect of such conduct, and to some person having authority over him in respect of such conduct; or

- (e) if the matter is published in the course of any judicial proceedings by a person taking part therein as a Judge or Magistrate, or as an advocate, witness or party to such proceedings; or
- (f) if the matter published is in fact a fair report of anything said, done or published in the Executive Council or the Legislative Council or the Advisory Council; or
- (g) if the matter published is in fact a fair report of anything said, done or shown in any judicial proceedings before any court:

Provided that if the court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral or blasphemous, the publication thereof shall not be privileged; or

(h) if the matter published is a copy or reproduction, or in fact abstract of any matter which has been previously published, and the previous publication of which was or would have been privileged under the provisions of this section; or

- (i) if the person publishing the matter is legally bound to publish it.

(2) Where a publication is absolutely privileged, it is immaterial whether the matter be true or false, and whether it be or be not published in good faith:

Provided that nothing in this section shall exempt a person from any liability to punishment under any chapter of this Code or under any other law. — S. 206, Cr. C. O., 1936.

**CONDITIONALLY PRIVILEGED PUBLICATIONS (DEFAMATION).**

A publication of defamatory matter is privileged, on condition that it was published in good faith, if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made, or has a legitimate personal interest in so publishing it, provided that the publication does not exceed either in extent or matter what is reasonably sufficient for the occasion, and in any of the following cases:—

- (a) if the matter is an expression of opinion in good faith as to the conduct of a person in a judicial, official or other public capacity, or as to his personal character so far as it appears in such conduct; or
- (b) if the matter is an expression of opinion in good faith as to the conduct of a person in relation to any public question of matter, or as to his personal character so far as it appears in such conduct; or
- (c) if the matter is an expression of opinion in good faith as to the conduct of any person as disclosed by evidence given in a public legal



proceeding, whether civil or criminal, or as to the conduct of any person as a party, witness, or otherwise in any such proceeding, or as to the character of any person so far as it appears in any such conduct as in this paragraph mentioned; or

- (d) if the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech, or other work, performance, or act published or publicly done or made, or submitted by a person to the judgment of the public, or as to the character of the person so far as it appears therein; or
- (e) if the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the other person, so far as it appears in such conduct; or
- (f) if the matter is a complaint or accusation made by a person in good faith against another person in respect of his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct or matter or having authority by law to inquire into or receive complaints respecting such conduct or matter; or
- (g) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published, or of some person in whom the person to whom it is published is interested. — S. 207, Cr. Code O., 1936.

#### GOOD FAITH.

A publication of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of the last preceding section, if it is made to appear either:—

- (a) that the matter was untrue, and that he did not believe it to be true; or
- (b) that the matter was untrue, and that he published it without having taken reasonable care to ascertain whether it was true or false; or
- (c) that, in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he claims to be privileged. — S. 208, *ibid*.

#### PRESUMPTION AS TO GOOD FAITH.

If it is proved, on behalf of the accused person, that the defamatory matter was published under such circumstances that the publication would have been justified if made in good faith, the publication shall be presumed to have been made in good faith until the contrary is proved. — S. 209, *ibid*.

## Punishments.

#### DIFFERENT KINDS OF PUNISHMENTS.

The following punishments may be inflicted by a court:—

- (a) death;
- (b) imprisonment;
- (c) fine;
- (d) payment of compensation;
- (e) finding security to keep the peace and be of good behaviour or to come up for judgment. — S. 37, Cr. C. O., 1936.

#### PUNISHMENT OF DEATH.

The punishment of death shall be inflicted by hanging the offender by the neck until he is dead. — S. 38, *ibid*.

#### CONFIRMATION OF DEATH SENTENCES.

When any person has been sentenced to death, the Chief Justice shall transmit to the High Commissioner a copy of the evidence. The sentence shall not be carried into effect until confirmed by the High Commissioner. — Art. 48, Palestine Order-in-Council (L. P., v.III).

#### IMPRISONMENT.

- (1) All imprisonment shall be with labour unless the court otherwise directs.
- (2) A person liable to imprisonment for life or any other period may be sentenced for any shorter term. — S. 39, *ibid*.

#### SPECIAL TREATMENT.

- (1) Where any person is sentenced to imprisonment, the court may, if it thinks fit, having regard to the nature of the offence and the antecedents of the offender, direct that he shall be given special treatment.
- (2) Where any person is sentenced to imprisonment without special treatment, the Chief Justice may at any time, having regard to the nature of the offence for which such person was convicted and his antecedents, direct that such person shall be given special treatment.
- (3) Special treatment shall be in accordance with rules made under the provisions of the Prisons Ordinance, 1921. — S. 40, *ibid*.\*

Note. The Prisons O., 1921, has been repealed and replaced by O. No. 2 of 1940.

#### FINES.

Subject to the provisions of section 42 of this Code where a fine is imposed under any law, then in the absence of express provisions relating to such fine in such law the following provisions shall apply:—



(a) Where no sum is expressed to which the fine may extend, the amount of the fine which may be imposed shall not exceed two hundred pounds.

(b) In the case of an offence punishable with a fine or a term of imprisonment, the imposition of a fine or a term of imprisonment or both such punishments shall be a matter for the discretion of the court.

(c) Such fine shall be levied and recovered in all respects in accordance with and subject to the provisions of the law in force regarding execution of judgments, as though the amount thereof had been recovered in a civil action at the suit of the Attorney-General in the court in which the offender is tried. — S. 41, *ibid.*

#### POWERS OF COURT.

(1) A court of criminal jurisdiction may, upon conviction of a person charged with the commission of any offence under this Code or under any law, sentence the offender to any punishment not exceeding the maximum provided by law for the offence of which he is convicted:

Provided that where the offender is convicted of a felony punishable with death no other sentence than that of death shall be inflicted unless the law otherwise expressly provides.

(2) (a) When a person is convicted of any offence, the court may instead of inflicting a sentence of imprisonment impose a sentence of imprisonment and fine or a fine of an amount not exceeding the amount which such court is empowered to impose and may order the convicted person to be imprisoned in default of payment thereof, but that the period for which such person may be imprisoned in default of payment shall in no case exceed the maximum laid down in the following scale:—

Amount	Maximum period
Not exceeding 500 mils	7 days
Exceeding 500 mils, but not exceeding one pound	14 days
Exceeding one pound but not exceeding five pounds	1 month
Exceeding five pounds but not exceeding twenty pounds	2 months
Exceeding twenty pounds	3 months.

Provided that instead of ordering imprisonment the court may direct that such fine shall be recovered in accordance with the provisions of section 41(c) of this Code.

(b) Where a term of imprisonment is imposed by a court in respect of the non-payment of any sum of money adjudged to be paid by a conviction or order of that or any other court, that term shall on payment of such sum to any person authorised to receive it, be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum paid bears to the sum adjudged to be paid:

Provided that, in reckoning the number of days by which any term of imprisonment would be reduced under this paragraph, the first day of

imprisonment shall not be taken into account, and that, in reckoning the sum which will secure the reduction of a term of imprisonment, fractions of a mil shall be omitted.

(3) If the court is satisfied that the accused is a member of a tribe which has been accustomed to settle its disputes in accordance with tribal custom, and it is in the interests of public order that the case should be so settled, the court after sentencing the accused to the penalty prescribed by this Code or any other law, may substitute therefor such penalty not being repugnant to natural justice or morality as is customary under the tribal custom — S. 42, *ibid.*

#### COMPENSATION.

(1) Any court by which any person is convicted of any offence may, if it thinks fit, and immediately after such conviction, award any sum of money not exceeding one hundred pounds by way of satisfaction or compensation for any loss caused by the offence of which the accused has been convicted, to a person injured by the offence whether such person has or has not constituted himself a civil party.

The amount so awarded shall be a judgment debt due from the person so convicted to the person to whom it is awarded.

(2) Nothing in this section shall affect rights to diyet or to compensation in lieu of diyet, or the power of the court to award damages exceeding one hundred pounds to a person constituting himself a civil party. — S. 43, *ibid.*\*

#### COSTS.

(1) A court may order any person convicted of an offence other than one entailing a sentence of death to pay the whole or any part of the costs of and incidental to the prosecution including the expenses of the witnesses, and by such instalments as the court may direct. Such costs or any instalment thereof shall be recoverable in the same manner as a fine.

(2) Where a court acquits an accused person it may, if it is of opinion that the prosecution was frivolous and vexatious, order any person who preferred the charge or any person whom it may consider responsible for having procured the prosecution, not being a public officer acting in his official capacity, to pay to the accused his costs of the defence; and the amount so ordered to be recovered shall be recovered by the accused under the provisions of the law in force regarding the execution of judgments as though the amount thereof had been recovered by him in a civil action in the court in which he was tried.

(3) A person against whom an order for payment of costs of the defence has been made, may where such order was made by a magistrate, appeal to the District Court, but in no other case shall any appeal lie from such order — S. 44, *ibid.*



**SECURITY FOR KEEPING THE PEACE.**

(1) A person convicted of an offence not punishable with death may, instead of, or in addition to, any punishment to which he is liable, be ordered to enter into his own recognisance, with or without sureties, in such amount as the court thinks fit, that he shall keep the peace and be of good behaviour for a time to be fixed by the court, and may be ordered to be imprisoned until such recognisance, with sureties, if so directed, is entered into; but so that the imprisonment for not entering into the recognisance shall not extend for a term longer than one year, and shall not, together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine.

(2) The court may order the complainant or any witness in a criminal case, where it apprehends that a breach of the peace may occur, to enter into his own recognisance, with or without sureties, in such amount as it thinks fit that he shall keep the peace and be of good behaviour for a time to be fixed by the court, and that in default of compliance he shall be imprisoned for a term not exceeding three months. — S. 45, *ibid.*\*

**CONDITIONAL RELEASE OF OFFENDERS.**

(1) Where a person has been convicted summarily or on information of any offence punishable with imprisonment, and the court is of opinion that, having regard to the character, antecedents, age, health or mental condition of the person so convicted, or the trivial nature of the offence, or the extenuating circumstances under which the offence was committed, it is expedient to release the offender on probation, the court may, in lieu of imposing a sentence of imprisonment, make an order discharging the offender conditionally on his entering into a bond, with or without sureties, to be of good behaviour and to appear for sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(2) Notwithstanding any such order the court may award damage for injury or compensation for loss to any person injured by the offence, and the court may further order the offender to pay the cost of the proceedings.

(3) The order of the court shall have the like effect as a judgment with regard to the restitution or delivery of stolen property to the owner.

**PROBATION UNDER SUPERVISION.**

(4) A bond ordered to be entered into under this section shall, if the court so direct, contain a condition that the offender be under supervision of the District Superintendent of Police, or the Probation Officer, or of such person as may be named in the order, during the period specified, and such additional conditions with regard to residence and any other matters as the court may think fit for securing such supervision.

**POWER TO VARY CONDITIONS OF RELEASE.**

(5) The court before which any person is bound by a bond under this section to appear for sentence may, on the application of the District Superintendent of Police, or the Probation Officer, or other person to whom supervision has been entrusted, and after notice to the offender, vary the conditions of the bond; or, on being satisfied that the conduct of the person has been such as to make it unnecessary that he should remain longer under supervision, discharge the bond.

**SENTENCE FOR ORIGINAL OFFENCE.**

(6) If the court before which the offender is bound by a bond to appear for sentence is satisfied, or any other court of the like jurisdiction is satisfied, by information on oath that the offender has failed to observe any of the conditions of the bond, it may issue a warrant for his arrest and may forthwith, without further proof of his guilt, sentence him for the original offence. — S. 46, *ibid.*

**SENTENCES TO BE CUMULATIVE.**

Where a person after conviction for an offence is convicted of another offence, either before sentence is passed upon him under the first conviction or before the expiration of that sentence, any sentence, other than a sentence of death, which is passed upon him under subsequent conviction, shall be executed after the expiration of the former sentence, unless the court directs that it shall be executed in lieu of the former sentence or of any part thereof. — S. 48, *ibid.*\*

**REMISSION OF SENTENCES.**

(1) With a view to encouraging good conduct and industry and to facilitating the reformatory treatment of prisoners, arrangements shall be made at every prison by which

(a) a prisoner sentenced to imprisonment whether by one sentence or by consecutive sentences for a period of more than one month and less than two years may become eligible for discharge when a portion of his sentence not exceeding one-sixth of the whole sentence has yet to run: provided that any prisoner who is serving a sentence at the date of the commencement of this Ordinance and is earning or has earned remission at the rate of one-fourth of his sentence may continue to earn remission at that rate;

(b) a prisoner sentenced to imprisonment whether by one sentence or by consecutive sentences for a period of two years or more, other than a life sentence, may become eligible for release on licence as provided in section 14 when a portion of his sentence not exceeding one-fourth of the whole sentence has yet to run.

(2) For the purpose of giving effect to the provision of subsection (1) each prisoner on admission shall be credited with the full amount of remission



to which he would be entitled, and shall only lose such remission as a punishment for idleness, lack of industry or other offence against prison discipline.

(3) On the recommendation of the Inspector-General (of Police and Prisons) the High Commissioner may grant remission on special grounds, such as exceptional merit of permanent ill-health. — S. 39, **Prisons O.** (N. 2/40).

#### LIFE & LONG TERM SENTENCES.

(1) The name of every prisoner who is serving a sentence if imprisonment for a period of not less than ten years or for life, shall be reported to the Inspector-General, by the Assistant Superintendent of the prison in whose custody the prisoner has completed six years of his sentence, and every two years thereafter, and the report shall contain such particulars with regard to the prisoner as may be prescribed.

(2) The Inspector-General shall submit the report of the Assistant Superintendent with his recommendations to the High Commissioner, who may give such directions with regard to the detention or release of such prisoner as he shall think fit. — S. 40, *ibid.*

#### JUVENILE OFFENDERS.

In this O., unless the context otherwise requires — 'child' means a p. who is, or who appears to the court to be, under the age of fourteen yrs.; 'young p.' means a p. (other than a child) who is, or who appears to the court to be, fourteen yrs. of age or upwards and under the age of sixteen yrs.; 'juvenile adult' means a p. (other than a child or young p.) who is, or who appears to the court to be, sixteen yrs. of age or upwards and under the age of eighteen yrs. — S. 2, **Juvenile Offenders O.**, (N. 2/37.).

**Note.** S. 3 amended by O. No. 31/38 deals with Juvenile Courts.

#### PROBATION ORDERS.

Where a child or young p. or juvenile adult is charged with any o. other than homicide and the court is satisfied that the charge is proved, the court may, without proceeding to conviction, make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called upon at any time during such period, not exceeding three years, as may be specified in the order. A recognizance entered into under this section shall, if the court orders, contain a condition that the offender be under the supervision of such p. as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this O. referred to as to a probation order. — S. 9(2), *ibid.*

#### POWER TO ORDER PARENT TO PAY FINE, ETC., INSTEAD OF CHILD OR YOUNG PERSON.

Where a child or young p. is charged before any court with any o. for the commission of which a fine, damages or costs may be imposed, and the court is of the opinion that the case would be best met by the imposition of a fine, damages, or costs, whether with or without any other punishment, the court may in any case, and shall if the offender is a child, order that the fine, damages, or costs awarded be paid by the parent or guardian of the child or the young p. instead of by the child or young p. unless the court is satisfied that the parent, or guardian could not be found or that he has not conducted to the commission of the o. by neglecting to exercise due care of the child or young p.

(2) Where a child or young p. is charged with any o. the court may order his parent or guardian to give security for his good behaviour.

(6) A parent or guardian shall have the same right of appeal against an order under this section as he would have if the order had been made on the conviction of the parent, or guardian of the o. with which the child or young p. was charged. — S. 11, *ibid.*

#### RESTRICTIONS ON PUNISHMENT OF JUVENILES.

(1) No child shall be sentenced to imprisonment.

(2) No young p. shall be sentenced to imprisonment if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a place of detention, reformatory school, or otherwise.

(3) A young p. or juvenile adult sentenced to imprisonment shall not so far as practicable be allowed to associate with adult prisoners. — S. 12, *ibid.*

#### SENTENCE OF DEATH.

Sentence of death shall not be pronounced or recorded against a child, young p., or juvenile adult, but in lieu thereof the court shall sentence such p. to be detained during the High Commissioner's pleasure, and if so sentenced, he shall notwithstanding anything in the other provisions of this O., be liable to be detained in such place and under such conditions as the High Commissioner may direct, and whilst so detained shall be deemed to be in legal custody. — S. 13, *ibid.*\*

#### CERTAIN CRIMES COMMITTED BY CHILDREN OR YOUNG PERSONS.

Notwithstanding anything in this O. to the contrary, where a child or young p. is convicted of any attempt to murder, or of manslaughter or of wounding with intent to do grievous bodily harm, the court may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence is passed the child or young p. shall, during that period notwithstanding anything in the other provisions of this O., be liable



to be detained in such place and on such conditions as the High Commissioner may direct, and while so detained shall be deemed to be in legal custody. — S. 14, *ibid.*

#### METHOD OF DEALING WITH CHILDREN AND YOUNG PERSONS CHARGED WITH OFFENCES.

Where a child or young p. charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which under the provisions of this or any other O. or otherwise enabling the court to deal with the case, the case should be dealt with, and shall have power to deal with the case —

(a) by dismissing the charge; or (b) by discharging the offender on his entering into a recognizance; or (c) by so discharging the offender and placing him under the supervision of a probation officer; or (d) by so discharging the offender and placing him under the care of a relative or other fit p.; or (e) by sending the offender to a reformatory school or other establishment appointed for the purpose by the High Commissioner for a period of not less than one year; or (f) by ordering the offender to be whipped; or (g) by ordering the offender to pay a fine, damages or costs; or (h) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or (i) by ordering the parent or guardian of the offender to give security for his good behaviour; or (j) where the offender is a young p., by sentencing him to imprisonment; or (k) by dealing with the case in any other manner in which it may be legally dealt with:

Provided that the power to send an offender to a reformatory school or any other establishment may be exercised in the case of a girl who has not attained the age of eighteen years, and provided also that in no case shall the offender be detained in such establishment beyond the time when he shall attain the age of twenty yrs. — S. 18, *ibid.*

#### PRESUMPTION AND DETERMINATION OF AGE.

Where a p., whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is under the age of eighteen yrs., the court shall make due enquiry as to the age of that p., and for that purpose shall take such evidence, if any, as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that p. has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the p. so brought before it shall, for the purpose of this O., be deemed to be the true age of that p., and where it appears to the court that the p. so brought before it is of the age of eighteen yrs. or upwards, that p. shall for the purposes of this O. be deemed not to be a child or young p. or juvenile adult. — S. 22, *ibid.*

## Restitution of Property.

(1) Where any property has come into the possession of the Police in connection with any criminal charge, any court or a Judge or a Magistrate thereof may, on application, either by a police officer or by a claimant of the property, make an order for the delivery of the property to the person appearing to the court or Judge or a Magistrate to be the owner thereof, or, if the owner cannot be ascertained, make such order with respect to the property as to the court or Judge or Magistrate may seem meet.

(2) An order under this section shall not affect the right of any person to take within six months from the date of the order legal proceedings against any person in possession of property delivered by virtue of the order for the recovery of the property, but on the expiration of those six months the right shall cease. — S. 388 — C. C. O., 1936.



**PART TWO**

**OFFENCES**

**CONTRARY TO**

**CRIMINAL CODE ORDINANCE, 1936**

(No. 74 of 1936 as amended by

Criminal Code (Amendment) O., No. 37 of 1937

& Criminal Code (Amendment) O., No. 59 of 1939).



**NOTE.** Criminal Code Ordinance (No. 74 of 1936) came into operation on 1st January, 1937. It replaced the Ottoman Penal Code, and reference to the latter in any ordinance, so far as is consistent with its context, must be deemed to be a reference to the corresponding provision of the Cr. Code O. (S. 2). It is expressly provided, *inter alia*, by S. 3 of the O. that nothing therein contained should affect the power of the High Commissioner to grant a pardon, or to remit, or commute, or to respite the execution of any sentence; or the liability of any person to be tried or punished under any other law in force in Palestine. S. 3(c), (a)\* & (b).

The O. shall be interpreted in accordance with the principles of legal interpretation obtaining in England, and expressions used in it shall be presumed, so far as is consistent with their context and except as may be otherwise expressly provided, to be used with the meaning attaching to them in English law, and shall be construed in accordance therewith. (S. 4).

The jurisdiction of the courts of Palestine for the purposes of the O. (and it may be assumed, generally), extends to every place within Palestine or within three nautical miles of the coast thereof measured from low water mark (S. 6). Offences committed partly within and partly beyond the jurisdiction may be tried and punished by the courts in Palestine (S. 7).

The O. contains 391 sections arranged in 44 chapters. In this book only the titles of these chapters are reproduced in appropriate parts of the text. The O. is further divided into two parts. Most of the provisions\* of Part I of the O. (General Provisions) have been summarised in Part I of this book, and the contents of Part II of the O. are to be found in this Part of the book. Offences are further grouped together under eight 'Divisions', and this arrangement has been retained in this work.

Two amending Ordinances have been promulgated since the coming into force of the O. The sections affected by the amendments are given in their present form, and the amending O. is indicated in brackets; e. g. — S. 105 (AO. 37/37).

## Offences against Criminal Code Ordinance.

### PARTIES TO OFFENCES.

#### BEING ACCESSORY AFTER THE FACT<sup>1</sup>

in a FELONY;	M	I. — 3 yrs.	S. 26(2) (a).
in a MISDEMEANOUR.	M	I. — half the period of maximum i. for completed offence.	S. 26(2) (b).

Note.<sup>1</sup> See Table, p. 6, for definition.

### ATTEMPTS,<sup>3</sup> INCITEMENTS, CONSPIRACY.

#### ATTEMPT to commit an OFFENCE PUNISHABLE WITH DEATH.

F I. for LIFE. S. 29(a).

#### ATTEMPTED MANSLAUGHTER.

F I. — 14 yrs. S. 29(b).\*

#### ATTEMPT to commit (other) FELONY.

F I. — half the period of maximum i. for completed o.

#### ATTEMPT to commit a MISDEMEANOUR.

M

#### ATTEMPT to commit (other) OFFENCES PUNISHABLE with IMPRISONMENT FOR LIFE.

F I. — 10 yrs. S. 29(c).

#### ATTEMPT TO PROCURE, SOLICIT, OR INCITE ANOTHER P. TO COMMIT A FELONY OR MISDEMEANOUR IN PALESTINE OR ABROAD.<sup>2</sup>

F Same penalty as for o. procured, etc. (if committed in Palestine). S. 31.

Note.<sup>2</sup> If the o. is committed abroad (1) no prosecution can take place without the request of the foreign government concerned, and (2) the penalty must not exceed that prescribed by the law of the country where the o. occurred.

Note.<sup>3</sup> ATTEMPTS are defined by S. 30 as: Beginning to put the intention to commit an offence into execution by means adapted to its fulfilment, and manifesting that intention by some overt act, but not fulfilling that intention to such an extent as would amount



to the commission of the offence, — it being immaterial (except as regards punishment) whether all that is necessary to complete the offence is done, or whether the perpetrator desists from further prosecution of his intention, or whether it is in fact impossible to commit or complete the commission of the offence by reason of circumstances unknown to him or independent of his will.

KNOWINGLY POSSESSING OR MAKING EXPLOSIVES, DANGEROUS OR NOXIOUS THING OR ENGINE FOR THE COMMISSION OF AN OFFENCE (other than a contravention).

M I. — 3 yrs. S. 32.

NEGLECT TO PREVENT THE COMMISSION OF A FELONY.

M I. — 2 yrs. S. 33.  
(S. 3, AO, 59/39).

CONSPIRACY TO COMMIT A FELONY (in Palestine or abroad<sup>4</sup>) punishable WITH I. FOR 7 YEARS OR MORE.

F I. — 7 yrs. S. 34.\*

DO. — punishable with I. FOR LESS THAN 7 YEARS.

F Such penalty as prescribed for the completed felony. S. 34.\*

CONSPIRACY TO COMMIT A MISDEMEANOUR.

M I. — 2 yrs. S. 35.\*

**Note.<sup>4</sup>** If abroad, the felony must be an offence in the foreign country. — S. 34.

CONSPIRACY TO —

- (a) PREVENT OR DEFEAT THE EXECUTION OF ANY LAW, or
- (b) CAUSE INJURY TO THE PERSON OR REPUTATION or TO DEPRECATE THE VALUE OF ANY PROPERTY, or
- (d) INJURE A P. IN TRADE OR PROFESSION, or
- (f) EFFECT ANY UNLAWFUL PURPOSE, or
- (g) EFFECT A LAWFUL PURPOSE BY UNLAWFUL MEANS, or

CONSPIRACY AGAINST —

(c) FREE DISPOSITION OF PROPERTY FOR FAIR VALUE, or

(e) FREE EXERCISE OF TRADE, PROFESSION OR OCCUPATION,

provided that the act would amount to AN O. IF COMMITTED BY AN INDIVIDUAL.

M I. — 2 yrs. S. 36.\*

MISDEMEANOURS (General punishment for).

M I. — 3 yrs. or S. 47.  
F. — LP:100, or both.

## DIVISION I. - OFFENCES AGAINST PUBLIC ORDER-

Offences against the Authority of the Government.

TREASON: LEVYING WAR AGAINST HIS MAJESTY OR CONSPIRING TO LEVY SUCH WAR:

DEATH. S. 49(1),(2).

**Note.<sup>4a</sup>** If p. convicted is a pregnant woman.

I. for LIFE.

INSTIGATING INVASION WITH ARMED FORCE. (Note <sup>4a</sup> applies).

DEATH. S. 50.

BEING ACCESSORY AFTER THE FACT<sup>1</sup> IN TREASON.

F I. for LIFE. S. 51(a).

FAILURE TO INFORM THE HIGH or DISTRICT COMMISSIONER, or a POLICE OFFICER, with reasonable despatch, of TREASON; or TO PREVENT it by reasonable endeavour.

F I. for LIFE. S. 51(b).

TREASONABLE FELONY: Manifesting by an overt act<sup>5</sup> the intention to effect (or publishing such intention) — (a) the deposition of His Majesty, or (b) the levying of war against His Majesty, or (c) instigation of an armed invasion of His Majesty's dominions.

F I. for LIFE. S. 52.

**Note.<sup>5</sup>** Overt act includes every act of conspiring with any p. to effect illegal purpose and every act done in furtherance of the purpose by any of the conspirators. — S. 58.

PROMOTING CIVIL WAR.

F I. for LIFE. S. 53(a).



# USE OF ARMED FORCE AGAINST GOVERNMENT TO RESIST EXECUTION OF LAWS.

F I. for LIFE. S. 53(b).

# INCITING MILITARY OR POLICE TO MUTINY:—

- (a) Seducing them from allegiance to His Majesty or Government of Palestine; or
- (b) Inciting them to mutinous or traitorous acts; or
- (c) Inciting them to make a mutinous assembly.

F I. for LIFE. S. 54.

# AIDING SOLDIERS OR POLICEMEN IN ACTS OF MUTINY:—

- (a) Aiding such ps., abetting, or being an accessory to acts of mutiny; or
- (b) Inciting them to sedition or to disobedience of lawful orders of superior officers, or to insubordination.

S. 55(a).

F I. — 5 yrs. S. 55(b).

# INDUCING AND AIDING DESERTION BY SOLDIERS OR POLICEMEN:—

- (a) Procuring or persuading such ps. to desert;
- (b) Aiding, abetting or being accessory to desertion; or
- (c) Harboursing or aiding, or concealing deserters.

S. 56(a).

S. 56(b).

S. 56(c).

M F. — LP. 100, or both. S. 47.

# AIDING PRISONERS of WAR TO ESCAPE. NEGLIGENCE AND UNLAWFULLY PERMITTING THE ESCAPE OF PRISONERS OF WAR.

F I. for LIFE. S. 57(1)

I. — 3 yrs. or S. 57(2)

M F. — LP. 100, or both. S. 47.

# SEDITIONOUS OFFENCES:—<sup>6</sup>

- (a) Doing an act, or attempting, making preparation, or conspiring with another p. to do an act, with a seditious intention.<sup>7</sup>

M First O.:—  
I. — 2 yrs. &/or  
F. — LP. 100.  
Subsequent O.:—  
I. — 3 yrs. S. 59(1)(a)  
(S. 5, AO. 59/39).

- (b) Publishing any words, or printing or publishing or reproducing any publication having a seditious intention.<sup>7</sup>

M Do. & forfeiture  
of sed. public.  
to the Governm.  
of Palestine.  
S. 59(1)(b).  
(S. 5, AO. 59/39).

- (c) Importing any publication having a seditious intention, unless the perpetrator has no reason to believe that it has a seditious intention.<sup>7</sup>

M Do. S. 59(1)(c).  
(S. 5, AO. 59/39).

# BEING FOUND without lawful excuse IN POSSESSION OF A PUBLICATION HAVING A SEDITIOUS INTENTION.<sup>7</sup>

M First O.:—  
I. — 1 year &/or  
F. — LP. 50 &  
forfeiture, as  
above.

Subsequent O.:—  
I. — 2 yrs. S. 59(2).  
(S. 5, AO. 59/39).

Note.<sup>6</sup> No prosecution under S. 59 is to be begun except within 6 ms. after the commission of the o. — S. 59(3) (S. 5, AO. 59/39); or without the consent of the Attorney General in writing — S. 59(4) (S. 5, AO. 59/39).

Evidence. No p. is to be convicted under S. 59 on the uncorroborated testimony of one witness. — S. 59(5) (S. 5, AO. 59/39).

Note.<sup>7</sup> Seditious intention. This is an intention to bring into hatred or contempt or to excite disaffection against the person of His Majesty, or the Mandatory Power, or the High Commissioner in his official capacity, or the Government of Palestine, or the administration of justice, or to incite or excite inhabitants of Palestine to attempt to procure the alteration by unlawful means of any matter in Palestine by law established; or to raise discontent or disaffection amongst inhabitants of Palestine; or to promote ill-will and hostility between different sections of the population of Palestine. S. 60 (1) (S. 6, AO. 59/39).

Evidence. Proof of seditious intention may be by producing evidence of publication by the defendant on other occasions of words which are the same as those alleged in the charge to have a seditious intention or of other words of such nature, provided that in the latter case the words used expressly referred to the same matter as that to which the words alleged in the charge refer. S. 60(3). The truth of the words alleged to have s. i. is no defence to a charge under S. 59. — S. 60(4).



**Defences.** An act, speech or publication is not seditious by reason only that it intends — to show that His Majesty or the Government have been misled or mistaken in any measure; or to point out errors or defects in the constitution of the Government, or in legislation, or in administration of justice, for the purpose of remedying such; or to persuade to attempt the alteration of any matter in Palestine by lawful means; or to point out, with a view to their removal, any matters tending to produce feelings of ill-will and enmity between different classes of the population of Palestine. S. 60(5) — (S. 6(c), AO. 59/39).

**PUBLICATION OF FALSE NEWS OR RUMOUR TO ALARM THE PUBLICS.**

M I. — 3 yrs. S. 62(1).

**Note.<sup>8</sup> Defence.** Absence of knowledge, or of a reason to believe, the rumour, etc., being false and taking reasonable measures to verify its accuracy prior to publication — S. 62(2).

**ADMINISTERING, or BEING PRESENT AT AND CONSENTING TO THE ADMINISTRATION OF, AN OATH TO COMMIT AN OFFENCE PUNISHABLE WITH DEATH.**

F I for LIFE. S. 63(a).

**TAKING SUCH OATH.**

F I. for LIFE. S. 63(b).

**ADMINISTERING (ETC., as above) AN OATH TO DO THE FOLLOWING:—**

(i) to engage in a mutinous or seditious enterprise; or (ii) to commit an o. (other than punishable with death); or (iii) to disturb the public peace; or (iv) to participate in confederacy, society or association the purpose of which is (i), (ii) or (iii) (above); or (v) to obey commands of a p. or body of persons not lawfully constituted or not having authority by law; or (vi) not to reveal or give evidence against any confederate or other p.; or (vii) not to reveal or discover any unlawful association or confederacy, or an

illegal act, or oath, or the import of such oath or engagement.

F I. — 7 yrs. S. 64(a).

**TAKING SUCH AN OATH or engagement not being compelled to do so.**

F I. — 7 yrs. S. 64(b).

**UNLAWFUL DRILLING:—**

Without the permission of the High Commissioner (a) training others in the use of arms or military evolutions, or (b) being present at a meeting for such purpose.

S. 66(1) (a).

F I. — 7 yrs. S. 66(1) (b).

Being so trained or present for the purpose of being trained.

M I. — 3 yrs., or/£ S. 66(2) & F. — LP. 100. S. 47.

**ATTEMPT TO ORGANISE OR FACILITATE THE DESTRUCTION BY FORCE OF THE CONSTITUTION OF THE GOVERNMENT OF A FOREIGN COUNTRY. INCITEMENT OF HOSTILITIES AGAINST A FRIENDLY GOVERNMENT by speech in a public place or gathering or by publishing any writing.**

F I. — 10 yrs. S. 67(1);

M I. — 3 yrs., or/£ S. 67(2) & F. — LP. 100. S. 47.

**INSULTING THE FLAG OF GREAT BRITAIN OR A FRIENDLY STATE, with intent to show hatred or contempt.**

M Do. S. 68 & S. 47.

### Offences against the Constitution and Existing Social Order.<sup>10</sup>

**BEING A MEMBER, OFFICER, REPRESENTATIVE, OR TEACHER OF AN UNLAWFUL ASSOCIATION,<sup>9</sup> PROVIDED that perpetrator is OVER THE AGE OF 16 years.**

M I. — 1 year. S. 70.

**Note.<sup>9</sup> Unlawful association** is defined by S. 69 (a body of persons advocating or encouraging —

(i) the overthrow of the constitution by revolution or sabotage, (ii) by force or violence the overthrow of the Government of Palestine or of any civilised country, (iii) the destruction of property of the Government or used in trade; or which is affiliated with any organisation whose nature is such as described above; or any body of persons which advo-



cates or encourages the carrying out of a seditious intention within the meaning of S. 60 (see above), or which has failed to notify its rules to the Government as required by law, or which after dissolution under the law continues to meet.).

ENCOURAGING OR ADVOCATING THE OVERTHROW OF THE CONSTITUTION OF PALESTINE BY REVOLUTION OR SABOTAGE, OR THE ACTS DECLARED UNLAWFUL BY S. 69 (see *précis* above).<sup>9</sup> SOLICITING CONTRIBUTIONS FOR AN UNLAWFUL ASSOCIATION.<sup>9</sup>

M I. — 3 yrs. or/£ S. 71 &  
F. — LP. 100. S. 47.  
M I. — 6 ms. S. 72.

GIVING a donation to such association.

M I. — 6 ms. S. 72.

PRINTING, PUBLISHING, SELLING, OR EXPOSING FOR SALE, OR TRANSMITTING THROUGH POST PROPAGANDA MATTER OF AN UNLAWFUL ASSOCIATION.<sup>9</sup>

M I. — 6 ms. or/£ S. 73.  
F. — LP. 50.

TAKING PART IN, INCITING TO, OR AIDING A LOCK-OUT OR STRIKE in relation to employment, trade or commerce (including transport) or the provision of public service, while a "STATE OF EMERGENCY" subsists.

M I. — 1 year. S. 74(2).

*Note.*<sup>9a</sup> The High Commissioner may by proclamation declare Palestine to be in a 'state of emergency' when a serious industrial disturbance exists in Palestine. The proclamation remains in force until revoked. — S. 74(1).

BY VIOLENCE, THREATS OR INTIMIDATION, OR BOYCOTT, and without reasonable cause or excuse:—

(a) obstructing the maintenance of a public service, Government Department or municipal authority; or (b) compelling or inducing the employees of the said services or authority to resign or depart from their employment; or (c) preventing other ps. from accepting or offering such employment; or (d) obstruct-

S. 75(a).

S. 75(b).

S. 75(c).

S. 75(d).

ing the transport of goods or passengers; or (e) compelling or inducing ps. employed in such transport to depart from their employment; or (f) preventing other ps. from offering or accepting such employment.

S. 75(e).

S. 75(f).

M I. — 2 yrs. S. 75(a-f).

*Note.*<sup>10</sup> No prosecution under SS. 70-75 may be instituted except by or with the consent of the Attorney-General. — S. 76.

### Offences affecting Relations with Foreign States and External Tranquillity.

DEFAMATION OF FOREIGN PRINCES, AMBASSADORS OR DIGNITARIES.

M F. — LP. 100. S. 77.

DITTO — if the act is likely to disturb peace and friendship between Palestine and a foreign country.

M I. — 3 yrs. &/or S. 77 &  
F. — LP. 100. S. 47.

PIRACY.

F I. — for LIFE. S. 78.

### Unlawful Assemblies, Riots and other Offences against Public Tranquillity.

TAKING PART IN AN UNLAWFUL ASSEMBLY.<sup>11</sup>

M I. — 1 year. S. 80.

*Note.*<sup>11</sup> Unlawful Assembly is defined as 'three or more ps. assembled to carry out a common purpose and conducting themselves so as to cause ps. in the neighbourhood reasonably to fear that they will commit a breach of the peace, or will by such assembly needlessly and without reasonable occasion provoke others to commit a breach of the peace; or assembled to commit an o. — S. 79(1).

TAKING PART IN A RIOT.

M I. — 2 yrs. S. 81.\*

*Note.*<sup>12</sup> Riot is an unlawful assembly of ps. who have begun to execute its purpose by a breach of the peace and to the terror of the public. — S. 79(3)\* (See SS. 82 & 83, pp. 15, 16).



RIOTING OR ASSEMBLING AFTER THE EXPIRATION OF A REASONABLE TIME AFTER AN ORDER TO DISPERSE.	F	I. — 5 yrs.	S. 84.
OBSTRUCTING THE MAKING OF 'NOTIFICATION' OR ORDER TO DISPERSE TO RIOTERS.	F	I. — 10 yrs.	S. 85.
RIOTING, KNOWING THAT SUCH NOTIFICATION OR ORDER HAS BEEN FORCIBLY PREVENTED.	F	I. — 5 yrs.	S. 85.
DESTRUCTION OF BUILDINGS, SHIPS, RAILWAY, MACHINERY, TELEGRAPH LINE, POWER LINE, PIPE LINE OR WATER PIPES BY RIOTERS.	F	I. for LIFE.	S. 86.
DAMAGING ANY SUCH THING (AS MENTIONED IN S. 86) BY RIOTERS.	F	I. — 7 yrs.	S. 87.
HINDERING LOADING OR UNLOADING, SAILING OR NAVIGATING ANY SHIP — BY RIOTERS.	M	I. — 3 yrs., or/£ F. — LP. 100.	S. 88 & S. 47.
FORCIBLY BOARDING A SHIP BY RIOTERS FOR SUCH PURPOSE (see S. 88 above).	M	Do.	SS. 88 & 47.
CARRYING OFFENSIVE ARMS OR WEAPONS IN PUBLIC.	M	Do., & forfeiture of the weapons.	S. 89 & S. 47.
IMPORTATION OF DAGGERS, <sup>14</sup> SWORDS OR INSTRUMENTS WITH SHARP POINTS.	M	Do., & forfeiture of the daggers, etc.	S. 90. S. 94.
MANUFACTURING, SELLING, OR EXPOSING FOR SALE DAGGERS, <sup>14</sup> SWORDS OR INSTRUMENTS WITH SHARP POINTS IN PLACES TO WHICH THE PROVISIONS OF S. 90 HAVE BEEN APPLIED BY THE HIGH COMMISSIONER (by order in the Gazette — S. 95).	M	Do.	S. 90. & S. 94.
CARRYING A KNIFE <sup>14</sup> OUTSIDE THE PERPETRATOR'S PREMISES IN AREAS TO WHICH THE PROVISIONS OF THIS S. HAVE BEEN APPLIED BY THE HIGH COMMISSIONER.	M	I. — 1 year.	S. 91.

Note.<sup>13</sup> Defence. Proof of necessity of so carrying a knife for a lawful purpose. — S. 91.

Clasp-knives. — Such may be carried if the blade is not longer than 10 cms. and the clasp-knife is not convertible into a dagger or knife with a fixed blade. — S. 93.

Prosecutions. Superintendent of Police of the district may direct the waiving of proceedings in his discretion. — S. 91.

Note.<sup>14</sup> A dagger is any instrument having a sharp point not primarily designed for use in a profession, craft or business, or for domestic use, or if so designed, not actually used by the person carrying it in such a manner. — S. 95.

A knife is any instrument not being a dagger having a blade, whether ending in a sharp point or not. — S. 95.

FORCIBLE ENTRY: Entering in order to take possession of land or building in a violent manner.<sup>15</sup>

Note.<sup>15</sup> Violent manner. This means the use of actual force to persons, or threats, or breaking open buildings, or collecting an unusual number of people. — S. 96.

Defence. Entry on land or building belonging to the person entering but in custody of his servant or bailiff. — S. 96.

FORCIBLE DETAINER: Retaining possession of land without colour of right against a person entitled to the possession, so as to cause reasonable apprehension of a breach of peace.

AFFRAY: Taking part in a fight in a public place.

CHALLENGING TO FIGHT, OR ATTEMPTING TO PROVOKE ANOTHER P. TO CHALLENGE OR TO FIGHT, A DUEL.

THREATENING TO BREAK OR DAMAGE A DWELLING HOUSE,<sup>57</sup> WITH INTENT TO INTIMIDATE OR ANNOY.

M I. — 3 yrs. or/£ S. 96.  
F. — LP. 100. S. 47.

M I. — 3 yrs. or/£ S. 97.  
F. — LP. 100. S. 47.

M I. — 1 year. S. 98.

I. — 3 yrs. or/£ S. 99.  
M F. — LP. 100. S. 47.

M Do. S. 100(a),  
S. 47.



DISCHARGING FIREARMS OR COMMITTING A BREACH OF THE PEACE WITH INTENT TO ALARM A. P. IN A DWELLING HOUSE.<sup>57</sup>

M Do. S. 100(b).  
S. 47.

THREATENING TO INJURE A P., OR HIS REPUTATION, OR PROPERTY, WITH INTENT TO INDUCE AN ACT WHICH ANOTHER P. IS NOT LEGALLY BOUND TO DO, OR TO PREVENT AN ACT WHICH HE IS ENTITLED TO DO.

I. — 3 yrs., or/£ S. 100(c),  
M F. — LP. 100. S. 47.

WHILE DRUNK —

— behaving riotously or in a disorderly manner in a public place.

I. — 3 ms. or/£  
M F. — LP. 10. S. 101(1).

— being in possession of a loaded firearm, knife, or deadly weapon.

I. — 6 ms. or/£  
M F. — LP. 20. S. 101(2).

SUPPLYING LIQUOR TO, OR ENCOURAGING ITS CONSUMPTION BY —

a drunken person, or a person apparently under 18 yrs. of age.

C F. — LP. 5. S. 101(3).

DITTO. — BY PROPRIETOR OR EMPLOYEE OF AN ESTABLISHMENT where DRINKS ARE SOLD.

I. — 3 ms. or/£  
M F. — LP. 10. S. 101(4).

WITHOUT REASONABLE CAUSE CREATING NOISE OR UPROAR IN A PUBLIC PLACE, SO THAT THE INHABITANTS ARE LIKELY TO BE DISTURBED OR SO AS TO CAUSE A BREACH OF THE PEACE.

I. — 3 ms. or/£  
M F. — LP. 5. S. 102(1).

INSULTING A P. IN A PUBLIC PLACE IN A MANNER LIKELY TO PROVOKE A BREACH OF THE PEACE.

I. — 1 m. or/£  
M F. — LP. 10. S. 102(2).

TEARING DOWN, DEFACING OR DESTROYING ANY NOTICE DISPLAYED IN PURSUANCE OF ANY LAW OR BY ORDER OF A P. IN THE PUBLIC SERVICE.<sup>16</sup>

I. — 1 m. or  
M F. — LP. 5. S. 103.

Note.<sup>16</sup> Definition of a person in public service is to be found in S. 5. (See Note 75.)

ATTEMPTING TO OBSTRUCT ANY PUBLIC ELECTION BY FORCE, VIOLENCE, THREATS OR BY ANY ACT PUNISHABLE UNDER THE ORDINANCE.

I. — 3 yrs., or/£ S. 104,  
M F. — LP. 100. S. 47.

PUBLIC MISCHIEF: DOING AN ACT WHICH MAY CAUSE OR TEND TO A PUBLIC MISCHIEF.

I. — 3 yrs. or/£ S. 105\*  
M F. — LP. 100 (AO, 37/37).

## DIVISION II. — OFFENCES AGAINST THE ADMINISTRATION OF LAWFUL AUTHORITY.

### Corruption and the Abuse of Office.

CORRUPTLY ASKING, RECEIVING, OBTAINING, ATTEMPTING OR AGREEING TO RECEIVE ANY PROPERTY OR BENEFIT, WHETHER FOR THE PERPETRATOR HIMSELF OR FOR ANOTHER P., BY A PERSON IN THE PUBLIC SERVICE,<sup>16</sup> ON ACCOUNT OF ANYTHING DONE, OR OMITTED, OR TO BE DONE, OR OMITTED BY HIM IN THE DISCHARGE OF THE DUTIES OF HIS OFFICE.

M Do. S. 106(a).\*

CORRUPTLY GIVING, CONFERRING, PROCURING, PROMISING, OR OFFERING TO DO SO, TO, UPON, OR FOR A P. IN PUBLIC SERVICE<sup>16</sup> ANY PROPERTY OR BENEFIT, ON ACCOUNT OF ANY ACT OR OMISSION BY SUCH PUBLIC SERVANT.

I. — 3 yrs. or/£ S. 106(b).  
M F. — LP. 100. S. 47.

OFFENCES BY PUBLIC SERVANTS: —  
(SS. 107 to 113 inclusive)

EXTORTION: ACCEPTING ANY REWARD OR PROMISE OF A REWARD FOR THE PERFORMANCE OF DUTY.

S. 47,  
M Do. S. 107.

SUBJECTING A P., OR ORDERING SUCH SUBJECTION, TO FORCE OR VIOLENCE FOR THE PURPOSE OF EXTORTING A



CONFESSION OF CRIME OR INFORMATION RELATIVE THERETO, EITHER FROM THE P. SO ILL-TREATED OR FROM A MEMBER OF HIS FAMILY.

M Do. S. 47,  
S. 108.

RECEIVING PROPERTY OR BENEFIT, FOR THE PERPETRATOR HIMSELF OR FOR ANY P., FOR SHOWING FAVOUR IN AN OFFICIAL TRANSACTION.

I. — 2 yrs., or/8  
M F. — LP. 100. S. 109.

DISCHARGING JUDICIAL OR ADMINISTRATIVE DUTIES RESPECTING PROPERTIES OR MANUFACTURE, TRADE OR BUSINESS OF A SPECIAL CHARACTER BY A PUBLIC SERVANT WHO HAS ACQUIRED A PRIVATE INTEREST IN SUCH PROPERTIES, ETC.<sup>17</sup>

M I. — 1 year. S. 110(1).

FALSE CLAIMS: KNOWINGLY MAKING A RETURN OR STATEMENT FALSE IN A MATERIAL PARTICULAR FOR THE PURPOSE OF PAYMENT OF MONEY OR DELIVERY OF GOODS.<sup>17</sup>

I. — 3 yrs., or/8 SS. 111(1)  
M F. — LP. 100. & 47.

ABUSE OF OFFICE: (a) DOING AN ARBITRARY ACT PREJUDICIAL TO THE RIGHTS OF ANOTHER P. IN ABUSE OF THE AUTHORITY OF THE OFFICE, or (b) ENTERING THE RESIDENCE OF ANOTHER P. AGAINST HIS WILL OR WITHOUT OBSERVING THE FORMALITIES PRESCRIBED BY LAW in cases other than those authorised by law.<sup>17</sup>

M I. — 2 yrs. S. 112(1).

Note.<sup>17</sup> A prosecution under S. 110, S. 111, or S. 112 may not be instituted without the consent of the Attorney-General. — S. 110(2), S. 111(2), S. 112(2).

ISSUING A CERTIFICATE TO THE KNOWLEDGE OF THE P. ISSUING IT FALSE IN A MATERIAL PARTICULAR WHEREBY THE RIGHTS OF ANY P. MAY BE PREJUDICALLY AFFECTED the p. issuing the certificate being authorised or required by law to give it.

I. — 3 yrs. or/8 S. 113,  
M F. — LP. 100. S. 47.

#### FALSE ASSUMPTION OF AUTHORITY:—

(a) Assuming to act as a JUDICIAL OFFICER, not being such.

S. 114(a),

(b) Not being authorised by law in that behalf, ADMINISTERING AN OATH, SOLEMN DECLARATION, OR AFFIDAVIT, or performing an ACT OF A PUBLIC NATURE.

S. 114(b),

(c) Knowing that he is not authorised to do so, representing himself to be authorised by law to sign, and SIGNING by any p. A CERTIFICATE OF THE CONTENTS OF AN OFFICIAL RECORD OR TESTIFYING TO ANY FACT OR EVENT.

I. — 3 yrs., or/8 S. 114(c),  
M F. — LP. 100. S. 47.

#### Offences relating to the Administration of Justice.

PERSONATING PUBLIC SERVANTS REQUIRED TO BE PRESENT ON ANY OCCASION OR TO DO ANY ACT; OR ASSUMING TO DO AN ACT BY VIRTUE OF SUCH ALLEGED EMPLOYMENT IN THE PUBLIC SERVICE.

M Do. S. 115,  
S. 47.

PERJURY: KNOWINGLY GIVING FALSE TESTIMONY,<sup>18</sup> TOUCHING A MATERIAL MATTER, IN JUDICIAL PROCEEDINGS, ON OATH OR OTHERWISE.

F I. — 7 yrs. S. 117(1),  
S. 118.

Note.<sup>18</sup> 'Testimony' does not include statements by the accused persons in criminal proceedings if not made on oath. — S. 116.

'Judicial proceedings' includes any proceeding in or before any court, or tribunal, or p. before whom evidence may be taken on oath irrespective of whether it is so taken. — S. 5.

SUBORNATION OF PERJURY: PROCURING ANOTHER P. TO COMMIT PERJURY (ACTUALLY COMMITTED IN CONSEQUENCE OF THE PROCUREMENT).

F I. — 7 yrs. S. 117(2),  
S. 118.



FABRICATING EVIDENCE (OTHERWISE THAN BY PERJURY OR SUBORNATION OF PERJURY) WITH THE INTENTION OF MISLEADING ANY TRIBUNAL.

F I. — 5 yrs. S. 119.

KNOWINGLY MAKING USE OF FABRICATED EVIDENCE.

F Do. S. 119.

FALSE SWEARING, OR KNOWINGLY MAKING A FALSE AFFIRMATION, BEFORE A PERSON AUTHORISED TO ADMINISTER AN OATH OR TAKE A DECLARATION.

I. — 3 yrs., or/£ S. 120,  
M F. — LP. 100. S. 47.

DECEIVING WITNESSES IN JUDICIAL PROCEEDINGS WITH INTENT TO AFFECT THEIR TESTIMONY.

M Do. S. 121,  
S. 47.

WILFULLY DESTROYING, RENDERING ILLEGIBLE, UNDECIPHERABLE, or UNIDENTIFIABLE, ANY BOOK, DOCUMENT OR THING, knowing that it may be REQUIRED IN EVIDENCE, and with intent to prevent its being used in evidence.

I. — 3 yrs. &/or S. 47.  
M F. — LP. 100. S. 122.

GIVING TO AN OFFICER ENTITLED TO INSTITUTE CRIMINAL PROSECUTION (including any POLICE OFFICER) WRITTEN INFORMATION OF ANY OFFENCE, KNOWING THE INFORMATION TO BE FALSE,<sup>19</sup> (irrespective of whether proceedings ensue or not).

M Do. S. 123(1)\*  
S. 47.

**Note.<sup>19</sup> Onus of proof.** If a prosecution ensues and the accused person is acquitted, the onus of showing absence of knowledge of the falsity of the information is on the informant, — S. 123(2).

CONSPIRING with another p. FALSELY TO ACCUSE some p. OF CRIME, or to do anything TO OBSTRUCT, PREVENT, PERVERT, OR DEFEAT THE COURSE OF JUSTICE.

I. — 3 yrs., or/£ S. 124(a),  
M F. — LP. 100. & S. 47.

DISSUADING OR HINDERING A WIT-

NESS from appearing to give evidence, or endeavouring to do so.

M Do. S. 124(b),  
S. 47.

OBSTRUCTING or knowingly preventing the EXECUTION OF A LEGAL PROCESS.

M Do. S. 124(c),  
S. 47.

ATTEMPTING IMPROPERLY TO INFLUENCE THE RESULT OF A JUDICIAL PROCEEDING BY SOLICITATION addressed to a judge, magistrate, settlement officer or any court official.

I. — 1 year or/£  
M F. — LP. 50. S. 125.

PUBLISHING MATTER intended TO INFLUENCE A JUDGE, MAGISTRATE, OR SETTLEMENT OFFICER, OR A WITNESS, so as to affect the result of a PENDING ACTION OR JUDICIAL PROCEEDING, OR TO PREVENT THE GIVING OF INFORMATION TO AUTHORITIES.

M I. — 6 ms. S. 126.

PUBLISHING IN BAD FAITH INCORRECT REPORTS OF COURT PROCEEDINGS. OPENING, OR GIVING PUBLICITY TO, A SUBSCRIPTION FOR DEFRAYING FINES, COSTS OR DAMAGES adjudged by a court IN A CRIMINAL CASE.

M Do. S. 127.

ASKING, RECEIVING OR OBTAINING ANY PROPERTY OR BENEFIT (or agreeing, or attempting, to do so) upon an understanding that A FELONY which is not lawfully compoundable WILL BE COMPOUNDED OR CONCEALED; or that the prosecution of such will be delayed or abstained from; or evidence thereof will be withheld. PUBLICLY OFFERING A REWARD FOR THE RETURN OF STOLEN OR LOST PROPERTY suggesting by the words used that no questions will be asked or that no seizure, or molestation of the p., producing the property will take place.

M Do. S. 128.

I. — 3 yrs., &/or S. 129,  
M F. — LP. 100. S. 47.

S. 130(a),  
M Do. S. 47.

PUBLICLY OFFERING TO REFUND MONEY PAID FOR, OR ADVANCED ON STOLEN OR LOST PROPERTY, or other sum of money or reward, for the return of such property.

S. 130(b),  
M Do. S. 47.



PRINTING OR PUBLISHING OFFERS described in S.130(a) or (b). (See above).  
 SCANDALIZING COURT: (a) Using words, spoken or written, referring to a judge or magistrate in respect of his office, with intent to defame him; (b) Publishing an invective against a judge or a magistrate with a view to bringing the administration of justice into suspicion or contempt.

M Do. S.130(c), S.47.

M Do. S.131, S.47.

Note.<sup>20</sup> Settlement officers hearing claims under the Land Settlement Ordinances are included in the term 'magistrate' in S.131.-- S.131(2).

Defence. It is not an offence to discuss with candour and decency a judicial decision in a matter of public interest. S.131(1).

#### Rescues, Escapes and obstructing Officers of Court of Law.

RESCUE: RESCUING BY FORCE, OR ATTEMPTING TO RESCUE, FROM LAWFUL CUSTODY --

(a) a p. under sentence of DEATH or IMPRISONMENT FOR LIFE, or charged with an offence so punishable.

F I. for LIFE. S.132(1)(a).

(b) a p. sentenced for, or charged with, a FELONY (other than (a) above).

F I. -- 7 yrs. S.132(1)(b).

(c) a p. in lawful custody (other than as in (a) or (b) above).

I. -- 3 yrs., &/or S.132(1)(c),  
 M F. -- LP. 100. S.47.

Note.<sup>21</sup> If the person rescued is in the custody of a private p. the perpetrator must have notice that he is in custody. -- S.132(2).

ESCAPE FROM LAWFUL CUSTODY FOR A CRIMINAL OFFENCE which is --

(a) a FELONY;

F I. -- 7 yrs. S.133(a).

(b) not a felony.

I. -- 3 yrs., &/or S.133(b),  
 M F. -- LP. 100. S.47.

AIDING THE ESCAPE OF PRISONERS FROM LAWFUL CUSTODY: or

CONVEYING ANYTHING INTO PRISON, or causing it to be conveyed, with intent TO FACILITATE THE ESCAPE OF A PRISONER.

F I. -- 7 yrs. S.134.

REFUSING OR NEGLECTING TO GIVE AID, according to the perpetrator's ability, when commanded by a public or police officer or other p., FOR THE PREVENTION OF CRIME, OR OF RESCUE, OR OF ESCAPE OF ANY P., OR FOR EFFECTING ARREST.

I. -- 3 yrs., &/or S.135,  
 M F. -- LP. 100. S.47.

RECEIVING, removing, concealing, retaining or disposing of PROPERTY UNDER LAWFUL SEIZURE in order to hinder such seizure.

M Do. S.136, S.47.

BREAKING, removing, or rendering ineffective SEALS AFFIXED BY ORDER OF PUBLIC AUTHORITY OR COURT.

M I. -- 2 yrs. S.137.

DITTO. -- BY A P. ENTRUSTED WITH THE CUSTODY OF THE SEAL.

M I. -- 3 yrs. S.137.

ALLOWING BY SUCH A P. THROUGH NEGLIGENCE, THE BREAKING, etc. (see S.137 above) of SUCH SEALS.

I. -- 6 ms. or  
 M F. -- LP. 50. S.138.

WILFULLY OBSTRUCTING OR RESISTING THE LAWFUL EXECUTION OF AN ORDER OR WARRANT OF A COURT

M I. -- 1 year. S.139.

#### Miscellaneous Offences against Public Authority.

FRAUD OR BREACH OF TRUST AFFECTING THE PUBLIC<sup>22</sup> COMMITTED BY A PUBLIC OFFICER IN THE DISCHARGE OF DUTY.

I. -- 3 yrs. &/or S.140,  
 M F. -- LP. 100. S.47.

Note.<sup>22</sup> The fraud or breach of trust need not amount to a criminal offence if committed against a private person. -- S.140.

WILFUL NEGLECT OF DUTY BY A PUBLIC OFFICER.

M Do. S.141, S.47.

Note.<sup>23</sup> Defence. Proof that the discharge of



duty was attended with danger such as a man of ordinary firmness and activity may not be expected to encounter. — S. 141.

WILFUL DISOBEDIENCE OF ANY LAW BY DOING AN ACT FORBIDDEN by that law, or BY OMITTING TO DO AN ACT required by a law to be performed, and which concerns the public.

I. — 2 yrs. or/£ S. 142.  
F. — LP. 100 UNLESS  
M some other penalty  
is applicable.

DISOBEDIENCE TO A LAWFUL ORDER OF COURT OR PERSON ACTING IN A PUBLIC CAPACITY.

I. — 2 yrs. UNLESS S. 143.  
M some other penalty  
is prescribed.

INSULTING A PUBLIC OFFICER, OR JUDGE, OR OFFICER OF A RELIGIOUS COURT, whilst performing duty.

I. — 6 ms. or/£  
M F. — LP. 20. S. 144.

INSTIGATION TO THE NON-PAYMENT OR TO DEFERRING THE PAYMENT OF A 'NOTIFIED LIABILITY' (i. e. any liability notified by the High Commissioner-in-Council by a notice in the Gazette. — S. 145(2).

I. — 6 ms. or/£  
M F. — LP. 50. S. 145(1).

### DIVISION III. - OFFENCES INJURIOUS TO THE PUBLIC IN GENERAL.

#### Offences Relating to Religion and Public Monuments.

INSULT TO RELIGION of any class by destruction, damage or defilement of sacred objects or places of worship.

I. — 3 yrs. or/£ S. 146,  
M F. — LP. 100. S. 47.

DISTURBING RELIGIOUS SERVICE.<sup>24</sup> ASSAULTING A PERSON LAWFULLY OFFICIATING OR PRESENT AT A MEETING FOR RELIGIOUS WORSHIP.<sup>24</sup>

M I. — 2 ms. or S. 147.  
F. — LP. 20.  
M Do. S. 147.

Note.<sup>24</sup> Defence. Proof of lawful excuse or justification, the onus of which is on the defendant. — S. 147.

TRESPASSING ON PLACES OF BURIAL OR WORSHIP; OFFERING INDIGNITY TO HUMAN CORPSES; CAUSING DISTURBANCE TO PS. AT FUNERAL CE-

REMONIES — WITH INTENT TO WOUND THE FEELINGS OR INSULT THE RELIGION of any p.

I. — 3 yrs., or/£ S. 148,  
M F. — LP. 100. S. 47.

COMMITTING AN OUTRAGE TO RELIGIOUS FEELINGS OF PS. PRESENT IN A PUBLIC PLACE BY ANY UTTERANCE; OR BY PUBLICATION OF ANY PRINT, WRITING, PICTURE, OR EFFIGY.

M I. — 1 year. S. 149.\*

DEMOLISHING OR DAMAGING MONUMENTS OR BUILDINGS INTENDED FOR PUBLIC USE OR ORNAMENT.

I. — 3 yrs., or/£ S. 150,  
M F. — LP. 100. S. 47.

#### Offences against Morality.

RAPE: Unlawful sexual intercourse with a female against her will, by force or threats of death or severe bodily harm, or when unconscious or incapable of resisting.

F I. — 14 yrs. S. 152(1)(a).\*

SODOMY committed against the victim's will by the use of force or threats of death or severe bodily harm, or when unconscious or otherwise incapable of resisting.

F I. — 14 yrs. S. 152(1)(b).\*

UNLAWFUL SEXUAL INTERCOURSE OR SODOMY WITH A CHILD UNDER THE AGE OF 16 YEARS.<sup>25, 26</sup>

F I. — 14 yrs. S. 152(1)(c).\*

Note.<sup>25</sup> Knowledge of age of a female victim. Except as otherwise expressly stated, it is immaterial in offences with respect to females under a specified age, that the accused p. did not know that the woman or girl was under that age, or believed that she was not under that age. — S. 178.

Note.<sup>26</sup> Defence to charges under S. 152(1)(c) where victim is a female and the offence charged 'unlawful sexual intercourse' (only):— proof that defendant had reasonable cause to believe that the girl was of or above the age of 16 yrs. — S. 152 (proviso).



HAVING UNNATURAL CARNAL KNOWLEDGE OF (a) any person, or (b) an animal.

F I. — 10 yrs. S. 152(2)(a) & (b).

PERMITTING A MALE P. TO HAVE UNNATURAL KNOWLEDGE OF THE DEFENDANT (male or female).

F I. — 10 yrs. S. 152(2)(c).

HAVING unlawful sexual intercourse with INSANE OR IMBECILE FEMALE, or with a female whose consent has been obtained by THREATS or DECEPTION as to the nature of the act or as to the person committing it.

F I. — 10 yrs. S. 153.\*

ATTEMPT TO COMMIT AN OFFENCE contrary to S. 152 or S. 153 (see above).

F I. — 7 yrs. S. 154.\*

HAVING UNLAWFUL SEXUAL INTERCOURSE, or AIDING OR ABETTING ANOTHER TO HAVE SUCH intercourse, WITH UNMARRIED GIRL OVER 16 and UNDER 21 yrs. of age<sup>25</sup> who is the perpetrator's or his wife's descendant, or his ward, or has been entrusted to him for education or supervision.

F I. — 5 yrs. S. 155.

HAVING sexual intercourse with perpetrator's own wife who is under the age of 15 yrs.<sup>25,27</sup>

M I. — 2 yrs. S. 156(1)(a).

ENDEAVOURING to facilitate such by physical means or instrument.

M Do. S. 156(1)(b).

**Note.<sup>27</sup> Defence** to a charge under S. 156(1)(a). Proof that the wife has reached puberty, and that prior to the intercourse a certificate has been given by a licensed physician stating that no ill-effect to her is likely to ensue following the consummation of the marriage.—S. 156(2).

COMMITTING OR ATTEMPTING AN INDECENT ACT UPON ANOTHER P., against the victim's will, BY FORCE OR THREATS, or WHEN UNCONSCIOUS OR INCAPABLE OF RESISTING, OR COM-

PELLING TO CONSENT OR TO SUBMIT TO SUCH AN ACT BY FORCE OR THREATS.

F I. — 5 yrs. S. 157.\*

COMMITTING OR ATTEMPTING AN INDECENT ACT WITHOUT THE CONSENT OF THE VICTIM, BUT WITHOUT THE USE OF FORCE OR THREATS; or WITH CONSENT OBTAINED BY DECEPTION as to the nature of the act or as to the person committing it; OR INDUCING, OR ATTEMPTING TO INDUCE AN IMBECILE OR INSANE P. to commit or submit to such an act.

I. — 2 yrs. or  
M F. — LP. 100. S. 158.

COMMITTING AN INDECENT ACT ON A P. UNDER 16 YRS. OF AGE.<sup>25</sup>

M I. — 3 yrs. S. 159.

MAKING AN INDECENT GESTURE OR DOING AN INDECENT ACT IN A PUBLIC PLACE OR GATHERING, OR SO THAT IT CAN BE SEEN BY A P. IN A PUBLIC PLACE.

I. — 6 ms. or/£  
M F. — LP. 50. S. 160.

PROCURING OR ATTEMPTING TO PROCURE (a) a female under the age of 20 yrs.<sup>25</sup> not being a common prostitute or of known immoral character, to have unlawful sexual intercourse;

(b) any female to become a common prostitute; (c) any female to leave her usual abode (not being a brothel) for becoming an inmate or frequenter of a brothel.<sup>28</sup>

(d) any p. under 16 yrs. of age<sup>25</sup> to commit sodomy; (e) any female to leave her usual abode (not being a brothel) for becoming an inmate or frequenter of a brothel.<sup>28</sup>

I. — 3 yrs., or/£ S. 161,  
M F. — LP. 100. S. 47.

**Note.<sup>28</sup> Brothel** is a house or room(s) occupied or frequented for prostitution by two or more females. — S. 151.\*

PROCURING OR ATTEMPTING TO PROCURE —

(a) by threats, any female to have unlawful



intercourse;

(b) by false pretences or representations, any female not being a common prostitute or of known immoral character, to have unlawful sexual intercourse;

M Do. S. 162(a)&(b)  
& S. 47.

ADMINISTERING OR CAUSING THE TAKING OF ANY DRUG OR MATTER, or applying any thing to or by any female, IN ORDER TO STUPEFY OR OVERPOWER HER TO ENABLE UNLAWFUL INTERCOURSE with her.

M Do. S. 162(c) & S. 47.

KEEPING, MANAGING or assisting in managing, A BROTHEL.<sup>28</sup>

First Offence:  
M I. — 3 ms. &/or  
F. — LP. 100.

KNOWINGLY PERMITTING PREMISES TO BE USED FOR HABITUAL PROSTITUTION, the perpetrator being the tenant or p. in charge of the premises.

On subsequent conviction:  
I. — 6 ms. &/or  
F. — LP. 250. S. 163(a).  
M Do. S. 163(b).\*

LETTING PREMISES KNOWING THAT THEY ARE TO BE USED AS A BROTHEL; or BEING WILFULLY A PARTY TO THEIR CONTINUED USE AS A BROTHEL (the perpetrator being the landlord of the premises, or his agent).

M Do. S. 163(c).\*

**Note.<sup>29</sup>** Power to determine contract of lease by a landlord, on receipt of notification of a conviction for keeping a brothel, is given by S. 164 (1); failure to exercise this power makes the landlord liable for the continued use of the premises as a brothel—S. 164(2) & (3); where the power has been exercised, the court convicting the tenant has power to make a summary order for delivery of possession to the landlord. — S. 164(1).

ALLOWING A CHILD OVER 2 YRS. OF AGE AND BELOW 16 YRS. TO RESIDE IN OR TO FREQUENT A BROTHEL<sup>28</sup> (the perpetrator being the p. having custody or care of the child).

I. — 6 ms. or  
M F. — LP. 25. S. 165.

LIVING ON EARNINGS AS A PROSTI-

TUTE OF A FEMALE (the perpetrator being a male p.).

I. — 3 yrs., or/ & S. 166(1),  
M F. — LP. 100. S. 47.

**Note<sup>30</sup>.** A rebuttable presumption of commission of this offence is raised by habitual association with, or exercising control or influence over the movements of a prostitute. S. 166(2).

SOLICITATION FOR IMMORAL PURPOSES IN A PUBLIC PLACE.

I. — 1 m. or/ &  
M F. — LP. 5. S. 167(1).

AIDING OR ABETTING SUCH SOLICITATION BY A CHILD UNDER 16 YRS. OF AGE,<sup>25</sup> THE PERPETRATOR BEING THE CHILD'S PARENT OR IN CHARGE OF HIM.

I. — 6 ms. or  
M F. — LP. 50. S. 167(2).

MAKING INDECENT SUGGESTIONS TO A P. UNDER 16 YRS. OF AGE, OR TO ANY FEMALE.

M. I. — 1 m. S. 168.

ENTERING WOMEN'S EXCLUSIVE APARTMENTS BY A MALE IN FEMALE DRESS.

M I. — 1 year. S. 169.

DETAINING ANY WOMAN AGAINST HER WILL<sup>32</sup> IN A BROTHEL,<sup>28</sup> OR ON OTHER PREMISES FOR PURPOSES OF UNLAWFUL INTERCOURSE.

M I. — 2 yrs. S. 170.

**Note.<sup>31</sup>** 'Constructive' detention on such premises is effected by withholding from any woman therein any wearing apparel or other property belonging to her, or, where wearing apparel has been lent or otherwise supplied to her by or by directions of the accused, — by threatening the woman with legal proceedings (in fact unlawful — S. 171(2)) if she takes away with her such apparel — this being done with intent to compel or to induce the woman to remain in or upon such premises, — S. 171(1).

**Note.<sup>32</sup>** A girl under the age of 16 yrs. is always presumed to be detained unlawfully:



if she is over 16 yrs. but under 18 yrs. of age, she is presumed to be unlawfully detained if she is on the premises against her own will or against the will of her parent or the p. lawfully in charge of her. — S. 172(5).\*

AIDING, ABETTING OR COMPELLING PROSTITUTION BY EXERCISING CONTROL, INFLUENCE OR DIRECTION OF A PROSTITUTE'S MOVEMENTS, the perpetrator being a WOMAN SO ACTING FOR PURPOSES OF GAIN.

I. — 3 yrs. or/£ S. 173.  
M F. — LP. 100. S. 47.

CONSPIRACY TO DEFILE: Conspiring with another p. to induce a female by fraudulent means to permit unlawful intercourse.

M Do. S. 174.

ABORTION : Unlawfully administering, or causing the taking of, poison or noxious thing, or using any force or other means for procuring the miscarriage of a woman (whether she is or is not with a child).

F I. — 14 yrs. S. 175.

PERMITTING such act (see S. 175, above), or performing such act by a woman for procuring her own miscarriage.

F I. — 7 yrs. S. 176.

SUPPLYING INSTRUMENTS, or anything whatever, for use in procuring MISCARRIAGE of a woman.

I. — 3 yrs. or/£ S. 177.  
M F. — LP. 100. S. 47.

(a) SALE or POSSESSION for sale, hire or distribution, or printing or reproducing for sale, hire or distribution, or

S. 179(a).

(b) EXPOSING to view or distribution for exhibition in a public place, or

S. 179(b).

(c) CARRYING ON, or taking part in, BUSINESS for the sale, publication or exhibition of any OBSCENE MATTER OR OBJECTS TENDING TO CORRUPT MORALS.

I. — 3 ms. &/or  
M F. — LP. 100.

S. 179(c).

ADVERTISING or otherwise making known that such matter or thing can be procured from any person, or that he is engaged in the sale, exhibition, etc. (see S. 179 a-c, above) of

any OBSCENE MATTER OR OBJECTS TO CORRUPT MORALS.

M Do. S. 179(d).

### Offences Relating to Marriage and Domestic Obligations.

CAUSING INTERCOURSE OR COHABITATION WITH A WOMAN BY FRAUDULENTLY INDUCING HER TO BELIEVE THAT SHE IS LAWFULLY MARRIED TO THE PERPETRATOR.

F I — 10 yrs. S. 180.

BIGAMY: Marrying whilst the perpetrator's husband or wife is alive, where such marriage is void by reason of the husband or wife being alive.

F I. — 5 yrs. S. 181.\*

Note.<sup>33</sup> Defences. Proof of:—

(i) the former marriage having been declared void by competent court or ecclesiastical authority; (ii) the continuous absence of the former consort for seven yrs., without knowledge or information that he (or she) was alive within that period; or (iii) the law governing the personal status of the husband both at the date of the former and subsequent marriage allowing him to have more than one wife. — S. 181.

KNOWINGLY CELEBRATING OR BEING A PARTY TO THE CELEBRATION OF MARRIAGE NOT IN ACCORDANCE WITH THE LAW applicable to the parties to marriage.

M I. — 6 ms. S. 182(a).

MARRYING, or celebrating, or assisting in any capacity at a marriage of A FEMALE UNDER THE AGE OF 15 YRS. completed.

M I. — 6 ms. S. 182(b).\*

Note.<sup>34</sup> Defence. Proof of (i) consent of parent or guardian of the female, and (ii) her puberty at the time of marriage, and (iii) certification by a licensed practitioner as to the unlikelihood of ill-effects from consummation of marriage. — S. 183.



DITTO, (as S. 182(b)) — a female UNDER THE AGE OF 18 YRS. completed WITHOUT FIRST ASCERTAINING THAT HER PARENTS OR GUARDIANS' CONSENT TO THE MARRIAGE HAS BEEN GIVEN.

M Do. S. 182(c).

UNLAWFULLY EXPOSING OR ABANDONING A CHILD UNDER 2 YRS. OF AGE, thereby ENDANGERING ITS LIFE OR HEALTH, a permanent injury either actually ensuing or being likely.

F I. — 5 yrs. S. 184.

FAILURE TO SUPPLY FOOD, CLOTHES, BEDDING, or OTHER NECESSARIES TO A CHILD OF TENDER YEARS (and unable to provide for itself), thereby injuring its health, BY A PARENT (OR PERSON IN CHARGE of the child) who is able to supply such necessities.

I. — 3 yrs., &/or  
M F. — LP. 100. S. 185; S. 47.

WITHOUT REASONABLE CAUSE DESERTING, OR LEAVING A CHILD UNDER 12 YRS. OF AGE WITHOUT MEANS OF SUPPORT, BY A P. IN CHARGE OF THE CHILD, if he is able to maintain it.

M Do. S. 186; S. 47.

FAILURE BY A MASTER (OR MISTRESS) TO PROVIDE FOOD, CLOTHING or LODGING FOR A SERVANT, OR APPRENTICE, if legally bound to do so.

M Do. S. 187; S. 47.

MALICIOUSLY CAUSING BODILY HARM TO A SERVANT OR APPRENTICE so as to endanger his life or cause a permanent injury to his health, or so as to make such injury likely.

M Do. S. 187; S. 47.

CHILD STEALING: With intent to deprive a parent or p. lawfully in charge of a child UNDER 14 YRS. of age of the possession of such child —

(a) FORCIBLY OR FRAUDULENTLY TAKING OR ENTICING AWAY, OR DETAINING SUCH CHILD.

F I. — 7 yrs. S. 188.

(b) knowingly RECEIVING OR HAR-

BOURING IT after it had been so taken, enticed away or detained.

F Do. S. 188.

Note.<sup>34a</sup> **Custody of children.** Where a p. having the care or custody of a child under 16 yrs. of age is convicted in respect of such child of an o. against morality (SS. 152—179) or an o. relating to marriage and domestic obligations (SS. 180—188), or has been committed for trial for such o., the court may order the child to be committed to the care of a relative or any other fit p. willing to undertake such care. — S. 389(1). As to procedure re such orders, refer to S. 389 (1—5).

### Nuisances.

COMMON NUISANCE: Doing an act unauthorised by law; or OMITTING TO DISCHARGE A LEGAL DUTY, — thereby causing a common injury or danger, or annoyance; or OBSTRUCTING or causing inconvenience to the public in the exercise of common rights.

M I. — 1 year. S. 189.

Note.<sup>35</sup> **Defence.** If the act complained of facilitates lawful exercise of rights by a part of the public, then it may be not a nuisance to any. — S. 189.

KEEPING<sup>36</sup> A COMMON GAMING HOUSE<sup>36</sup> by owner, occupier, or p. having the use of the premises, or by an apparent master (or mistress) of premises, or by a manager of such (S. 192).

I. — 3 yrs., or/£ S. 190(3),  
M F. — LP. 100. S. 47.

Note.<sup>36</sup> **'Keeping'** includes opening, keeping, using, or permitting same, taking care of, managing or assisting in such — S. 190(1).

'A Common Gaming House' is a place for the purpose of unlawful gaming, viz. games the chances of which are not alike favourable to all the players, including the 'banker' or



other ps. managing the game, or against whom others stake, play, or bet, and including games of cards not being games of skill. — S. 190(2).

BEING FOUND IN A COMMON GAMING HOUSE.

**Note.<sup>37</sup> Defence.** Proof that presence in the house is not for unlawful gaming. — S. 190(4).

**Note.<sup>38</sup> Seizure of devices and objects used,** or apparently used, for unlawful gaming. These may be seized by the Police and the mode of their disposal will be ordered by the Court. — S. 190(5).

Opening, keeping<sup>36</sup> or using, or being apparently the manager or manageress of any PLACE FOR CARRYING ON A LOTTERY.<sup>39</sup>

PRINTING OR PUBLISHING, or causing such, NOTICES RELATING TO A LOTTERY,<sup>39</sup> or SELLING TICKETS OR CHANCES IN A LOTTERY.

**Note.<sup>39</sup> A lottery** is any scheme or device for sale, gift, disposal or distribution of property (including money) depending on chance. — S. 191(3).

**Note.<sup>40</sup> Prosecutions** under S. 191 may not be instituted except by or with the consent of the Attorney-General. — S. 191(4).

**Defence.** Proof of prior permission by the High Commissioner for the holding of lottery. — S. 191(5).

DISORDERLY OR INDECENT BEHAVIOUR BY A COMMON PROSTITUTE IN A PUBLIC PLACE.

BEGGING IN A PUBLIC PLACE.

PROCURING, CAUSING, OR ENCOURAGING A CHILD UNDER 16 YRS. SO TO BEG.

GOING ABOUT GATHERING ALMS, FRAUDULENTLY ENDEAVOURING TO

First Offence :

F. — LP. 5.

Subsequent Offence :

F. — LP. 10 &/or

I. — 3 ms. S. 190(4).

M I. — 3 yrs., or/£  
F. — LP. 100, S. 47 ; S. 191(1)  
& S. 192.

M F. — LP. 50. S. 191(2).

M First Offence :  
I. — 1 m. S. 193(a).  
Subsequent Offence :  
I. — 1 year.

M Do. S. 193(b).

M Do. S. 193(b).

M Do. S. 193(c).

PROCURE CHARITABLE CONTRIBUTIONS.

M Do. S. 193(c).

CONDUCT IN A PUBLIC PLACE LIKELY TO CAUSE A BREACH OF THE PEACE.

M Do. S. 193(d).

WANDERING IN A PUBLIC PLACE OR UPON OR NEAR ANY PREMISES in circumstances suggesting AN ILLEGAL OR DISORDERLY PURPOSE.

M Do. S. 193(e).

UNAUTHORISED WEARING OF MILITARY OR POLICE UNIFORM, OR DISTINCTIVE MARKS, OR DRESS RESEMBLING IT, SO AS TO MAKE CONTEMPT TO THAT UNIFORM LIKELY ; OR, EMPLOYING ANY P. TO DO SUCH ACT.

M I. — 3 ms., or  
F. — LP. 10. S. 194.

UNLAWFULLY OR NEGLIGENTLY PERFORMING ANY ACT LIKELY TO SPREAD INFECTION DANGEROUS TO LIFE, the perpetrator knowing, or having reason to believe, such consequence to be likely. SELLING, or POSSESSING FOR SALE, FOOD OR DRINK UNFIT FOR CONSUMPTION, knowing it to be, or having reason to believe it to be in a noxious state.

M I. — 3 yrs., or/£ S. 195,  
F. — LP. 100. S. 47.

ADULTERATING FOOD OR DRINK INTENDED FOR SALE.

M I. — 1 year. S. 196(1).

FAILURE BY RETAIL-VENDORS OR KEEPERS OF ESTABLISHMENTS WHERE FOOD IS SUPPLIED OR CONSUMED TO —

M Do. S. 196(2).

(a) preserve the cleanliness of food or drink supplied ; or (b) observe Government or Municipal by-laws or regulations concerning public health.

C First Offence :  
I. — 1 week, or  
F. — LP. 5.  
M Subsequent Offence :  
I. — 15 days or  
F. — LP. 10. S. 197.

FOULING WATER in a spring, well, tank, reservoir, etc., thereby rendering it less fit for its ordinary use.

M I. — 6 ms. S. 198.

FOULING AIR (making it noxious to health).

M I. — 3 yrs., or/£



F.—LP. 100. S. 199; S. 47.

**MAKING LOUD NOISES OR OFFENSIVE SMELLS** so as to cause annoyance to a considerable number of ps. when exercising their common rights.

M I. — 1 year. S. 200.

### Defamation.

**LIBEL:** By print, or by any means otherwise than solely by gestures, spoken words or other sounds, unlawfully publishing<sup>41</sup> any defamatory matter<sup>42</sup> concerning a person, with intent to defame him.

I. — 3 yrs., or/£  
M F.—LP.100. S. 201(1); S. 47.

**SLANDER:** Unlawfully publishing defamatory matter<sup>42</sup> concerning another p. by **SPOKEN WORDS**, with intent to defame him.

M I. — 1 year. S. 202(1).

**Note.<sup>41</sup> Publication of a libel** is also committed by causing libellous matter to be exhibited, communicated, or distributed to at least 2 ps., collected together or separately, or by communication by open letter or postcard. — S. 201(2).

**Note.<sup>42</sup> Defamatory matter** is such as imputes to any p. any crime (punishable in Palestine), or misconduct in a public office, or which is likely to injure him in his occupation, calling or office, or to expose him to general hatred, contempt or ridicule. — S. 203(1) & (2).

The defamatory meaning need not be directly or completely expressed. — S. 203(3).

**Note.<sup>43</sup> Defences.** Proof that the matter published is (i) true and its publication is for the public benefit (S. 205(a)); or (ii) that the publication is absolutely or conditionally privileged, — if only conditionally privileged, publication in good faith must be further proved. — SS. 205(b) & 207. (See pp. 18—20).

**Absolute privilege** exists in respect of matter

published by the High Commissioner, or the Executive, Legislative or Advisory Council (or its member) in certain circumstances; or by ps. subject to military, naval or police discipline; or in judicial proceedings; or as fair report of such proceedings or of proceedings of one of the Councils enumerated above; or as a reproduction of a privileged publication; or if published by a p. legally bound to publish such matter. — S. 206.

As to **conditionally privileged publications**, refer to S. 207, and as to **Good Faith**, to S. 208 & S. 209. (See pp. 19—20).

**PUBLISHING OR THREATENING TO PUBLISH A LIBEL**, OR directly or indirectly threatening or proposing to **ABSTAIN FROM PUBLISHING ANY MATTER TOUCHING ANY OTHER P., WITH INTENT TO EXTORT MONEY OR VALUABLE THING, OR TO OBTAIN APPOINTMENT OR OFFICE OF PROFIT OR TRUST.**

I. — 3 yrs., or/£ S. 204 &  
M F. — LP. 100. S. 47.

### Intimidation.

**WRONGFULLY AND WITH A VIEW TO COMPELLING ANY P. TO DO AN ACT WHICH HE IS NOT BOUND TO DO, OR TO ABSTAIN FROM DOING AN ACT WHICH HE HAS RIGHT TO DO. —**

(a) **USING VIOLENCE OR INTIMIDATING SUCH P.,** or his wife or children, or injuring his property;

(b) **PERSISTENTLY FOLLOWING SUCH P. ABOUT;**

(c) **HIDING TOOLS, CLOTHES,** or other property of such p., or hindering him in their use;

(d) **WATCHING OR BESETTING SUCH P.'s RESIDENCE,** or works, place of busi-



ness, or any place where he happens to be;

(e) FOLLOWING SUCH P. IN DISORDERLY MANNER in the street or road.

I. — 1 year &/or  
M F. — LP. 100. S. 211.

**Note.**<sup>44</sup> **Defence.** Proof that the act amounts to no more than peaceful picketing in contemplation or furtherance of an industrial dispute (S. 210) — S. 211.

#### DIVISION IV. OFFENCES AGAINST THE PERSON.

##### Murder and Manslaughter.

**MANSLAUGHTER:** CAUSING THE DEATH OF ANOTHER PERSON BY AN UNLAWFUL ACT OR OMISSION (OTHER THAN ONE AMOUNTING TO MURDER).

F I. for LIFE. S. 212\* &  
S. 213.\*

**Note.**<sup>45</sup> 'Causing death' is defined as including the following cases. Although the act or omission is not the immediate or sole cause of death:—

(a) where death is caused by a surgical or medical treatment necessitated by the bodily injury inflicted (unless the treatment was not in good faith or given with common knowledge or skill); (b) where death would not have occurred as a result of the bodily injury inflicted had the victim submitted to proper medical or surgical treatment or had observed proper precautions as to mode of living; (c) where death is caused by the victim's own act done in avoidance of an actual or threatened violence, which act under the circumstances would appear natural to the p. injured; (d) where the death of a p. suffering from any disease or injury is hastened by the act or omission although death would have been caused by the injury; & (e) where the act or omission would not have caused death, unless accompanied by an act or omission of the p. killed or of other ps. — S. 219.

A child is deemed to be a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether it has breathed, or has independent circulation, or the umbilical cord is severed, or not. — S. 220.

**Limitation as to time of death.** If the death does not take place within a year and a day of the cause of death, liability for killing does not arise. The period is reckoned inclusive of the day on which the last unlawful act (or omission to observe or perform a duty) contributing to the cause of death was done (or the omission ceased); if the cause of death was partly such an act and partly such an omission, then the period is reckoned inclusive of the day of the last unlawful act or of the cessation of the omission, whichever is the later. — S. 221.

**MURDER:** CAUSING THE DEATH:<sup>45</sup> —  
(a) of the perpetrator's PARENT OR GRAND-PARENT, by an unlawful act or omission,<sup>46</sup> WILFULLY; or  
(b) of any p. WITH PREMEDITATION;<sup>47</sup> or

(c) of any p., WILFULLY, IN THE COMMISSION, OR IN PREPARING FOR, OR TO FACILITATE the commission OF AN OFFENCE, or (d) of any p., where an o. has been committed, TO SECURE THE ESCAPE OR AVOIDANCE OF PUNISHMENT in connection with such o., of the perpetrator or his accomplice associated with him as a principal or as an accessory in such o.

**Note.**<sup>46</sup> 'Unlawful omission' is such as amounts to culpable negligence to discharge a duty, irrespective of any intention to cause death or bodily harm. — S. 217.

F DEATH. SS. 214\* &  
If the p. 215.\*  
convicted is shown  
to the satisfaction  
of the Court  
to be a pregnant



**Note<sup>17</sup>. Premeditation.** For the purpose of S. 214 killing with premeditation is defined as: (a) having resolved to kill the p. killed, or any member of his family or race, but not necessarily any particular member, (b) killing such p. in cold blood without immediate provocation in circumstances in which the perpetrator was able to think and realise the result of his actions, (c) after he has prepared himself to kill such p. or a member of the latter's family or race, or after having prepared the instrument, if any, with which such p. was killed.

To prove premeditation, it is necessary to establish (a), (b) and (c); but it is not necessary to show either that the perpetrator was in any state of mind before the actual commission of the crime or that the instrument used in killing, if any, was prepared at any particular time before the crime. — S. 216.\*

UNINTENTIONALLY CAUSING DEATH BY WANT OF PRECAUTION OR BY A RASH OR CARELESS ACT not amounting to culpable negligence.

woman. —  
I. for LIFE.

I. — 2 yrs., or  
M F. — LP. 100. S. 218.\*

#### Offences connected with Murder and Suicide.

##### ATTEMPTED MURDER.

**Note<sup>18</sup>** See S. 29(b) as to Attempted Manslaughter.

DITTO, by p. under sentence of imprisonment.

CAUSING the receipt by any p. of any WRITTEN THREAT TO KILL, knowing the contents of the writing.

##### ATTEMPTING SUICIDE.

PROCURING ANOTHER P. TO COMMIT SUICIDE.

F I. for LIFE. S. 222.\*

F Do. S. 223.

F I. — 7 yrs. S. 224.\*

M I. — 3 yrs., or/8 S. 47 &

F. — LP. 100. S. 225(1).

F I. for LIFE. S. 225(2).

COUNSELLING ANOTHER P. TO COMMIT SUICIDE thereby inducing him to do so.  
AIDING another p. to commit SUICIDE.

F I. for LIFE. S. 225(2).  
F I. for LIFE. S. 225(2).

INFANTICIDE: Causing the death of her child under 12 ms. of age by a woman, by a wilful unlawful act or omission, but while not fully recovered from the effect of giving birth to the child or by reason of lactation, and having the balance of her mind disturbed thereby. Notwithstanding the fact that were it not but for this section the o. would have amounted to murder, the o. may be dealt with and punished as manslaughter of the child.

F I. for LIFE. S. 226.  
S. 212 &  
S. 213.  
(AO. 59/39).

ENDEAVOURING BY SECRET DISPOSITION OF THE DEAD BODY OF A CHILD TO CONCEAL ITS BIRTH, whether the child died before, at, or after its birth.

I. — 3 yrs., or/8 S. 227,  
M F. — LP. 100. S. 47.

#### Offences Endangering Life or Health.

RENDERING, OR ATTEMPTING TO RENDER, ANY P. INCAPABLE OF RESISTANCE, BY ANY MEANS CALCULATED TO CHOKE, SUFFOCATE OR STRANGLE, WITH INTENT to commit or facilitate the commission of a FELONY OR MISDEMEANOUR, or to facilitate the flight of an offender after the commission of such an o.

F I. for LIFE. S. 233.

ADMINISTERING, OR ATTEMPTING TO ADMINISTER, STUPEFYING OR OVERPOWERING DRUG OR THING.

F I. for LIFE. S. 234.

WITH INTENT to disfigure, or disable, or to do GRIEVOUS HARM<sup>19</sup> to a p., or to PREVENT OR RESIST THE LAWFUL ARREST OR DETENTION either of the perpetrator or of another p. :-

(a) unlawfully WOUNDING any p.: F I. for LIFE. S. 235.

(b) unlawfully ATTEMPTING TO STRIKE



any p. with a PROJECTILE, KNIFE, OR OTHER OFFENSIVE WEAPON;

F Do. S. 235.\*

(c) unlawfully causing any EXPLOSIVE TO EXPLODE;

F Do. S. 235.\*

(d) sending or delivering AN EXPLOSIVE OR NOXIOUS THING;

F Do. S. 235.\*

(e) causing such a thing (see (d) above) to be TAKEN OR RECEIVED by any p.;

F Do. S. 235.\*

(f) putting CORROSIVE FLUID OR DESTRUCTIVE OR EXPLOSIVE THING in any place;

F Do. S. 235.\*

(g) unlawfully THROWING such a thing (see (f) above) on any p.

F Do. S. 235.\*

**Note.**<sup>49</sup> Grievous harm is such as (a) endangers life, or (b) seriously or permanently injures, or is likely so to injure, health or comfort, or (c) extends to permanent disfigurement, or (d) to any permanent or serious injury to any external or internal organ, membrane or sense.—S. 5.

UNLAWFULLY PREVENTING OR OBSTRUCTING a p. on board of, or ESCAPING FROM A VESSEL IN DISTRESS, in his endeavours to SAVE HIS LIFE; or SO OBSTRUCTING A P. IN his endeavours TO SAVE THE LIFE OF ANY P. SO SITUATED.

F Do. S. 236.

WITH INTENT TO INJURE OR ENDANGER THE SAFETY OF TRAVELLERS:—

(a) placing any thing on a RAILWAY;

F Do. S. 237.

(b) dealing with RAILWAY or anything near it so as to affect its free and safe use;

F Do. S. 237.

(c) shooting or throwing any object causing it to come into contact with any p. or thing on a RAILWAY;

F Do. S. 237.

(d) showing, or interfering with the existing

lights or signals on or near a RAILWAY (e) endangering the safety of any traveller by any RAILWAY by omitting to do an act which it is the 'perpetrator's' duty to do.

F Do. S. 237.

F Do. S. 237.

UNLAWFULLY DOING GRIEVOUS HARM<sup>49</sup> TO ANOTHER.

F I. — 7 yrs. S. 238.\*

UNLAWFULLY, WITH INTENT TO DO HARM TO ANOTHER, PLACING EXPLOSIVE SUBSTANCE IN ANY PLACE.

F I. — 14 yrs. S. 239.

ENDANGERING THE LIFE OF ANOTHER by causing the administration to, or the taking by him of POISON OR NOXIOUS THING.

F I — 14 yrs. S. 240.

UNLAWFULLY WOUNDING ANOTHER PERSON.

I. — 3 yrs., or/£ S. 241(a),  
M F. — LP, 100. S. 47.

UNLAWFULLY, WITH INTENT TO INJURE OR ANNOY, CAUSING THE ADMINISTRATION OF POISON OR NOXIOUS THING to another.

M Do. SS. 241(b) & 47.

FAILURE TO SUPPLY NECESSARIES OF LIFE by a p. under a duty to do so, without lawful excuse, whereby the life of another is likely to be endangered or his health is, or is likely to be, permanently injured.

M Do. SS. 242 & 47.

### Criminal Recklessness and Negligence.

RASHLY AND NEGLIGENTLY, so as to endanger human life or to make it likely that harm to any other p. will be caused:—

(a) DRIVING A VEHICLE or riding on a public way;

(b) NAVIGATING a vessel;

(c) HANDLING FIRE or combustible matter;

(d) omitting to take precautions against DANGER FROM AN ANIMAL in perpetrator's possession;



(e) giving MEDICAL OR SURGICAL TREATMENT;

(f) supplying, selling, or administering MEDICINE, or POISON, or NOXIOUS MATTER;

(g) HANDLING MACHINERY in the perpetrator's charge (solely or partly), including omission to take proper precautions against probable danger from such machinery;

(h) so HANDLING EXPLOSIVES in his possession, including omission to take proper precautions against probable danger from the explosives.

I. — 3 yrs. or/£  
M F. — LP. 100, SS. 243\* & 47.

DOING OTHER NEGLIGENT UNLAWFUL ACTS OR OMITTING TO DO AN ACT WHICH IT IS THE PERPETRATOR'S DUTY TO DO, whereby harm is (actually) caused to any p.

I. — 6 ms. &/or  
M F. — LP. 50. S. 244.

MISLEADING NAVIGATORS by exhibiting false lights, marks or buoys.

F I. — 7 yrs. S. 245.

KNOWINGLY OR NEGLIGENTLY CONVEYING for hire, or causing such conveyance of ps. by water IN AN UNSAFE VESSEL.

I. — 3 yrs., &/or  
M F. — LP. 100, SS. 246 & 47.

FAILURE TO EXERCISE REASONABLE CARE in handling property, whereby danger, obstruction, or injury is caused IN A PUBLIC WAY OR LINE OF NAVIGATION.

M F. — LP. 50. S. 247.

#### Assaults.

COMMON ASSAULT: Unlawfully striking, touching, moving, or otherwise applying force<sup>50</sup> of any kind to the person of another, directly or indirectly, without that p.'s consent, or with consent obtained by fraud, (in circumstances in which no greater punishment is provided).

I. — 1 year &/or  
M F. — LP. 50. S. 248, S. 249.

Note.<sup>50</sup>The term 'applying force' includes the

application of heat, light, electrical force, gas, odour, or any other substance or thing whatever if applied in a degree causing injury or personal discomfort. — S. 248.

The definition of assault is given above under 'common assault' (S. 248).

#### ASSAULT<sup>50</sup> —

— causing ACTUAL BODILY HARM.<sup>75</sup>

I. — 3 yrs. or/£  
M F. — LP. 100. S. 250.\*

— with intent TO COMMIT A FELONY,

OR TO RESIST OR PREVENT LAWFUL APPREHENSION OR DETAINER.

M I. — 2 yrs. S. 251(a).

— OF A POLICE OFFICER or any p. aiding such officer in due execution of duty, or resisting or obstructing him in the execution of duty.

M Do. S. 251(b).

— in pursuance of an UNLAWFUL CONSPIRACY respecting any trade, business, or manufacture, or any p. concerned or employed therein, or in pursuance of an unlawful combination or conspiracy to raise the rate of wages.

M Do. S. 251(c).

— of a p. lawfully EXECUTING A PROCESS OR MAKING DISTRESS, or obstructing or resisting such p. in order to rescue property from such distress, or to hinder the execution of process.

M Do. S. 251(d).

— on account of any ACT DONE IN EXECUTION OF DUTY imposed by law.

M Do. S. 251(e).

#### Offences against Liberty.

ABDUCTION FROM PALESTINE: Conveying any p. beyond the limits of Palestine without his consent, or without the consent of some p. legally authorised to consent on his behalf.

F I. — 7 yrs. SS. 252 & 255.

ABDUCTION FROM LAWFUL GUARD-



IANSHIP: Taking or enticing a male p. under 14 years of age, or a female p. under 16 years of age, or any p. of unsound mind, out of the keeping of his (or her) lawful guardian, without the latter p.'s consent.

F Do. SS. 253 & 255.

**Note.<sup>51</sup> Definition of abduction.** Compelling by force, or inducing by any deceitful means, any p. to go from any place. — S. 254.

#### ABDUCTION<sup>51</sup> —

— of a p. in order TO MURDER or so handle him as to put him in danger of being murdered.

F I. — 10 yrs. S. 256.\*

— of a p. in order TO KEEP HIM IN SECRET WRONGFUL CONFINEMENT.

F I. — 7 yrs. S. 257.

— of a p. in order TO SUBJECT HIM TO GRIEVOUS HARM<sup>49</sup> OR UNNATURAL LUST of others.

F I. — 10 yrs. S. 258.\*

Same punishment as prescribed for the abduction with the same intention or knowledge, or for the same purpose, as that with or for which the p. is detained or confined.

F S. 259.

KNOWING that a p. has been abducted, WRONGFULLY CONCEALING OR CONFINING him.

F I. — 7 yrs. S. 260.

ABDUCTION<sup>51</sup> OF A CHILD UNDER 14 YEARS of age, with intent TO STEAL from his person.

UNLAWFULLY COMPELLING A P. TO LABOUR against his will.

M I. — 1 year. S. 261.

UNLAWFUL ARREST OR CONFINEMENT of a p.

M I. — 1 year or F. — LP. 50. S. 262.

DO., — BY FALSELY ASSUMING OFFICIAL CHARACTER or by PRETENDING TO HAVE A LAWFUL WARRANT.

M I. — 3 yrs. S. 262.

## DIVISION V. - OFFENCES RELATING TO PROPERTY.

### Stealing.

**Note.<sup>52</sup> Definition of stealing.** Without the consent of the owner, fraudulently and without a claim of right made in good faith, taking and carrying away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof; provided that a p. may be guilty of stealing notwithstanding that he has lawful possession of a thing (stolen), if being a bailee or part owner thereof, he fraudulently converts the same to his own use or the use of any p. other than the owner. — S. 263(1). — 'Taking' includes obtaining the possession (i) by any trick, (ii) by intimidation, (iii) under a mistake on the part of the owner, with knowledge on the part of the taker that possession has been so obtained, or (iv) by finding, where at the time of the finding the finder believes that the owner can be discovered by taking reasonable steps. S. 263(2)(a). — 'Carrying away' includes any removal of anything from the place which it occupies, but in a case of a thing attached, only if it has been completely detached. — S. 263(2)(b). — 'Owner' includes a part owner, or p. having possession or control or a right to possession of anything capable of being stolen. — S. 263(2). 'Capable of being stolen'. Everything having value and being the property of any p., and if adhering to an immovable then after severance therefrom, is capable of being stolen. S. 263(3).

**Note.<sup>53</sup> Acts not deemed to be theft:** (1) Pledging or giving a lien on any goods (or documents of title to goods), entrusted to the p. so dealing with them as factor or agent, for any sum of money not greater than is due to the agent from his principal at the time of such dealing with the goods (or such document), together with the amount of any bill



of exchange, or promissory note accepted or made by the agent or on account of his principal. — S. 264(1). (2) The 'taking' by a servant, contrary to his master's orders, from the latter's possession of any food for any animal belonging to, or in the possession of the master. S. 264(2).

**Note.<sup>54</sup>** Money, valuable security or a power of attorney for disposition of any property held by a p. under direction to apply such money, or proceeds of such security or disposition, to any purpose, or to pay it to a specified p. Such money or proceeds are deemed to be the property of the p. for whom the money, security, or power of attorney was received, until the direction has been complied with. (S. 265). — Property received by agents for sale or other disposition. — Proceeds of the property and anything received in exchange for it are deemed to be the property of the person from whom so received, until the disposal of the proceeds in accordance with the terms on which so received (unless there was an agreement for applying the proceeds for the adjustment of a 'debtor and creditor account' between the parties, that is to say, the principal and the agent). (S. 266). — Money received for another is deemed to be the property of the p. on whose behalf it is received (unless received on the terms that it shall form an item in a 'debtor and creditor' account). — (S. 267).

**Note.<sup>55</sup>** Theft by a lessee, a joint owner of, or a p. having a right to possession or interest in the thing stolen, or by a director or officer of a corporation (or company, or society) who are its owners. — Taking or converting anything capable of being stolen under circumstances as ordinarily amount to theft, is also deemed to be theft if done by such ps. The same applies to any p. who is the owner of the thing taken or converted, subject

to a right or interest of some other p. therein. S. 268.

**Note.<sup>56</sup>** While a man and his wife are living together, procuring either of them to deal with the property of the other in a manner which would be theft, if they were not married, is punishable as theft, provided that the 'p. procuring' knows that such property belongs to the spouse of the p. acting under the inducement. — S. 269.

**THEFT:** Stealing anything capable of being stolen (of such nature, and in such circumstances, as do not render the offence otherwise punishable).

M I. — 1 year. S. 270.\*

#### STEALING —

— A TESTAMENTARY INSTRUMENT.

F I. — 7 yrs. S. 271.

— horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, goat, or pig; or the young of such animal.

I. — 3 yrs., &/or  
M F. — LP. 100. SS. 272 & 47.

— from the person of another.

M Do. SS. 273(a) & 47.

— from a dwelling house<sup>57</sup> a thing exceeding LP. 5 in value.

M Do. SS. 273(b) & 47.

— from a vessel, or vehicle, or a place used for conveyance or custody of goods in transit.

M Do. SS. 273(c) & 47.

— a thing attached to or forming part of a railway.

M Do. SS. 273(d) & 47.

— from a wrecked or stranded vessel, or a vessel in distress.

M Do. SS. 273(e) & 47.

— from a public office where the thing stolen is kept.

M Do. SS. 273(f) & 47.

— by opening any receptacle by a key or instrument.

M Do. SS. 273(g) & 47.

— BY A PUBLIC SERVANT the property of His Majesty, or property in his possession on account of his employment, AND EXCEEDING IN VALUE THE SUM OF LP. 50.

F I. — 10 yrs. S. 274.

— BY CLERK OR SERVANT the property



of his employer or which came into his possession on account of his employer, and which EXCEEDS IN VALUE THE SUM OF LP. 50.

F I. — 7 yrs. S. 275.\*

— BY A DIRECTOR OR OFFICER OF A CORPORATION OR COMPANY the property of the corporation (or company).

F I. — 7 yrs. S. 275.\*

— PROPERTY RECEIVED BY THE PERPETRATOR WITH A POWER OF ATTORNEY FOR ITS DISPOSITION.

F I. — 7 yrs. S. 276(a).\*

— PROPERTY ENTRUSTED for safe custody, or for application or delivery for any purpose or to any p.

F Do. S. 276(b).\*

— PROPERTY RECEIVED FOR, OR ON ACCOUNT, OF ANOTHER.

F Do. S. 276(c).\*

— PROCEEDS of any valuable security received with direction to apply the proceeds thereof to any p., or to pay to any p.

F Do. S. 276(d).\*

— PROCEEDS from disposition of property received by the offender by virtue of a power of attorney, with a direction to apply proceeds in a specified manner.

F Do. S. 276(e).\*

— FIXTURES or chattels let to the offender with a house or lodging, if their value EXCEEDS LP. 5.

I. — 3 yrs., &/or  
M F. — LP. 100. SS. 277 & 47.

— AFTER A CONVICTION UNDER S. 270 (Ordinary Theft).

M I. — 3 yrs. S. 278(1).

— AFTER A CONVICTION UNDER S. 272 (Theft of Cattle).

F I. — 7 yrs. S. 278(2).

Note.<sup>57</sup> 'Dwelling house', as defined in S. 5, includes any building or structure, or part thereof, which is for the time being kept by the owner or occupier for the residence of himself, his family or servants, and it is immaterial that it is from time to time uninhabited; and a building or structure adjacent to or occupied or used with a dwelling house if there is a communication between it and

the dwelling house (either immediate or by means of a covered and enclosed passage), but not otherwise.

### Offences Allied to Stealing.

#### WITH INTENT TO DEFRAUD —

— CONCEALING or removing from its place of deposit A REGISTER, or part or a copy thereof, authorised or required by law for recording titles to property, or births, baptisms, marriages, deaths or burials.

F I. — 7 yrs. S. 279.

— CONCEALING A TESTAMENTARY INSTRUMENT.

F Do. S. 280.

— CONCEALING a document, or part thereof, forming EVIDENCE OF TITLE TO LAND OR ESTATE IN LAND.

I. — 3 yrs. &/or  
M F. — LP. 100. S. 281.

#### WITH INTENT TO STEAL —

— THE SKIN OR CARCASS, KILLING AN ANIMAL capable of being stolen.

Same penalty as for stealing the animal.  
M or F (See SS. 270, 272 & 278) S. 282.

— completely SEVERING ANYTHING ATTACHED TO AN IMMOVABLE thing.

Same penalty as for stealing the thing after its severance.  
(See S. 270 et seq.) S. 283.

WITH INTENT TO DEFRAUD, TAKING, CONCEALING, or otherwise disposing of ORE, METAL OR MINERAL IN A MINE.

F I. — 5 yrs. S. 284.

MALICIOUSLY OR FRAUDULENTLY ABSTRACTING, WASTING, OR DIVERTING, OR CONSUMING, OR USING ELECTRICITY.

F I. — 5 yrs. S. 285(1).\*

FRAUDULENTLY ABSTRACTING OR DIVERTING, to the perpetrator's or other p.'s use, RUNNING WATER belonging to another.

F Do. S. 285(2).



## Criminal Trespass.

ENTERING INTO OR UPON PROPERTY IN POSSESSION OF ANOTHER, WITH INTENT TO COMMIT AN OFFENCE, OR TO INTIMIDATE, INSULT OR ANNOY ANY P. IN POSSESSION OF THE PROPERTY; or UNLAWFULLY REMAINING IN OR UPON SUCH PROPERTY after lawful entry, WITH SUCH INTENT.

M I. — 2 yrs. S. 286.

## Robbery and Extortion.

ROBBERY: STEALING anything, and at, immediately before or immediately after the time of stealing USING OR THREATENING TO USE ACTUAL VIOLENCE to any p. or property in order TO OBTAIN OR RETAIN THE THING STOLEN OR TO PREVENT OR OVERCOME RESISTANCE to its being stolen or retained.

F I. — 14 yrs. SS. 287\* & 288(1).\*

DO. — if the offender is ARMED WITH DANGEROUS OR OFFENSIVE WEAPON OR INSTRUMENT.

F I. for LIFE. SS. 287\* & 288(1).\*

DO. — if the offender is IN COMPANY WITH ANOTHER P. OR PERSONS.

F Do. SS. 287 & 288(1).\*

DO. — if the offender WOUNDS, BEATS, STRIKES, OR USES OTHER PERSONAL VIOLENCE to any p.

F Do. SS. 287 & 288(1).\*

ATTEMPTED ROBBERY: Assaulting any p. with intent to steal, using or threatening actual violence to any p. or property in order to obtain the thing intended to be stolen or to prevent or overcome resistance.

F I. — 7 yrs. S. 288(2).\*

DO. — if the offender is ARMED WITH DANGEROUS OR OFFENSIVE WEAPON OR INSTRUMENT.

F I. for LIFE S. 288(2).\*

DO. — if the offender is IN COMPANY WITH OTHER P. OR PERSONS.

F Do. S. 288(2).\*

DO. — if the offender WOUNDS, STRIKES, OR USES OTHER PERSONAL VIOLENCE to any p.

F Do. S. 288(2).

ASSAULT<sup>50</sup> WITH INTENT TO STEAL.

M I. — 3 yrs., &/or F. — LP. 100. S. 289. & S. 47.

WITH INTENT TO EXTORT OR GAIN ANYTHING, KNOWING THE CONTENTS OF THE WRITING, CAUSING ANY P. TO RECEIVE ANY WRITING DEMANDING ANYTHING without reasonable or probable cause AND CONTAINING THREATS OF INJURY OR DETRIMENT to any p. if the demand is not complied with.

F I. — 14 yrs. S. 290.\*

WITH INTENT TO EXTORT OR GAIN ANYTHING —

(a) ACCUSING OR THREATENING TO ACCUSE any p. of committing a felony or misdemeanour, or offering, or making any solicitation or threat to any p. as an inducement to commit or permit the commission of any felony or misdemeanour.

If the accusation or threat thereof is: of an offence punishable with death or life i., or an o. contrary to SS. 152-179 inclusive, or an assault with intent to commit sodomy, or indecent assault upon a male p.; or of a solicitation or threat to a p. to induce to commit or permit the commission of any such o.

(b) THREATENING that any p. shall be accused by any other p. of such an offence, or of any such act (see S. 291(a)).

(c) CAUSING any p. to receive a writing knowing that it contains such accusation or threat as aforesaid (see S. 291(a) & (b)).

F In any other case, I. — 4 yrs. S. 291.

Note.<sup>57a</sup> It is immaterial whether the p. accused or threatened to be accused has or has not committed the o. or act of which he is accused or threatened to be accused. — S. 291.

WITH INTENT TO DEFRAUD, and by means of unlawful violence to, or restraint of, the person of another, or by threat of such violence, or threatening to accuse a p. of committing a felony or misdemeanour, or by offering or making any solicitation or threat to any p. as an inducement to commit or permit the commission of any o., COMPELLING OR INDUCING any p. (a) to execute, make,



accept, indorse, alter, or destroy the whole or any part of any valuable security; or (b) to write, impress or affix any name or seal, or mark, on parchment or paper, in order that it may be used or dealt with as a valuable security.<sup>58</sup>

**Note.**<sup>58</sup> 'Valuable security' includes any document which is the property of any p., and which is evidence of the ownership of any property or of the right to recover or receive such. — S. 5.

**DEMANDING A VALUABLE THING WITH MENACES OR FORCE**, with intent to steal it.

F I. — 14 yrs. S. 292.

F I. — 5 yrs. S. 293.

### Burglary, Housebreaking and Similar Offences.

**HOUSEBREAKING:** (a) Breaking<sup>59</sup> and entering<sup>60</sup> a building, tent, or vessel used as a dwelling or a building used as a place of worship, with intent to steal or commit a felony therein; or (b) having entered such place with such intent, or having committed theft or a felony therein, breaking out from the place.

F I. — 7 yrs. S. 295.\*

**Note.**<sup>59</sup> 'Breaking'. Any p. who breaks any part, whether external or internal, of a building, or opens by unlocking, pulling, pushing, lifting, or any other means whatever, any door, window, shutter, or any other thing, intended to close or cover an opening in a building, or an opening giving passage from any part of a building to another, is deemed to break the building. — S. 294.

**Note.**<sup>60</sup> 'Entering'. The entry is complete as soon as any part of the perpetrator's body or of the instrument used by him is within the building. 'Breaking and entering' is deemed to have occurred if entrance into a building has been obtained by means of a threat or artifice,

or by collusion with any p. in the building, or by entering through a chimney or other permanent aperture (left open for a necessary purpose) not intended as a means of entrance. — S. 294.

**BURGLARY:** Housebreaking (see S. 295, supra) committed in the night.<sup>61</sup>

F I. — 14 yrs. S. 295.\*

**Note.**<sup>61</sup> 'Night' means the interval between 6.30 p. m. and 6.30 a. m. — S. 5.

**ENTERING OR BEING IN ANY BUILDING, tent, or vessel, used as a DWELLING OR FOR WORSHIP**, with intent to commit theft or a felony therein.

F I. — 5 yrs. S. 296.

**DO.** — if COMMITTED BY NIGHT.<sup>61</sup>

F I. — 7 yrs. S. 296.

**BREAKING<sup>59</sup> AND ENTERING<sup>60</sup>** a school, shop, store, warehouse, office, counting house, stable, cow house, or barn, or a building adjacent to a dwelling house and occupied with it (but not part of it), **AND COMMITTING THEFT OR FELONY** therein.

F I. — 7 yrs. S. 297(a).

**HAVING COMMITTED THEFT OR FELONY** in such a place (see S. 297(a)) **BREAKING<sup>59</sup> OUT OF IT.**

F I. — 7 yrs. S. 297(b).

**BREAKING<sup>59</sup> AND ENTERING<sup>60</sup> ANY SUCH PLACE** (see S. 297) **WITH INTENT TO COMMIT THEFT OR A FELONY** therein.

F I. — 5 yrs. S. 298.

**BEING FOUND —**

— **ARMED** with a dangerous or offensive weapon or instrument with intent to break or enter a dwelling house and to commit a theft or felony therein.

M or F S. 299(a).

— **ARMED** as above (see S. 299(a)) **BY NIGHT**,<sup>61</sup> with intent to break<sup>59</sup> or enter<sup>60</sup> **ANY BUILDING** and commit a theft or felony therein.

M or F S. 299(b).

— **BY NIGHT**,<sup>61</sup> without lawful excuse (the



proof of which lies on the offender), with an instrument of housebreaking.

— BY DAY with an instrument of house-breaking, WITH INTENT TO COMMIT A FELONY.

— WITH MASKED OR BLACKENED FACE, OR DISGUISED, with intent to commit theft or felony.

— IN ANY BUILDING, BY NIGHT, with intent to commit theft or felony therein and having taken precautions to be concealed.

Do. I.—3 yrs. &/or S. 299(c).

F. — LP. 100.  
Do. If previously convicted of a felony relating to property, S. 299(d).

Do. I. — 7 yrs. S. 299(e).

Do. S. 299(f).  
(& S. 47).

#### False Pretences.

WITH INTENT TO DEFRAUD, BY A FALSE PRETENCE<sup>62</sup> —

— OBTAINING anything capable of being stolen, or inducing another to deliver such thing to any p.

F I. — 5 yrs. S. 301.\*

— INDUCING to execute, make, destroy, accept, indorse, or alter A VALUABLE SECURITY<sup>58</sup> (or part thereof); or to write, impress or affix any name, seal, or mark on paper (or parchment) for converting it into or using it as a valuable security.

F Do. S. 302.

Note.<sup>62</sup> A false pretence is any representation by words, writing or conduct, of a matter of fact, known to the p. making it to be false or not believed by him to be true. —S. 300.

OBTAINING anything capable of being stolen BY FRAUDULENT TRICK OR DEVICE, or thus inducing any p. to deliver money or goods, or a greater sum of money or a greater quantity of goods than he would have paid or delivered but for such trick or device.

I. — 3 yrs. &/or S. 303.  
M F. — LP. 100. & S. 47.

OBTAINING CREDIT by false pretence or by other fraud.

M Do. S. 304(a).

MAKING A GIFT, delivery, or transfer of,

& S. 47.

or any charge of one's property WITH INTENT TO DEFRAUD CREDITORS. M Do. S. 304(b).  
& S. 47.

SELLING OR REMOVING PART OF ONE'S PROPERTY since, or within 2 months before, the date of an unsatisfied judgment or order for payment against the perpetrator WITH INTENT TO DEFRAUD CREDITORS. M Do. S. 304(c).  
& S. 47.

CONSPIRING WITH ANOTHER BY DECEIT OR FRAUDULENT MEANS (i) to affect the market price of anything publicly sold, or (ii) to defraud the public or any p., or (iii) to extort any property from a p. M Do. S. 305.  
& S. 47.

WITH INTENT TO INDUCE A PURCHASER OR MORTGAGEE TO ACCEPT THE TITLE OFFERED (THE PERPETRATOR BEING A SELLER OR MORTGAGOR OF ANY PROPERTY, OR THE ADVOCATE OR AGENT OF SUCH P.) —

— Concealing from the purchaser or mortgagee an instrument material to the title, or an incumbrance.

M I. — 2 yrs. S. 306(a).

— Falsifying a certificate on which the title depends or may depend.

M Do. S. 306(b).

— Making a false statement as to the title offered, or concealing facts material thereto.

M Do. S. 306(c).

FOR GAIN OR REWARD —

— Pretending to exercise witchcraft, or enchantment, or undertaking to tell fortunes; or

— Pretending to discover where and how anything supposed to be stolen or lost may be found through skill or knowledge in an occult science.

M I. — 1 year. S. 307.

BY FALSE PRETENCE<sup>62</sup> — procuring, or attempting to procure, registration, licence, or certificate under any law (whether for the perpetrator himself or for any other p.).

M Do. S. 308.



**Receivers.**

RECEIVING, by the perpetrator or his agent, alone or jointly with another p., or undertaking the control or disposition of any thing, money, valuable security or other PROPERTY, KNOWING THE SAME TO HAVE BEEN—

— STOLEN, TAKEN, EXTORTED, OBTAINED OR DISPOSED OF IN A MANNER CONSTITUTING A FELONY.

F I. — 10 yrs. S. 309.\*

Note.<sup>63</sup> A p. charged under S. 309 may be tried before a court competent to try the p. charged with having so stolen, etc. (see S. 309, supra) in which case he is liable to the same punishment as the latter. — S. 309.

— UNLAWFULLY TAKEN, OBTAINED, CONVERTED OR DISPOSED OF IN A MANNER CONSTITUTING A MISDEMEANOUR.

M Same punishment to which the thief (etc) is liable. S. 310.\*

POSSESSION<sup>64</sup> OF PROPERTY REASONABLY SUSPECTED TO BE STOLEN PROPERTY.<sup>65</sup>

I. — 6 ms. &/or  
M F. — LP. 50. S. 311.\*

Note.<sup>64</sup> Possession includes: (i) having a thing in one's own control and custody, (ii) having control of a thing in the custody of another, and (iii) having control of a thing in any place, whether belonging to or occupied by the p. 'having control' or not. — If one or more ps., out of a number of ps. (subsequently referred to as 'those ps.'), has or have anything in his or their custody or control with the knowledge and consent of the rest, the thing is deemed to be in the custody of each and all of those ps. — S. 5.

Note.<sup>65</sup> Defence. Proof of lawful acquisition of possession to the satisfaction of the Court. — S. 311.

**Frauds by Trustees and Persons in a Position of Trust, and False Accounting.**

DESTROYING TRUST PROPERTY, OR CONVERTING IT TO ANY USE NOT AUTHORISED by the trust, BY A TRUSTEE,<sup>66</sup> with intent to defraud.

F I. — 7 yrs. S. 312.

Note.<sup>66</sup> Only the following are 'trustees' for the purposes of S. 312: (a) & (b) trustees upon express trusts created by deed, will or instrument in writing, or appointed by or under the authority of a law, (c) ps. upon whom the duties of any such trust as aforesaid devolve, and (d) executors and administrators. — S. 312.

**WITH INTENT TO DEFRAUD —**

— OMITTING TO MAKE, or to cause to be made, A FULL AND TRUE ENTRY OF RECEIPT OF PROPERTY OF A CORPORATION OR COMPANY (otherwise than in payment of just debt or demand) in the books or accounts of the corporation or company BY ITS DIRECTOR OR OFFICER who received or possessed himself of any such property.

F I. — 7 yrs. S. 313(a).

— i. DESTROYING, ALTERING, MUTILATING, FALSIFYING books, documents, valuable securities or accounts of a CORPORATION OR COMPANY, or being privy to such act, or ii. MAKING or being privy to making any FALSE ENTRY in any such book, account or document; or iii. OMITTING or being privy to omitting any material PARTICULAR from any such book, account or document, BY A DIRECTOR, OFFICER OR MEMBER OF A CORPORATION OR COMPANY.

F Do. S. 313(b).

MAKING, CIRCULATING OR PUBLISHING BY A PROMOTER, DIRECTOR, OFFICER OR AUDITOR OF A CORPORATION OR COMPANY A WRITTEN STATEMENT,



to his knowledge FALSE in a material particular, and with intent either (a) to deceive or defraud a member, shareholder or creditor of the corporation or company, or (b) to induce any p. to become such member or to entrust or advance property to the corporation or company, or to enter into any security for the benefit thereof; or CONCURRING (by such director, etc., as above) in such making, circulation or publication of false statement (as above).

F Do. S. 314.

**FRAUDULENT FALSE ACCOUNTING BY A CLERK OR SERVANT:** With intent to defraud — (a) destroying, altering, mutilating, falsifying the employer's books, documents, valuable securities or accounts; or (b) making a false entry in any such book, document or account; or (c) omitting a material particular from such book, document or account; or being privy to (a), (b) or (c).

F Do. S. 315.

**KNOWINGLY FURNISHING A FALSE STATEMENT OF MONEY, OR PROPERTY,** or any balance of same, received by, or entrusted to, or in the possession or under the control of the perpetrator, **BY AN OFFICER CHARGED WITH THE RECEIPT, custody, or management of the PUBLIC REVENUE OR PROPERTY.**

I. — 3 yrs., &/or  
M F. — LP. 100. SS. 316 & 47.

## **DIVISION VI. — MALICIOUS INJURIES TO PROPERTY.**

**ARSON:** Wilfully and unlawfully setting fire to (a) a building or structure, whether completed or not; or (b) a vessel, or (c) a stack of cultivated vegetable produce, or of fuel (mineral or vegetable), or (d) a mine, or its workings, fittings or appliances.

F I. — for LIFE. S. 317.\*

**ATTEMPT TO COMMIT ARSON** (see S. 317 for definition).

F I. — 14 yrs. S. 318(a).

**WILFULLY & UNLAWFULLY SETTING FIRE** to anything so situated that a **THING MENTIONED IN S. 317 IS LIKELY TO CATCH FIRE.**

F Do. S. 318(b).

**WILFULLY AND UNLAWFULLY SETTING THE FIRE TO —**

(a) CROPS OR CULTIVATED VEGETABLE PRODUCE, or

(b) HAY OR GRASS UNDER CULTIVATION, (whether standing or cut); or

(c) A STANDING TREE, SAPLING OR SHRUB under cultivation.

F Do. S. 319.

**ATTEMPTING TO COMMIT THE O. DEFINED IN S. 319.**

F I. — 7 yrs. S. 320(a).

**WILFULLY AND UNLAWFULLY SETTING FIRE** to anything so situated that **ANYTHING MENTIONED IN S. 319 IS LIKELY TO CATCH FIRE.**

F Do. S. 320(b).

**WILFULLY AND UNLAWFULLY SETTING FIRE TO ANYTHING IN, AGAINST OR UNDER ANY BUILDING,** whether the building be set on fire or not.

F I. — 14 yrs. S. 321.

**ATTEMPTING** such act (see S. 321).

F I. — 7 yrs. S. 322.

**WILFULLY AND UNLAWFULLY —**

(a) CASTING AWAY OR DESTROYING A VESSEL, whether completed or not; or

(b) DOING AN ACT tending to the immediate loss or DESTRUCTION OF A VESSEL IN DISTRESS.

F I.—for LIFE. S. 323(a)&(b).

**WITH INTENT TO ENDANGER A VESSEL,** interfering with navigation lights, beacons, buoys, marks or signals; or exhibiting false lights or signals.

F Do. S. 323(c).

**ATTEMPT TO DO AN ACT PUNISHABLE UNDER S. 323(a) & (b).**

F I. — 14 yrs. S. 324.

**WILFULLY AND UNLAWFULLY KIL-**



LING, INJURING, WOUNDING OR ADMINISTERING POISON TO AN ANIMAL capable of being stolen, other than one mentioned hereunder.

M I. — 2 yrs. S. 325.

DO. — if the animal is a horse, mare, gelding, ass, mule, camel, bull, cow, ox, goat, pig, ram, ewe, wether, or its young.

F I. — 10 yrs. S. 325.

WILFULLY AND UNLAWFULLY DESTROYING OR DAMAGING —

— ANY PROPERTY (unless otherwise stated).

I. — 3 yrs., &/or  
M F. — LP. 100. SS. 326(1) & 47.

— THRESHING FLOORS, AGRICULTURAL MACHINES, WELLS, or bores for water; DAMS, BANKS, WALLS OR FLOODGATE OF A MILL-POND OR POOL; or standing, growing or cut CROPS OF CULTIVATED VEGETABLE PRODUCE, or STANDING TREES, SAPPLINGS OR SHRUBS under cultivation; or BRIDGES, VIADUCTS, AQUEDUCTS OR RESERVOIRS.

F I. — 7 yrs. S. 326(2).

— DWELLING HOUSES<sup>57</sup> OR VESSELS, if the injury is caused by the explosion of an explosive and if either (a) any p. is in the house or vessel, or (b) the life of any p. is actually endangered thereby.

F I. — for LIFE, S. 326(3).

— TESTAMENTARY INSTRUMENTS, OR REGISTERS kept under any law for authenticating THE TITLE TO PROPERTY, OR for recording BIRTHS, BAPTISMS, MARRIAGES, DEATHS OR BURIALS, or copies or parts of such registers required by law to be sent to any public officer.

F I. — 14 yrs. S. 326(4).

PLACING EXPLOSIVES in any place, unlawfully and with intent to destroy or damage any property.

F I. — 14 yrs. S. 327.

WILFULLY AND UNLAWFULLY CAUSING, or being concerned in, or attempting to cause, any INFECTIOUS DISEASE TO BE

COMMUNICATED TO or among any ANIMAL or animals capable of being stolen.

F I. — 7 yrs. S. 328.

WITH INTENT TO DEFRAUD, wilfully and unlawfully REMOVING OR DEFACING BOUNDARY MARKS of any land, lawfully erected.

I. — 3 yrs., &/or  
M F. — LP. 100 S. 329.  
& S. 47.

WILFULLY REMOVING, DEFACING, OR INJURING —

— SURVEY OR BOUNDARY MARKS made by, or under the direction of, a Government Department, or in the course, or for the purposes of a Government survey.

I. — 3 ms. or  
M F. — LP. 10, plus cost of repairs or survey necessitated by the o.  
S. 330(a).

— MARKS ERECTED BY INTENDING APPLICANTS FOR LEASES, licences or rights under any law relating to MINES OR MINERALS.

M Do. S. 330(c).

NEGLECT or refusal TO REPAIR any BOUNDARY MARK as aforesaid (see S. 330(a)) by a p. under an obligation to maintain such mark in repair.

M Do. S. 330(b).

SENDING, DELIVERING, UTTERING, OR CAUSING THE RECEIPT OF A WRITING CONTAINING THREATS TO BURN OR DESTROY a building or barn, rick, or stack of grain, hay, or straw, or agricultural produce, or ship, or to kill, injure, poison or wound any cattle, — the perpetrator knowing the contents of the writing.

F I. — 10 yrs. S. 331.

## DIVISION VII. — FORGERY, COINING, COUNTERFEITING AND SIMILAR OFFENCES.

### Forgery.

Note.<sup>66</sup> 'Forgery' is the making of a false document with an intent to defraud or deceive.

— S. 332. — Document in this division of the O. does not include a trade mark or any other sign used in connection with articles of commerce, though written or printed. — S. 333.\*



## 'Making a false document' includes:

(a) making a document purporting to be what in fact it is not; (b) altering a document without authority in such a manner that if the alteration had been authorised it would have altered the effect of the document; (c) whilst a document is being drawn up, introducing into it without authority matter which, had it been authorised, would have altered the effect of the document; (d) signing a document (i) in the name of any p. without his authority, or (ii) of a fictitious p. alleged to exist, or (iii) in the name represented as being that of a different p. signing it and intended to be mistaken for the name of that p., or (iv) in the name of the p. personated by the p. signing. In (i) & (ii) it makes no difference that the forger's name happens to be the same as that signed. In (iv) signing a document amounts to 'making a false document' only if the effect of the instrument depends upon the identity between the p. signing and the p. whom he professes to be. — S. 334.

'Intent to defraud' in forgery is intent to induce another p. to act upon the document to such other p.'s injury (S. 335(1)). It is presumed to be present if at the time of the making of the false document there was in existence a specific p., ascertained or unascertained, capable of being defrauded thereby. The presumption is not rebutted by proof that the offender took or intended to take measures to prevent him from being defrauded; nor by the offender's belief that he (the offender) had a right to the thing to be obtained by the false document. — S. 335(2).

FORGERY<sup>66</sup> —

- of ANY DOCUMENT, unless otherwise stated.
- of WILLS.
- of DOCUMENTS OF TITLE TO LAND.
- of JUDICIAL RECORDS.

	I. — 3 yrs. &/or	
M	F. — LP, 100, S. 336 & S. 47.	
F	I. — for LIFE.	S. 337.
F	Do.	S. 337.
F	Do.	S. 337.

— of POWERS OF ATTORNEY.	F	Do.	S. 337.
— of BILLS OF EXCHANGE, PROMISSORY NOTES OR OTHER NEGOTIABLE INSTRUMENTS.	F	Do.	S. 337.
— of POLICIES OF INSURANCE.	F	Do.	S. 337.
— of CHEQUES or other authority for payment by bankers.	F	Do.	S. 337.*
— of JUDICIAL OR OFFICIAL DOCUMENTS.	F.	I. — 10 yrs.	S. 338.
— of REVENUE STAMPS of any Government. WITHOUT LAWFUL EXCUSE (the proof whereof being on the offender) MAKING, OR KNOWINGLY POSSESSING DIES OR INSTRUMENTS FOR MAKING THE IMPRESSION OF REVENUE STAMPS.	F	I. — 7 yrs.	S. 339(a).
	F	Do.	S. 339(b).

## WITH INTENT TO USE AGAIN, FRAUDULENTLY —

— cutting, tearing or removing (S. 339(c)) or mutilating (S. 339(d)) PALESTINE REVENUE STAMPS.	F	Do.	S. 339(c) & (d).
— erasing or removing from STAMPED MATERIAL names, sums, dates, or other writing.	F	Do.	S. 339(f).
FRAUDULENTLY placing upon any material any STAMP, or part thereof, which has been cut, torn or removed from any other material or stamp.	F	Do.	S. 339(e).
KNOWINGLY AND WITHOUT LAWFUL EXCUSE (the proof of which is on the offender) POSSESSING A STAMP, or part thereof, previously fraudulently cut, torn, or removed from any material, or fraudulently mutilated; or ANY STAMPED MATERIAL out of which any writing had been fraudulently erased or removed.	F	Do.	S. 339(g).

KNOWINGLY AND FRAUDULENTLY UTTERING A FALSE DOCUMENT.<sup>66</sup>

M or F	Penalty as for forgery of the document uttered (see SS. 336 — 339).	S. 340.*
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KNOWINGLY UTTERING AS EFFECTUAL any document lawfully revoked, cancelled or suspended, or ineffectual by effluxion of time, death, or through other cause.

M or F Do. S. 341.

BY FALSE AND FRAUDULENT REPRESENTATIONS as to its nature, contents or or operation

PROCURING THE EXECUTION, OR SIGNING OF A DOCUMENT.

M or F Do. S. 342.

WITH INTENT TO DEFRAUD —

— obliterating, adding to, or altering THE CROSSING OF A CHEQUE.

F I. — 7 yrs. S. 343(a).

— knowingly UTTERING A CROSSED CHEQUE so tampered with (see S. 343(a)).

F Do. S. 343(b).

— and without lawful excuse, MAKING, SIGNING OR EXECUTING FOR ANOTHER, whether by procuration or otherwise, ANY WRITING.

F Do. S. 344(a).\*

— KNOWINGLY UTTERING ANY WRITING SO MADE, signed or executed (see S. 344(a)).

F Do. S. 344(b).

PROCURING THE DELIVERY OF PROPERTY, OR PAYMENT OF MONEY, by virtue of probate or letters of administration granted upon testamentary instrument known by the offender to be FORGED; or UPON FALSE EVIDENCE.

Same penalty as for forgery of the document  
M or F or thing used. S. 345.

KNOWINGLY AND WITH INTENT TO DEFRAUD, making out or delivering BY A PUBLIC SERVANT OF A WARRANT FOR THE PAYMENT OF MONEY payable by a public authority FOR A GREATER OR SMALLER AMOUNT than is due.

F I. — 7 years. S. 346.

KNOWINGLY PERMITTING ENTRIES FALSE in a material particular to be made IN REGISTER OR RECORDS, the offender being A P. HAVING ACTUAL CUSTODY of such records kept by lawful authority.

F Do. S. 347.

### Forgery<sup>66</sup> of Bank Notes.

Note.<sup>67</sup> For the purposes of SS. 349—354, 'bank note' includes any note or bill of exchange issued by a bank in Palestine or by the Bank of England, or by any p. or corporation or company carrying on the business of banking in any part of the world; and any bank bill, or a blank bill of exchange; and any currency note issued under the Currency Notes O., 1927; and any note (by whatsoever name called) which is legal tender in the country of issue. — S. 348.

WITH INTENT TO DEFRAUD, FORGING OR ALTERING ANY BANK NOTE; or, knowing it to be forged or altered, UTTERING A FORGED BANK NOTE.

F I. for LIFE. S. 349(1).

WITHOUT LAWFUL EXCUSE, the proof of which is on the offender, BRINGING OR RECEIVING INTO PALESTINE, or PURCHASING OR RECEIVING from another, or POSSESSING OR HAVING CUSTODY OF ANY FORGED OR ALTERED NOTE, knowing it to be forged or altered.

F I. — 7 yrs. S. 349(2).

MAKING, or causing to be made, or USING, or UTTERING A DOCUMENT PURPORTING to be, or resembling, A BANK NOTE, or part thereof.

F. — LP. 6 for each such document & its forfeiture (& of instruments for the commission of the o.).  
M S. 350(1).

REFUSING TO DISCLOSE the name and address, if known, of the PRINTER of any document purporting to be, or resembling, A BANK NOTE, to a police officer, by a p. WHOSE NAME APPEARS ON SUCH DOCUMENT.

M F. — LP. 10. S. 350(2).

Note.<sup>68</sup> The fact of any name appearing on any such document (see S. 350(1) & (2)), or other document related thereto, is *prima facie* evidence of the p. whose name it is being the



p. who caused the document to be made. —  
S. 350(3).

WITHOUT LAWFUL EXCUSE, the proof of which lies on the offender, —

— MAKING, USING, OR KNOWINGLY POSSESSING OR HAVING CUSTODY OF any PAPER RESEMBLING and which may pass as SPECIAL PAPER FOR MAKING BANK NOTES; or SELLING or exposing for sale such paper.

F I. — 5 yrs. S. 351(a).

— MAKING, etc. as in S. 351(a), frames, moulds, or INSTRUMENTS FOR MAKING SUCH PAPER (as in S. 351(a)), or, for producing on it words, figures, or distinction peculiar to the substance thereof.

F Do. S. 351(b).

— CAUSING WORDS OR DISTINCTIONS INTENDED TO RESEMBLE and pass for such paper (see S. 351(a)) TO APPEAR visibly IN THE SUBSTANCE OF ANY PAPER.

F Do. S. 351(c).

— ENGRAVING or making upon plates or other material NOTES PURPORTING TO BE BANK NOTES; or any word, number, figure, device, character or ornament RESEMBLING OR INTENDED TO RESEMBLE ANY SIGNATURE TO A BANK NOTE.

F Do. S. 351(d).

— USING OR KNOWINGLY POSSESSING, or having custody of, PLATES, INSTRUMENT or other material FOR THE MAKING OF BANK NOTES.

F Do. S. 351(e).

— KNOWINGLY UTTERING OR POSSESSING, or having custody of, PAPER on which AN IMPRESSION of any such matter as aforesaid is made or printed.

F Do. S. 351(f).

ISSUING BANK NOTES<sup>67</sup> without lawful authority.

F I. — 5 yrs. S. 352.

DEFACING OR OTHERWISE MUTILATING PALESTINE CURRENCY NOTES.

M I. — 3 ms. &/or  
F. LP. 100. S. 353.

### Offences Relating to Coin.

Note.<sup>69</sup> In SS. 356—370, 'coin' includes coin of any of the kinds and denominations, and of any metals or mixed metals, lawfully current in Palestine or in any other country; 'metal' includes any mixture or alloy of metals; 'counterfeit' means coin which (i) is not genuine but resembles, or apparently is intended to resemble or pass for, genuine; or (ii) is genuine, but so tampered with as to pass for or resemble coin of a higher denomination; or (iii) is genuine, but has been clipped or filed, or otherwise diminished in size or weight, in a manner intended to conceal such clipping, filing, or diminution, — irrespective of whether such coin is or is not in a fit state to be uttered, and whether its preparation or alteration is or is not complete. 'Gild' and 'silver' include producing the appearance of gold or silver, respectively, by any means whatever. — S. 355.

MAKING, or beginning to make, ANY COUNTERFEIT GOLD OR SILVER COIN.

F I. — 14 yrs. S. 356.

WITH INTENT OF THEIR BEING COINED INTO COUNTERFEIT GOLD OR SILVER COIN —

— gilding or silvering pieces of metal suitable for coining.

F Do. S. 357(a).

— making pieces of metal into suitable sizes or figures.

F Do. S. 357(b).

WITHOUT LAWFUL AUTHORITY OR EXCUSE, the proof of which lies on the offender —

— (i) buying, selling, receiving, or disposing of any COUNTERFEIT GOLD OR SILVER coin at a lower rate than it imports.

F Do. S. 357(c)(i).

— bringing or receiving into Palestine any SUCH COIN (see S. 357(c)(i)).

F Do. S. 357(c)(ii).

— making or mending, or beginning or pre-



paring to do so; or possessing, or disposing of —

any stamp or mould adapted to make the resemblance of any GOLD OR SILVER COIN, or part thereof, knowing it to be such stamp or be so adapted.

F Do. S. 357(c) (iii).

— any press or tool, instrument or machine adapted to marking coin round the edges so as to make these resemble the edges of any GOLD OR SILVER COIN, knowing them to be so adapted or intended.

F Do. S. 357(c) (iv).

— any press or tool, instrument or machine adapted for cutting round blanks out of metal, knowing that it has been or is intended to be used for making COUNTERFEIT GOLD OR SILVER COIN.

F Do. S. 357(c) (v).

— KNOWINGLY CONVEYING OUT OF HIS MAJESTY'S MINTS any stamp, mould, tool, instrument, machine or press employed in coining, or any useful part thereof or any coin, bullion, or metal.

F Do. S. 357(c) (vi).

DIMINISHING THE WEIGHT OF GOLD OR SILVER COIN, with intent that it may pass, when so dealt with, as gold or silver coin.

F I. — 14 yrs. S. 358(1).

UNLAWFUL POSSESSION OR DISPOSAL OF FILINGS OR CLIPPINGS OF GOLD OR SILVER in bullion or any other state, as a result of diminishing the weight of GOLD OR SILVER COIN and knowing it to have been so obtained.

F I. — 7 yrs. S. 358(2).

UTTERING COUNTERFEIT GOLD OR SILVER COIN, knowing that it is counterfeit —

M I. — 2 yrs. S. 359.

— whilst being in possession of another such coin.

I. — 3 yrs, &/or

M F.—LP.100. S.360(a)&S.47.

— if such uttering is committed either on the same day or within the ten days next ensuing

after the offender has committed a similar act.

M Do. S. 360(b)& S. 47.

POSSESSION OF THREE OR MORE PIECES OF COUNTERFEIT GOLD OR SILVER COIN, knowing them to be counterfeit and intending to utter any of them.

M Do. S. 360(c).

COMMITTING AN OFFENCE AGAINST S. 359 or S. 360 AFTER HAVING BEEN CONVICTED FOR SUCH.

F I. — 14 yrs. S. 361.

MAKING, or beginning to make COUNTERFEIT COIN (other than gold or silver coin).

F I. — 7 yrs. S. 362(a).

WITHOUT LAWFUL AUTHORITY OR EXCUSE, the proof of which is on the offender, and knowingly, making or mending, or beginning or preparing to do so, or possessing, or disposing of tools or machines adapted and intended for making COUNTERFEIT COIN (other than gold or silver).

F Do. S. 362(b).

BUYING, SELLING, RECEIVING, OR DISPOSING OF COUNTERFEIT COIN (other than gold or silver) at a lower rate of value than it imports, or offering to do any such act.

F Do. S. 362(c).

UTTERING COUNTERFEIT COIN (other than gold or silver), knowing it to be counterfeit.

M I. — 1 year. S. 363(a).

POSSESSION OF THREE OR MORE PIECES OF COUNTERFEIT COIN, other than gold or silver, knowing them to be counterfeit, and with intent to utter any of them.

M Do. S. 363(b).

DEFACING any coin by stamping any word thereon.

M Do. S. 364.

WITH INTENT TO DEFRAUD, UTTERING AS AND FOR GOLD OR SILVER COIN —

— any coin which is not lawfully current in Palestine or in any other country.

M Do. S. 365(a).



— any metal or piece of metal, whether a coin or not, which is of less value than the coin as and for which it is uttered.

M Do. S. 365(b).

WITHOUT LAWFUL AUTHORITY OR EXCUSE, the proof of which is on the offender, EXPORTING or placing on board of a vessel or vehicle for exporting any COUNTERFEIT COIN, knowing it to be counterfeit.

M I. — 2 yrs. S. 366.

UTTERING COIN which is DEFACED by the stamping of any word thereon.

C F. — LP. 2. S. 367(1).

**Note.**<sup>70</sup> A tender of payment in such coin is not a legal tender. — S. 367(2).

A prosecution under S. 367 shall not be commenced without the consent of the Attorney-General. — S. 367(3).

REFUSING to take at its face value any coin or note which is LEGAL TENDER in Palestine.

C F. — LP. 5. S. 370.

**Note.**<sup>71</sup> **Impounding coin.** Any officer of the Government and any manager of any bank who receives a coin reasonably suspected of being counterfeit shall impound it and forthwith deliver it to the nearest Police Station; the Police shall cause it to be transmitted to the Treasurer. The Treasurer's decision that a coin is counterfeit is final, and no proceedings or action shall be brought against him or the Government in respect of any loss or damage suffered by reason of such impounding. — S. 369.

### Counterfeit Stamps.

WITHOUT LAWFUL AUTHORITY OR EXCUSE, the proof of which lies on the offender, —

— Making or mending, or beginning, or preparing to do so, or using or possessing, or

disposing of any DIE, PLATE OR INSTRUMENT capable of making an impression resembling that made by such thing used FOR MAKING REVENUE POST AND TELEGRAPH STAMPS, whether impressed or adhesive, of Palestine or of any other country; or capable of producing words, figures or marks resembling those used in or on paper provided specially for such purposes.

F I. — 7 yrs. S. 371(a).

— Knowingly possessing or disposing of any PAPER OR MATERIAL BEARING THE IMPRESSION OF ANY SUCH DIE, PLATE OR INSTRUMENT; or any paper having in or on it any such words, figures, or marks as aforesaid (see S. 371(a)).

F Do. S. 371(b).

— Making, or beginning or preparing to make, or using for any postal purpose<sup>72</sup> or possession, or disposal of, any IMITATION OR REPRESENTATION OF ANY POSTAGE STAMP, of Palestine or any other country.

I. — 1 year, or  
M F. — LP. 50. S. 372(a).

— Making, or mending, or beginning, or preparing to make or mend, or using, or possession, or disposal of any DIE, PLATE, INSTRUMENT, OR MATERIAL FOR MAKING SUCH IMITATION OR REPRESENTATION (see S. 372(a)).

I. — 1 year, or  
M F. — LP. 50. S. 372(b).

**Note.**<sup>72</sup> A stamp denoting a rate of postage of any country is presumed to be used for postal purposes therein, until the contrary is shown, S. 372.

MAKING, etc. as in S. 372 supra, — of any PLATE OR INSTRUMENT capable of making an impression resembling that made by such thing used for making SEALS, impressed or adhesive, OF PUBLIC SERVICES, MUKHTARS, MUNICIPAL AUTHORITIES, CERTIFYING OFFICERS, OR ANY P. HAVING A SEAL UNDER ANY LAW; or which is capable of producing in or on paper any words, or other marks, or symbols, resembling



those used in or on paper specially provided for such purpose by proper authority.

I. — 1 year, or  
M F. — LP. 50. S. 373(a).

KNOWINGLY POSSESSING OR DISPOSING OF PAPER OR MATERIAL BEARING THE IMPRESSION OF ANY SUCH PLATE OR INSTRUMENT; or any paper bearing such words or other symbols as aforesaid (see S. 373(a)).

M Do. S. 373(b).

#### Personation.

WITH INTENT TO DEFRAUD, FALSELY REPRESENTING ONESELF TO BE SOME OTHER PERSON, living or dead.

I. — 3 yrs., or/8  
M F. — LP. 100. SS. 374 & 47.

DO. — if the representation is that the offender is ENTITLED BY WILL OR OPERATION OF LAW TO ANY SPECIFIC PROPERTY, and he commits the o. TO OBTAIN SUCH PROPERTY OR THE POSSESSION THEREOF.

F I. — 7 yrs. S. 374.

WITHOUT LAWFUL AUTHORITY OR EXCUSE, the proof of which lies upon the offender, ACKNOWLEDGING BEFORE ANY COURT OR AUTHORISED P. A LIABILITY, A DEED, OR OTHER INSTRUMENT, IN THE NAME OF ANY OTHER P.

I. — 3 yrs., or/8  
M F. — LP. 100. S. 375. & S. 47.

UTTERING A DOCUMENT ISSUED BY LAWFUL AUTHORITY TO ANOTHER P. CERTIFYING that other p. to be possessed of any qualification, recognised by law for any purpose, or to hold any office; or to be entitled to exercise any profession, trade, or business, or to any right or privilege, or to enjoy any rank or status, AND FALSELY REPRESENTING ONESELF TO BE THE P. TO WHOM THE CERTIFICATE HAS BEEN ISSUED.

Same penalty as  
for forgery of  
such certificate.  
F or M (See SS. 336—347) S. 376.

SELLING, LENDING OR GIVING SUCH CERTIFICATE, as is described in S. 376,

to another p., intending that the latter may represent himself as its lawful holder, the offender being the p. to whom the certificate has been issued by lawful authority.

I. — 3 yrs., or/8  
M F. — LP. 100. SS. 377 & 47.

UTTERING A TESTIMONIAL OF CHARACTER to another, intending that it may be uttered by the latter for obtaining employment.

M I. — 1 year. S. 378.

SELLING, GIVING OR LENDING A TESTIMONIAL OF CHARACTER to another, intending that it may be uttered by the latter for obtaining employment.

I. — 3 yrs., or/8  
M F. — LP. 100. SS. 379 & 47.

### DIVISION VIII. — MISCELLANEOUS.

#### Minor Offences.

##### WITHOUT LAWFUL CAUSE —

— Obstructing the free passage on a public way.<sup>73</sup>

C F. — LP. 5 (& the S. 380(a).

— Failing to place lights upon a heap of earth, stones, or other material, or channel, or drain, or excavation, or otherwise to protect or warn passers by.

cost of removing  
the obstruction  
or repairing the  
damage in case S. 380(b).

— Extinguishing lights mentioned in sub-section (a), or used for lighting a public way.<sup>73</sup>

of a contravention  
contrary to subsec. S. 380(c).  
(a), (d), (e) or (i).

— Placing or leaving filth, refuse or offensive objects in a public way.<sup>73</sup>

C Do. S. 380(d).

— Throwing refuse or other things upon a public way<sup>73</sup> injuring or annoying passers by.

C Do. S. 380(e).

— Obstructing a public way<sup>73</sup> by leaving, or allowing to stray on it, any animal or cattle; or by causing vehicles to remain stationary any longer than necessary for loading or unloading, or taking up or setting down passengers.

C Do. S. 380(f).

— Neglecting to repair or demolish structures



in dangerous or ruinous state when ordered to do so in writing by the local authority.

C Do. S. 380(g).

— Neglecting to repair or clean furnaces or chimneys.

C Do. S. 380(h).

— Discharging a firearm within an inhabited area; or letting off fireworks in a public way where it is liable to cause damage or annoyance.

C Do. S. 380(i).

— Disturbing the tranquillity of the public by noise or uproar.

C Do. S. 380(j).

**Note.<sup>73</sup>** 'Public way' includes any highway, market-place, square, street, bridge, or other way which is lawfully used by the public. — S. 5.

**REFUSAL TO LEND ASSISTANCE** within power, when required by a public servant in cases of flagrant crime, or when a shipwreck, fire, inundation, earthquake or other public calamity occurs.

C I. — 7 days, or  
F. — LP. 5. S. 381.

**CONTRAVENING ANY PROVISION OF ANY LAW FOR WHICH NO PENALTY IS OTHERWISE PROVIDED.**

C Do. S. 382.

**FAILURE BY KEEPERS OF HOTELS OR LODGING HOUSES TO EXHIBIT LIGHTS** in accordance with regulations, or **TO KEEP A REGISTER OF LODGERS**, or **TO PRODUCE** such register to a Police officer on demand.

C F. — LP. 5. S. 383.

**SOWING**, planting or cultivating land lying within 75 cms. from the outer edge of a public way<sup>73</sup> (deemed to extend to the outer edge of the channel or gutter or the foot of an embankment).

C I. — 1 week, or  
F. — LP. 5. S. 384.

**PASTURING** animals on land on which a crop is standing, or in a garden of another.

C F. — LP. 5. S. 385(a).

**TRESPASSING** on land prepared for sowing, or sown, or on which a crop is standing; or allowing animals to enter upon, or pass over, such land or garden.

C Do. S. 385(b).

**CRUELTY TO ANIMALS**, tame, domestic or wild deprived of liberty.

First o. : S. 386(1)(a).

**WORKING OLD, SICK, WOUNDED OR INFIRM ANIMALS.**

C I. — 1 week, or S. 386(1)(b).  
F. — LP. 5.

**CONFINING**, tying up, carrying or conveying **ANIMALS** so as to cause them unnecessary suffering; or causing any such act; or permitting it by the owner of the animal.

Subsequent o. :  
M I. — 1 m., or  
F. — LP. 20. S. 386(1)(c).

**Note.<sup>74</sup>** In S. 386 'animal' includes any bird, beast, fish, or reptile. — S. 386(3). — Any animal in respect of which an o. is committed under S. 386 may be seized by a police officer, or a p. authorised by the High Commissioner, and taken to a veterinary hospital where the p. in charge may detain the animal until it is fit to work, or destroy it upon certification of a veterinary surgeon, no compensation being payable. The cost of feeding and treatment is payable by the owner of the animal, and in default of payment may be realised by sale of the animal by order of the court. — S. 386(2).

**DISCLOSURE** of secret information, other than within the meaning of the Official Secrets O., 1932, save when the p. disclosing it is required by law to do so, entrusted to the offender by reason of his profession or occupation.

C I. — 1 week, or  
F. — LP. 5. S. 387.

**Note.<sup>75</sup>** Definition of certain expressions and terms. (S. 5).

Unless the context otherwise indicates the following expressions and terms occurring in the Criminal Code O. have the following meaning.

'**Contravention**' — 'any offence punishable with imprisonment for not more than a week or, if with fine only, with a fine not exceeding five pounds.'

'**Court**' — 'court of competent jurisdiction'.

'**Dwelling house**' — see Note 57, p. 78.

'**Dangerous harm**' — 'harm endangering life'.

'**Felony**' — 'an offence which is punishable, without proof of previous conviction, with death or with imprisonment for more than three years'.

'**Grievous harm**' — see Note 49, p. 70.

'**Harm**' — 'any bodily hurt, disease or disorder, whether permanent or temporary'.



**'Import'** — 'includes — (a) to bring into Palestine, and (b) to bring within the inland waters of Palestine, whether or not the thing imported is brought ashore or whether or not there is an intention to bring the same ashore'.

**'Judicial proceedings'** — see Note 18, p. 47.

**'Knowingly'** — 'used in connection with any term denoting uttering or using, implies knowledge of the character of the thing uttered or used'.

**'Law'** — 'includes such Acts of the Imperial Parliament and Orders of His Majesty-in-Council as have been or may hereafter be applied to Palestine, and orders, proclamations, by-laws, rules and regulations made under any such Act or Order, Ordinances, and all Orders of the High Commissioner-in-Council, orders, proclamations, by-laws, rules and regulations made under any Ordinance'.

**'Military Forces'** — 'includes His Majesty's Naval, Military and Air Forces'.

**'Misdemeanour'** — 'any offence which is not a felony or a contravention'.

**'Money'** — 'includes currency notes, bank notes, bank drafts, cheques and any other orders, warrants, or requests for the payment of money'.

**'Municipal authority'** — 'a municipal corporation, local council, or other body duly authorised by law to exercise municipal authority and government'.

**'Night' or 'night-time'** — see Note 61, p. 83.

**'Offence'** — 'an act, attempt or omission punishable by law' (abbreviation—'o.').

**'Person' and 'owner', and other like terms, when used with reference to property'** — 'include corporations of all kinds, and any other association of persons capable of owning property, and also when so used include His Majesty'. (Abbreviation of 'person' — 'p.', plural — 'ps.').

**'Person employed in the public service'** (styled, for brevity, in this book as **public servants**) — 'any person holding any of the following offices or performing the duty thereof, whether as deputy or otherwise, namely:— (a) any civil office, including that of the High Commissioner (the power of appointment to and removal from it being vested in His Majesty, or the High Commissioner, or the H.C.-in-Council, or in any public commission or board); (b) any office to which a person is appointed or nominated by law; (c) any civil office the power of appointment to and removal from which is vested in a person holding an office in virtue of (a) or (b) above; (d) arbitrators and umpires in any matter submitted to arbitration by order or with the sanction of any court, or in pursuance of any law, and, further, — (i) members of a commission of enquiry in pursuance of any law, (ii) persons employed to execute any process of a court, (iii) all persons belonging to the Military Forces or to the Police Forces in Palestine, (iv) all employees of any Government Department, (v) persons acting as ministers of religion of whatsoever denomination in so far as they perform functions in respect of the notification of an intended marriage, solemnization of marriage, the making or keeping of any register

or certificate of marriage, birth, baptism, death or burial, but not in any other respect, (vi) employees of a municipal authority, (vii) the mukhtars for the time being of any village'.

**'Possession'** — see Note 64, p. 86.

**'Property'** — 'includes everything animate or inanimate capable of being the subject of ownership'.

**'Public'** — 'refers not only to all persons within Palestine, but also to the persons inhabiting or using any particular place, and also to such indeterminate persons as may happen to be affected by the conduct in respect to which such expression is used'.

**'Public way'** — see Note 73, p. 104.

**'Public place' or 'public premises'** — 'includes any public way and building, place and conveyance to which, for the time being, the public are permitted or entitled to have access, either without any condition or upon condition of making any payment, and any building or place which is for the time being used for any public or religious meeting, or assembly, or as an open court'.

**'Publication'** — 'includes all written and printed matter and everything whether of a nature similar to printed matter or not, containing any visible representation or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication'.

**'Publicly'** when applied to acts done means — (a) that they are so done in any public place as to be seen by any person, whether such p. be or be not in a public place, or (b) done in any place not being a public place so as to be likely to be seen by a person in a public place.

**'Publish'** — (a) in the case of spoken words, means to utter words or reproduce words by mechanical means at a public gathering, or in a public street or any other place to which the public has access, or in such a way that they may be heard by persons in any such street or place; (b) in the case of writings, drawings, pictures, photographs or images, means to distribute them to a number of persons, or exhibit them in such a way that they may be seen by persons in a public street or in any other place to which the public has access, or to sell or expose or offer them for sale in any place'.

**'Utter'** — 'means and includes using and dealing with and attempting to use or deal with and attempting to induce any person to use, deal with or act upon the thing in question'.

**'Valuable security'** — see Note 58, p. 82.

**'Wound'** — 'any incision or puncture which divides or pierces any exterior membrane of the body, and any membrane is exterior for the purpose of this definition which can be touched without dividing or piercing any other membrane'.



**PART THREE**

OFFENCES  
CONTRARY TO  
ORDINANCES

(other than Criminal Code O.)

**PART THREE**

**OFFENCES**  
CONTRARY TO  
**O R D I N A N C E S**

(other than Criminal Code O.)



**NOTE.** Offences contrary to all Ordinances, except the Criminal Code O., are included in this Part.

Ordinances are arranged in alphabetical order, and offences in the order of sections. A brief description of offences can be gathered by glancing at the words printed in **thicker** characters than the rest of the text.

Following the title of each Ordinance, if it is to be found in **Drayton's Laws of Palestine**, the chapter of that official compilation is quoted (Cap., L.P.). Where for practical reasons it is advisable, the number and year of the Ordinance are also stated; this is always so in the case of ordinances not included in the 'Laws of Palestine'. Amending ordinances affecting the sections included in this work are invariably quoted, — and usually also other amending ordinances.

The numbers of sections quoted correspond to those in the 'Laws of Palestine'.

References to 'summaries' in Part IV are references to judgments of the Supreme Court sitting as a Court of Criminal Appeal.

## Offences against Ordinances.

### ADVERTISEMENTS O. (Cap. 1, L. P. — No. 15/35).

**S. 6.** Contravening the pvs. of the O. (exhibiting any advertisement in an unauthorised place — S. 2), or **by-laws** made by local authority or District Commissioner as to the size of advertisements & charges levied on such.

**M. F. — LP. 20 & LP. 2** for every day drg. continuance of o. after conviction.

**Note.** It is not an o. to exhibit a notice board not more than  $2\frac{1}{2}$  sq. metres in size, showing the name, business or occupation of the p. occupying the premises where the notice board is exhibited. (**S. 3**).

### ADVOCATES O. (No. 32/38; No. 52/39, No. 24/41).

**S. 28(1).** Practising the profession of an advocate, or holding oneself out as practising it, without being licensed.

**M. F. — LP. 100.**

**S. 28(1).** Practising, or holding oneself out as a p. permitted to practise, before Moslem Religious Courts, without being licensed to do so.

**M. F. — LP. 100.**

### AGRICULTURAL FERTILIZERS O. (No. 27/38).

**S. 4.** Disclosing information obtained by a 'sampler' (a Government officer authorised to act as such) in connection with the exercise of his powers (except in a Court, or when required by law, or to a p. acting in the execution of the O., so far as necessary).

**M. F. LP. 50.**

**S. 5.** Tampering with bags containing fertilizers, or with any mark or seal thereon; or mixing or altering any fertilizer in a bag.

**M. I. — 6 ms. or/ & F. — LP. 100, & confiscation of fertilizers or bags.**

**S. 8.** Committing a breach of other pvs. of the O.; or obstructing an official carrying into effect the O. or rules thereunder.

**M. F. — LP. 100 & confiscation as above.**

**Note.** S. 3 prescribes conditions of sale; S. 4 deals with



sampling of fertilizers by Government Analyst (& 'samplers').  
**Evidence.** The production of a certificate by the 'Analyst' is sufficient evidence of its contents, unless defendant gives 7 days' notice requiring the Analyst to give evidence. (SS. 2 & 7).

**AIN FARA SPRING O.** (No. 14/41).

- S. 4(2). **Unlawfully entering** enclosures erected by a licensee (to use water of Ain Fara Spring).  
 M. F. — LP. 100 or/£ I. 3 ms.

**ANIMAL DISEASES O.** (Cap. 3, L. P. — No. 39/34).

- S. 22(1)&(2). **Breach of pvs. of the O.,** or of a rule, order or direction made or given thereunder.  
 M. I. 6 ms. &/or F. — LP. 100, &/or forfeiture of animals or things\* in respect of which the o. has been committed.  
**Note.** S. 22(4) authorises orders by Magistrates for payment of expenses to Veterinary officers for removal and maintenance of an animal drg. detention, failing which payment forfeiture of the animal or thing concerned.  
 \* See Summary 42 (Part IV).

**ANIMAL MANURE O.** (No. 32/37).

- S. 5. **Removing or attempting to remove** from any land animal manure which the offender is not entitled to remove under the O. (S. 3 vests ownership of animal manure dropped upon any land other than 'a forest reserve' in the owner of the land; S. 4 prohibits removal by any p. of manure droppings of any animals from any 'forest reserve').  
 M. F. — LP. 25 &/or I. — 6 ms.

**ANIMAL TAX AMENDMENT O.** (Cap. 4, L. P. — No. 8/24; No. 31/25).

- S. 3(1). **Concealment or removal of animals,** other than buffaloes used for ploughing, or being an accessory to such, prior to enumeration of animals for assessment of the animal tax.  
 M. I. — 1 m. or F. — LP. 15 (in addition to penalties prescribed by the Ottoman Regulation of 20 Jamad UilAwal, 1305).

**ANTIQUITIES O.** (Cap. 5, L. P. — No. 51/29; No. 24/34, 30/34 & 31/34).

- S. 22(1). **Failure to report the finding of,** or the circumstances of the discovery or the origin of an antiquity, or to take action to protect it, by its

finder; or making of a false statement by the finder as to the discovery or origin of the antiquity.  
 M. I. — 1 m. or F. — LP. 20.

- S. 22(2). **Failure to give facilities to Government officer** to inspect, copy, or study an antiquity.  
 M. F. — LP. 20.

- S. 22(3). **Digging for antiquities,** or demolishing objects which are antiquities, without a licence to excavate (under S. 6).

**Note.** Owners of land excavating antiquities are not exempt from taking out a licence to excavate on their land.

M. F. — LP. 200.

- S. 22(4). **Exporting or attempting to export an antiquity without a licence** under S. 12.  
 M. I. — 6 ms. or/£ F. — LP. 100.

- S. 22(5). **Exporting or attempting to export antiquities** the exportation of which has been prohibited (under S. 16) by the Director of Department of Antiquities.  
 M. I. — 6 ms. or F. — LP. 1000, or the value of antiquity, whichever is the greater sum.

- S. 18 & S. 22(6). **Without the permission of the Director of the Department of Antiquities:—**

- (a) digging to a depth of more than 1 metre upon a historical site;
  - (b) excavating, building, planting trees, quarrying, irrigating, burning lime, depositing earth or refuse, in immediate neighbourhood of a historical site, or establishing a cemetery on such site;
  - (c) demolishing, pulling down, or removing part of a historical monument;
  - (d) altering, adding to, or repairing any historical monument;
  - (e) erecting buildings or walls abutting upon a historical monument (excepting historical monuments of religious use which are the property of a religious or ecclesiastical body).
- M. F. — LP. 200.

- S. 22(7). **Dealing in antiquities without a licence** (under S. 25).  
 M. I. — 6 ms. &/or F. — LP. 100.

- S. 22(8). **Maliciously or negligently destroying,** injuring, defacing, or disfiguring an antiquity.  
 M. I. — 12 ms. &/or F. — LP. 100.

- S. 22(9). **Wilfully deceiving or attempting to deceive a purchaser or a**



**Government officer** by any description or statement or any other inducement as to genuineness or antiquity of any object of archaeological interest.

M. I. — 1 year &/or F. — LP. 100.

#### ANTIQUITIES (ENCLOSURES) O. (No. 33/35).

S. 4. Acts enumerated below if committed in the offices of the Department of Antiquities, or on other premises occupied by it (including the Palestine Archaeological Museum and Library), together with their grounds or any building, camp, enclosure, or area occupied by the said Department, or at any historical monument or site set out in the schedule of historical monuments, or sites published under S. 12 of the Antiquities O. :—

(a) disorderly behaviour; (b) using violent, abusive, or obscene language; (c) betting or gambling; (d) failing to comply with any rule made under S. 3; (e) persisting in remaining in such after having been ordered to leave it pursuant to rules made under S. 3.

M. F. — LP. 50 &/or I. — 6 ms.

#### BANDEROLLES O. (Cap. 7, L. P. — No. 38/26; No. 30/34, 31/34).

S. 5(a). Possessing, making, using or selling labels purporting to be imitations, or imitations of banderolles.

M. I. — 3 ms. or F. — LP. 200.

S. 5(a). Possessing, selling or exposing for sale banderolles already used.

M. I. — 3 ms. or F. — LP. 200.

S. 5(b). Possession or sale, or exposing for sale, matches or playing cards otherwise than in containers or surrounded by banderolles as prescribed.

M. I. — 3 ms. or F. — LP. 200 & Schedule.

S. 4(3). Possession of contraband (i. e. not packed in containers surrounded by banderolles) matches or playing cards, as the case may be.

Schedule Note. Contraband articles and conveyance for their transport shall be confiscated on conviction.

C or M. F. — treble the value of the goods including the duty.

#### BANKING O. (No. 26/41).

S. 4(1) & (2). Use of the word 'bank' (or its derivative) in the name of the defendant(s) under which he (or they) carries on (or carry on) business not being a company authorised to carry on banking

business (S. 3), unless the consent of the High Commissioner has been obtained.

M. F. — LP. 10 for each day drg. which the o. continues.

S. 5(2). Refusal by an officer or agent of a bank to produce any book, account or document lawfully called for under S. 5(1) by Examiner of Banks.

M. F. — LP. 50.

S. 8(2). Failure by a bank to comply with an order under S. 8(1) (made by the High Commissioner — (a) to delete from the name of the bank within 28 days of the order the word 'bank', or its derivative, or any other word or words, or (b) to refrain from receiving from the public money withdrawable by cheque or order).

M. F. — LP. 10 for every day of default.

S. 9(2). Failure by a bank to comply with the pvs. of S. 9(1)(a) or (b) (i. e., (a) — to furnish to the 'Financial Secretary' a statement of assets and liabilities of the bank at the close of business for the preceding month not later than 21 days after the last day of each month in the form set out in Schedule 1; (b) — or an analysis current and bills discounted as at 31st March and the 30th September respectively, not later than 28 days after the last day of March or September respectively, in the form set out in the 2nd Schedule).

C. F. — LP. 5 for each day of default.

S. 10(1)(a); Failure by a bank to exhibit throughout the year in a conspicuous position in every office and branch of the bank in Palestine a copy of its last audited balance sheet.

M. F. — LP. 100.

S. 10(1)(a); Failure by a bank, on or about the date of presentation of its balance sheet to the shareholders at a general meeting, to cause a copy thereof to be published in a daily newspaper circulating in Palestine.

M. F. — LP. 100.

S. 11(1) & (2). Without the express authorisation of the High Commissioner continuing to act as director or to be directly or indirectly concerned in the management of any bank if (a) the bank has been wound up by a Court, or (b) if the defendant has been sentenced to a term of imprisonment for an o. involving moral turpitude and has not received full pardon.

M. I. — 2 yrs. or & F. — LP. 500.

S. 12(1) & (2). Failure by a bank to pay the annual fee (of LP. 100) to the



Government of Palestine on the 2nd January of each year; or knowingly **authorising or permitting** (by a director, manager, secretary or officer of the bank) the commission of **such an o.**

**M. F.** — LP. 10 for each day of default (plus such other penalty as may be prescribed for the default).

- S. 15(2).** Failure by a director or manager of a bank (a) to take all reasonable steps to secure compliance by the bank with the requirements of the O., or (b) to ensure the correctness of any statement submitted under the pvs. thereof.

**M. I.** — 2 yrs. &/or **F.** — LP. 300.

**Note.** Upon an application of the Attorney-General to the Registrar of Companies any bank wilfully failing to comply with any provision of the O., or which issues bank notes in Palestine or causes to be circulated in Palestine bank notes the issue of which is not authorised by the Government of Palestine, shall be **struck off the register of companies.** — S. 15(1).

#### **BANKING EMERGENCY O.** (No. 33/39; Nos. 38/39; 50/39).

- S. 7.** Contravening by an institution subject to the pvs. of the Banking O., the Credit Banks O., or the Cooperative Societies O., any of the pvs. of the O.

**M. F.** — LP. 500 &/or **I.** — 2 yrs.

- S. 7.** Knowingly and wilfully **authorising or permitting** any such contravention by a director, manager, secretary or other p.

**M. F.** — LP. 500 &/or **I.** — 2 yrs.

**Note.** The O. provides for the closing of institutions transacting banking business, and for the regulation of banking activities, drg. periods of emergency.

#### **BANKRUPTCY O.** (No. 3/1936; No. 1/1942).

The following acts (or omissions) committed by a p. adjudged "bankrupt" or in respect of whose estate a receiving order has been made:—

**A.** — Unless he proves absence of an intent to defraud:—

- S. 127(1).** (i) Failure to make full discovery to the trustee<sup>1</sup> of all his property, the manner and time of, and consideration for its disposal; and the person to whom it was disposed (except as regards property disposed of in the ordinary way of his trade or laid out in the ordinary expense of his family).

- S. 127(2).** (ii) Failure to deliver up to the trustee<sup>1</sup> all property in his custody or under his control and which he is required by law to deliver up.

- S. 127(3).** (iii) Failure to deliver up to the trustee<sup>1</sup> all books, documents, papers, and writings under his control relating to his property or affairs.

- S. 127(4).** (iv) Concealment of his property to the value of LP. 10 or more, or debts due to or from him, within 12 months next before the presentation of a bankruptcy petition by or against him, or after its presentation.

- S. 127(6).** (v) Making a material omission in any statement relating to his affairs.

- S. 127(14).** (vi) Within 12 months next before the presentation of a bankruptcy petition by or against him, or after its presentation and before the making of a receiving order — obtaining under the false pretence of carrying on business, and if a trader, of dealing in the ordinary way of his trade, any property on credit and failing to pay for the same.

- S. 127(15).** (vii) or — pawning, pledging, or disposing of property which he has not paid for, unless (in the case of a trader) such act is in the ordinary way for his trade.

**B.** — Unless he proves absence of intent to conceal the state of his affairs or to defeat the law:—

- S. 127(8).** (viii) After the presentation of a bankruptcy petition by or against him, preventing the production of any book, document, or writing affecting or relating to his property or affairs.

- S. 127(9).** (ix) After the presentation of a bankruptcy petition by or against him, or within 12 months next before such presentation, concealing, destroying, mutilating or falsifying any book or document affecting or relating to his property or affairs; or being privy to such an act.

**C.** —

- S. 127(10).** (x) Within the same period (see S. 127(9) above), making a false entry in any such book or document (see S. 127(9) above), or being privy to such an act.

- S. 127(5).** (xi) After the presentation of a bankruptcy petition by or against him, or within 12 months next before such presentation — fraudulently removing any part of his property to the value of LP. 10 or upwards.

- S. 127(11).** (xii) — fraudulently parting with, altering or making an omission



in any document affecting or relating to his affairs; or being privy to such an act.

S. 127(12). (xiii) — attempting to account for any part of his property by fictitious losses or expenses (at any meeting of his creditors).

S. 127(13). (xiv) Within the same period and before the making of a receiving order, by a false representation or other fraud obtaining property on credit without paying for the same.

S. 127(7). (xv) Knowing or believing a false debt to have been proved by any p. under the bankruptcy, failing to inform the trustee<sup>1</sup> for the period of 1 month thereof.

S. 127(16). (xvi) By a false representation or other fraud obtaining the consent of his creditors to an agreement with reference to his affairs or to his bankruptcy.

S. 127(1-16). F I. — 4 yrs.

Note.<sup>1</sup> 'Trustee' (in S. 127) means 'the receiver of the debtor's estate or trustee administering this estate for the benefit of his creditors'. — S. 127.

S. 127(17). Taking in pawn or pledge, or otherwise receiving property, knowing it to be pawned, pledged or disposed of in circumstances mentioned in S. 127(15) (see *supra*).

M or F Same penalty as for receiving property knowing it to have been obtained in circumstances amounting to a criminal o.

S. 128(a). Obtaining credit to the extent of LP 10 or more by an undischarged bankrupt, without informing the p. from whom credit is obtained that he is an undischarged bankrupt.

M I. — 1 year.

S. 128(b). Engaging in any trade or business under a name other than that under which the perpetrator, being an undischarged bankrupt, was adjudged bankrupt, without disclosing the latter name to all ps. with whom he enters into any business transaction.

M I. — 1 year.

S. 129(1). The following acts by an 'adjudged bankrupt' or a p. in respect of whose estate a receiving order has been made:—

(a) — incurring a debt or liability by obtaining credit under false pretences or by other fraud;

(b) — with intent to defraud his creditors making or causing to be made any gift or transfer of, or charge on his property; or

(c) — with such intent concealing or removing any part of his

property since, or within 2 months before the date of any unsatisfied judgment or order for payment of money obtained against the perpetrator.

M I. — 1 year.

S. 129(2) & S. 137. With intent to defraud his creditors, causing or conniving at the levying of any execution against his property.

M I. — 6 ms. or F. — LP. 500.

S. 130(1)(a) & S. 137. With such intent (see S. 129(2) *supra*) and having been engaged in any trade or business and having at the date of the receiving order debts contracted in the course of such trade or business — within 2 years prior to the presentation of the bankruptcy petition materially contributing to or increasing the extent of his insolvency by gambling or rash and hazardous speculations (unconnected with his trade or business); or

S. 130(1)(b) & S. 137. — between the date of the presentation of the bankruptcy petition and the date of the receiving order losing a part of his estate by such gambling or speculation; or

S. 130(1)(c) & S. 137. — failure to give a satisfactory explanation to the trustee, official receiver, or drg. public examination by the Court, of the manner in which loss of the substantial part of his estate occurred within a period of one year prior to the presentation of the petition, or between that date and the date of the receiving order.

M I. — 6 ms. or F. — LP. 500.

See Note<sup>2</sup> *infra*.

S. 131(1) & S. 137. Failure by a trader or a p. engaged in business and adjudged bankrupt, or in respect of whose estate a receiving order has been made, to keep (or preserve) proper books of account drg. any period in the 2 years preceding the date of the presentation of the bankruptcy petition, or thereafter, until the date of the receiving order, — unless (a) his unsecured liabilities at the date of the receiving order did not exceed LP. 100 — if he has been adjudged bankrupt on a previous occasion (or made a composition with his creditors), — or LP. 500, if not so previously adjudged bankrupt, etc. as ante, or (b) he proves his omission to be honest and excusable.

M I. — 6 ms. or F. — LP. 500.

Note.<sup>2</sup> Prosecutions under S. 130 or S. 131 may not be instituted except by order of the Court. — S. 130(2); S. 131(2).

S. 132. After the presentation of the bankruptcy petition by or against him, or within 6 months prior to such presentation, quitting Palestine by such a p. (as described in S. 130(1) *supra*) and taking with him



his property to the amount of **LP. 20 or upwards**, which ought by law to be divided amongst his creditors, or preparing or attempting to do so (unless absence of an intent to defraud is proved).

**M I.** — 3 yrs.

- S. 133.** With intent to defraud making a claim by a p. alleging to be a creditor in any bankruptcy proceedings, which claim is untrue in a material particular.

**M I.** — 1 year.

**Note.**<sup>3</sup> Offences under the O. are triable by a District Court. — **S. 136(1).** — A prosecution may not be instituted after the lapse of 3 years from the commission of the offence. — **S. 136(2).**

#### **BEDUIN CONTROL O.** (No. 18/42).

**S. 7;** (a) (i) Committing any offence or wilfully causing any loss or **S. 5(a-e).** damage to any property, or (ii) conniving at or abetting the commission of an offence, or (iii) failing to render assistance within the defendant's power to discover the offender(s) or to effect his (their) arrest; or (iv) conniving at the escape of, or harbouring any offender or p. suspected of having taken part in the commission of an offence or implicated in the loss or damage; or (v) combining to suppress material evidence of the commission of an offence or of the occurrence of loss or damage — by a nomadic tribesman. (**S. 5 a-e**).

(b) Failure by such tribesman to comply with any direction given by the District Commissioner of the district (under **S. 4(a)** which defines the powers of District Commissioners in regard to the control and investigation of raids and other breaches of the peace committed by nomadic tribesmen).

**M F.** — **LP. 50** &/or **I.** — 1 year.

**Note.** Jurisdiction to try offences by nomadic tribesmen is vested in District Commissioner of the District within which the offence occurred (**S. 4 & S. 7**); such trials are to be conducted in a manner similar to summary trials (in Magistrates' Courts) but there is no right for any p. to be represented by an advocate. (**S. 6**).

As to Appeals, refer to **S. 8**.

#### **BEE DISEASES O.** (Cap. 9, L. P. — No. 26/1928; No. 30/1934).

- S. 8.** Contravening any provision of the O., or failing to carry out

the instructions of an Inspector under the O., or obstructing him in the exercise of his duties.

**M I.** — 1 m. or **F.** — **LP. 50**.

#### **BROKERS O.** (Cap. 11, L. P. — No. 5/1919; No. 30/1934).

- S. 10(1).** Carrying on the business of a broker without a licence (issueable by District Commissioner).

**M F.** — **LP. 10**.

- S. 10(2).** Failure by a broker to report the loss of a prescribed book (under **S. 5(1)**) to District Commissioner.

**M F.** — **LP. 10**.

#### **CINEMATOGRAPH FILMS O.** (Cap. 16 L. P. — Nos. 27/27; 5/31; 30/34).

- S. 8(1).** Exhibiting a Cinematograph film (or part thereof), or any picture, photograph, poster or figure advertising such (a) not marked by the Censorship Board as authorised for exhibition, or (b) although so marked, tampered with or altered, or (c) the mark of which has ceased to be valid.

**M I.** — 1 m. or **F.** — **LP. 50**.

- S. 8(2).** Contravening other provisions of the O. or Rules thereunder.

**C F.** — **LP. 5**.

#### **CITRUS CONTROL O.** (No. 37/40).

- S. 23(a-d).** (a) Exporting, facilitating export, or causing or permitting, or attempting such, of citrus fruit in contravention of the O. or rules thereunder, or citrus fruit which has not been passed for export by an 'inspector' (**S. 2**).

(b) Obstructing an 'inspector' in the lawful execution of duty.

(c) Failure to remove citrus fruit from the place of inspection when required so to do by an inspector.

(d) Impersonating or falsely representing or holding oneself out to be an 'inspector' under the O.; or doing any act purporting to be by any such inspector.

**M F.** — **LP. 50**.

- S. 24(3).** Exporting by sea any citrus fruit, or making, or being a party to the making of any contract in breach of **S. 24** (prescribing the approval in writing by the Citrus Control Board of contracts for export of citrus fruit in certain cases).

**M F.** — **LP. 500**.

- S. 27.** Obstructing or impeding, or attempting to do so, the Citrus Control



Board in the exercise of any functions, etc., vested in the Board.  
M F. — LP. 50.

- S. 28. **Committing any offence** against the O., or contravening, or failure to comply with, any provision thereof if no express penalty is provided for such offence or default.  
M F. — LP. 50.

**CITRUS CROP LOANS (GOVERNMENT GUARANTEE), (1940) O.**  
(No. 19/40).

- S. 3. **Making a statement** in any document creating a charge on a citrus crop for the year 1940-41, (if a loan is made or agreed to be made by an 'approved company' within the meaning of Short Term Crop Loans (Security) O., 1935 to a citrus grower on the security of such charge and such loan has been with respect to any liens, charges, sales or disposition or any attachments affecting crops, and the statement is) **false in a material particular** to the knowledge of the person making the statement.  
M F. — LP. 100; I. — 1 year.

**CITRUS CROP LOANS (GOVERNMENT GUARANTEE) (1941) O.**  
(No. 16/41).

- S. 5. **Do.** but with respect to charges on any citrus crop for the year 1941-1942.  
M F. — LP. 100; I. — 1 year.

**CITRUS CROP LOANS (GOVERNMENT GUARANTEE) (1942) O.**  
(No. 25/42).

- S. 6. **Do.** but with respect to charges on any citrus crop for the year 1942-1943.  
M F. — LP. 100; I. — 1 year.

**COMPANIES O.**

(Cap. 22, L.P. — Nos. 18/29; 29/29; 45/32; 30/34; 31/42; 1/37).

- S. 20(8). **Making default** by a company in delivering to the Registrar of Companies an **altered memorandum of association** (See Sec. 20).  
M F. — LP. 10 for every day of default.
- S. 21(2). **Failure** by a company to send to members on request (& prescribed payment) a copy of **memorandum & articles** or of **order altering** the memorandum.  
C F. — LP. 1.

- S. 21(4). **Issuing a memorandum** not in accordance with alterations made therein.  
C F. — LP. for each copy issued.

- S. 22(4)(ii). **Failure** to omit the words 'Chamber of Commerce' from the name of company within six weeks (or longer period prescribed) from the date of revocation of licence to use a name containing these words.  
M F. — LP. 50. for each day of default.

- S. 25B(1) & (2). **Knowingly & wilfully** permitting failure by a company, ceasing by the alteration of its articles to be a private company, to deliver to the Registrar of Cos. within 14 days of the alteration, a prospectus or statement in lieu thereof.  
M F. — LP. 50 (any officer of the company being liable).

- S. 29(8). **Failure** by a company to keep a **register of members** (S. 29(1)), or an **index of names of members** (unless their number is less than 51) — (S. 29(3), or to have such index or register open to inspection at reasonable hours (gratis to members, on payment to others) (S. 29(4)), or to supply, within ten days after request to do so, a copy of the register (S. 29(5)).  
C F. — LP. 5 for each day of default.

- S. 35A(3) & — **Contravening** by a company regulations as to **Branch Register**, S. 35B(7). (S. 35B).  
C F. — LP. 2 for each day of default.

- S. 36(8)\*. **Failure** by a company to comply with S. 36 (prescribing the submission to the Registrar of Cos. of an **annual return of members** and of ps. who ceased to be members).  
C F. — LP. 2 for each day of default (officers of the co. wilfully authorising or uermitting it being liable).

- S. 38(2)(i) & (ii). **Failure** by a company which has issued **redeemable preference shares** to include in its **balance sheet** specification of the part if its issued capital consisting of such shares and the date on which they are (liable) to be redeemed.  
M F. — LP. 100.

- S. 43(3) & (6). **Failure** by a company having a share capital to notify the Registrar of Cos. (within 1 month) of the (a) consolidation or division of its shares capital, (b) conversion of shares into stock, (c) or reconversion of stock into shares, (d) or redemption of redeemable preference shares, (e) or cancellation of any shares (otherwise than in connection with the reduction of the share capital under S. 45).



- C F. — LP. 5 for each day of default (officers of the company being liable for knowingly or wilfully permitting such default).
- S. 43(4) & (6). Failure by such company (see above), which has converted any of its shares into stock, to show in the register of members and the list sent to the Registrar of Cos. the amount of stock held by each member.  
C Do.
- S. 43(5) & (6). Failure to notify the Registrar of Cos. of particulars prescribed where such a company (see above) has increased its share capital, or where any company has increased the number of its members beyond the registered number.  
C Do.
- S. 44(5). Failure by a company within 15 days of the making of an order by the court as to variation of the rights attaching to any class of shares to forward a copy of the order to the Registrar of Cos.  
C Do.
- S. 48. Wilful misrepresentation by an officer of a company as to the nature or amount of any debt or claim of any creditor, or concealment of the name of any creditor entitled to object to the reduction of share capital; or aiding, abetting or being privy to such act.  
M I. — 6 months or F. — LP. 100.
- S. 51(1) & (2). Failure to embody a minute in every copy of memorandum issued by a company after registration of such minute as to reduction of share capital.  
C F. — LP. 1 for each copy.
- S. 57(1)(2) & (3). Making default by a director, manager or proposer in making a statement as to unlimited liability of the directors or managers in the proposal to appoint or elect any person to be a director or manager; or failure to give to such person notice of his liability being unlimited prior to acceptance of office or prior to his acting therein.  
M F. — LP. 100 (& damages).
- S. 58(1)(2) & (3). Failure to embody in Memorandum issued after the passing of a resolution rendering liability of directors unlimited, the provisions of such Special Resolution.  
C F. — LP. 1 for each copy.
- S. 59(1)(2) & (3). Failure by a company to give notice to the Registrar of Cos. (within 28 days of incorporation or of change) as to the situation of its registered office.

- C F. — LP. 5 for each day of default.
- S. 60(1)(a) & (2). Failure to have its name painted or affixed outside a company's office (officers of the Co. are liable for permitting same).  
C F. — LP. 5 for each day of default.
- S. 60(3). Use of a seal, on which a company's name is not legibly engraved, by an officer of the company.  
M F. — LP. 50.
- S. 60(3). Issuing or authorising the issue of any notice or publication of a company, or signing or authorising the signing on behalf of the company, any document such as receipt, invoice, bill of exchange, promissory note or letter of credit, wherein the name of the company is not mentioned in the manner prescribed.  
M F. — LP. 50.
- S. 61(1). Failure by a company to hold a general meeting once at least in every calendar year, and not more than 15 ms. after the last preceding gen. meeting. Directors and managers who are knowingly a party to the default are liable.  
M F. — LP. 50.
- S. 62(1-7). Contravening regulations (S. 62) regarding the holding of the statutory meeting of the company or the issue of the statutory report to be forwarded to members (& other persons entitled) at least 7 days prior to the date of such meeting (defendant being director of the company concerned).  
M F. — LP. 50.
- Note. S. 62 does not apply to Cooperative Societies registered under the Section. — S. 256(11).
- S. 67(4). Failure to forward copy of resolution of company's meeting to the Registrar of Cos.  
C F. — LP. 2 for each day of default.
- S. 67(5). Failure to embody in or annex to its articles or to forward to a member, when required, a copy of resolution.  
C F. — LP. 1 for each day of default.
- S. 67(6). Knowingly authorising or permitting offence under Sec. 67(4) or 67(5) by officer or liquidator of company.  
C F. — LP. 2 or LP. 1, respectively.
- S. 68(6). Refusal to allow inspection of company's books containing minutes of proceedings of general meetings — (S. 68(4)) — or failure



to send copies of such minutes to members within 7 days of request for same. — (S. 68(5)).

C F. — LP. 2 for each day of default.

- S. 70(4). Submitting to the Registrar of Cos. a list of persons who have allegedly consented to be directors of the company containing name of person who has not in fact so consented. (Does not apply to a 'private co. S. 70(b).  
M F. — LP. 50.

- S. 71(3). Acting as a director of a company although unqualified for the appointment on account of failure to hold the necessary shares in accordance with the regulations of the company (or within two months of appointment).  
C F. — LP. 5 for each day of default.

- S. 73(5). Acting as director of a company or taking part in the management of its affairs (except with the leave of the court) by a person adjudged bankrupt.  
M I. — 2 years or/ & F. — LP. 500.

- S. 74(4). Failure by a director of a company to comply with pvs. of the O. (S. 74) as to director's remuneration.  
M LP. 50.

- S. 75(4). Failure by a director of a company to disclose interest in a contract or proposed contract with the company.  
M F. — LP. 100.

- S. 76(5). Failure to maintain or default in notifying particulars contained in a register of directors.  
C F. — LP. 5 for each day of default. Notification is to Registrar of Cos.

- S. 79(3). Failure by a director of a company to take reasonable steps to secure the inclusion of particulars with respect to proposed payments to him in connection with his retirement in notice of offer made for their shares sent to any members; or failure by a p. properly required by such director to include particulars (as above).  
M F. — LP. 25.

- S. 86(6)(ii). Contravening the pvs. of S. 86(6) — as to the issue of forms of application for shares or debentures of a company.  
M F. — LP. 100.

- S. 88(2). Allotting shares or debentures by a company (other than private co.) with a share capital, which has not issued a prospectus, without filing with the Registrar of Cos. at least 3 days before such

allotment a statement in lieu of prospectus. (S. 88).

M F. — LP. 100.

- S. 92(6) & (7). Commencing business or exercising borrowing powers without complying with provisions of S. 92, by a company other than a private co.

M F. — LP. 50 for every day of contravention.

Note. S. 92(6) & (7) does not apply to Cooperative Societies registered under the O. — S. 256(11).

- S. 93(4). Failure to file with the Registrar of Cos. within one month of allotment of shares (a) a return of allotments or (b) a contract in writing constituting the title of the allottee, by a company limited by shares or by guarantee. — (S. 93(1)).  
M F. — LP. 50 for each day of default.

- S. 93(4). Issuing shares as fully or partly paid up for a consideration other than cash except under a contract in writing (S. 93(2)).  
M Do.

- S. 94(6). Default by a company or its director or officer in complying with S. 94 (regarding the issue of certificates of shares, etc.).  
C F. — LP. 5 for every day of default.

- S. 95(3) & (4). Failure by a company to insert particulars of the discount allowed on the issue of the shares in the Summary submitted to the Registrar of Cos. under S. 36 (see above) or in the prospectus or balance sheet.  
C F. — LP. 5 for each day of default.

- S. 96(4). Default by a company in complying with provisions of S. 96 relating to the filing with the Registrar of Cos. of statement in the prescribed form before the payment of a commission in consideration of subscriptions for shares.  
M F. — LP. 25.

- S. 97(2). Failure by a company to state in balance sheet the total amount paid or allowed by way of commission in respect of shares or debentures or as discount in respect of debentures.  
C F. — LP. 5.

- S. 98(4). Contravening by a company regulations as to prohibition of financial assistance to any person in connection with the purchase of shares in the company. — (S. 98(1-3)).  
M F. — LP. 100.

- S. 99(2) & 99(1)(g). Payment by a company of interest out of capital without showing in the accounts the share capital on which, and the rate at which, interest has been paid out.  
M F. — LP. 50.



- S. 100(5). Default by a company carrying on in Palestine insurance business to make a statement to the Registrar of Cos. in the manner & form prescribed by S. 100(1-4) & Schedule V.  
C F. — LP. 5 for each day of default.
- S. 102(11) Refusal by an officer or agent of a company to produce to inspectors appointed by the High Commissioner to investigate the affairs of any company — books or documents specified in S. 102, or Contempt of Court to answer questions.  
O.) M I. — m.
- S. 105(7). Acting as an auditor of a company in contravention of regulations contained in S. 103.  
M F. — LP. 100.
- S. 106(5) & (6). Failure by a director of a company to take all reasonable steps to comply with provisions of S. 106(1) — (4), as to the keeping of proper books of accounts and as to the laying of accounts before the general meeting, and of balance sheets.  
M I. — 6 months &/or F. — LP. 200.
- S. 110(2). Failure by a company other than a private company to send not less than seven days prior to the general meeting a copy of balance sheet (with prescribed annexures) to all ps. entitled to receive notices of general meetings of the company.  
M F. — LP. 20.
- S. 110(3) & (1). Issuing, circulating, or publishing by a company a balance sheet not signed by two directors, or in the case of a private company by one director; or without having a copy of the auditor's report attached thereto.  
M F. — LP. 50.
- S. 111(1) & (2). Failure by a private company to furnish to a member or any holder of debentures gratis, within 7 days of demand, copy of last balance sheet (with auditor's report).  
C F. — LP. 5 for each day of default.
- S. 111(3). Failure by a private company to furnish to a member or holder of debentures, within 7 days of demand, at a charge not exceeding 20 mls. per hundred words, a copy of balance sheet (with auditor's report).  
C F. — Do.
- S. 117(4). Where a compromise or arrangement is proposed — failure by a company to annex to every memorandum issued subsequent to the making of an order by a court for the meeting of members or

- creditors, a copy of such order.  
C F. — LP. 1 for each copy.
- S. 118(3). Where an order has been made by a court (under S. 118) upon an application for the sanctioning of a compromise or arrangement, failure by the company concerned to cause the filing with the Registrar of Cos. of a certified copy of such order within 7 days after the making of the order.  
C F. — LP. 5. for each day's default.
- S. 124(3). Where debentures are secured by a mortgage, failure to forward to every holder of such debentures a copy of any trust deed whereby immovable property was mortgaged for the above purpose (on payment of prescribed fee. — S. 124(2)).  
C F. — LP. 5 & further LP. 2 for each day drg. which default continues.
- S. 125(2) & (1). Knowingly authorising or permitting by a director or officer of a company the omission of an entry in the company's register of mortgages in respect of any mortgage or charge affecting property of the company, (including all floating charges).  
M F. — LP. 50.
- S. 125(4) & (3). Authorising or permitting by a director or manager of a company the refusal, and refusal by any officer of the company, to allow inspection of register of mortgages and of copies of instruments creating any mortgage or charge requiring registration (under S. 125).  
C F. — LP. 2.
- S. 126(2). Failure to have company's register of holders of debentures open for inspection as prescribed by S. 126.  
C F. — LP. 5 & LP. 2 for each day drg. which default continues.
- S. 127(2). Failure by a company registered in Palestine to deliver particulars of a mortgage or charge, and a certified copy of the instrument creating or evidencing it, to the Registrar of Cos. within 28 days of acquisition of property subject to such mortgage or charge (it being of the kind specified in S. 127(1)(a-f); or authorising or permitting such default by a director or officer of a company.  
M F. — LP. 50 for each day of default.
- S. 128(1) & (2). Failure by a co. to forward to the Registrar a copy of each trust deed for securing any issue of debentures & of instrument creating any mortgage or charge, & of every debenture requiring registration, within 21 days of the execution thereof (or of reasonable time for the receipt by post of any such instrument).  
C F. — LP. 5 for each day's default.



- S. 129(2). Failure (by the p. obtaining the order) to give notice to the Registrar of Cos. of the obtaining of an order for the appointment of a receiver or manager of company's property (or of having made such appointment) within 7 days of the order.  
C Do.
- S. 133(1). Default by a company in sending to the Registrar of Cos. particulars of any mortgage or charge created by the company; or of the issue of debentures requiring registration.  
M F. — LP. 50 for each day of default.
- S. 133(2). Knowingly authorising or permitting default (see also S. 133(1)) in complying with requirements of the O. with regard to the registration of mortgages or charges created by a company, by the company or its officer (without prejudice to other liability).  
M F. — LP. 100.
- S. 133(3). Knowingly authorising or permitting by any p. the delivery of any debenture or certificate of debenture stock (requiring registration) without a copy of the certificate of registration being endorsed thereon (without prejudice to other liability).  
M F. — LP. 100.
- S. 135(2). Default by receivers or managers in respect of filing of accounts (S. 135(1)).  
C F. — LP. 5 for each day's default.
- S. 137(2) & (1). Acting as a receiver by a corporation.  
M F. — LP. 100.
- S. 141(2). Failure by a company to insert in invoices, etc., a statement that a receiver has been appointed (where receiver has been appointed).  
M F. — LP. 20.
- S. 160(6). Default by any p. in respect of statements to the Official Receiver (S. 160).  
M F. — LP. 10 for each day of default.
- S. 160(7). Untruthfully alleging to be a creditor or contributory of a company.  
C F. — LP. 5.  
Note. Application of the liquidator or of Official Receiver is required for prosecution.
- S. 163(2). Acting by a corporation as a liquidator.  
M F. — LP. 100.
- S. 188(3). Default by a liquidator in making a report to the Registrar of Cos. of the making of an order by a court as to dissolution of a company, within 14 days of the order.  
C F. — LP. 5 for each day of default.

- S. 200(1) & (2). Failure by the liquidator in a voluntary winding-up of a company to file within 21 days of appointment, a notice of appointment with the Registrar of Cos.  
C Do.
- S. 205(2) & (3). Default by liquidator of a company to summon a meeting at the end of the first year of the winding up or to lay before it an account of his acts & dealings (if winding up continues for over a year).  
C F. — LP. 10.
- S. 206(3). Failure by the liquidator of a company to send to the Registrar of Cos. within one week after the general meeting a return of the holding of the meeting and a copy of the account laid before the meeting.  
C F. — LP. 5 for every day of default.
- S. 206(6). Failure by the p. applying for an order of the court to defer the date of the dissolution of a company, within seven days of the order, to file with the Registrar of Cos. a certified copy of such order.  
C Do.
- S. 207(10)(a—c). Default in complying with pvns. regarding the calling of meetings of creditors of a company which is being wound up — (a) by the company (S. 207(1)); (b) by the directors of a company (to appoint one of their number to preside at the said meeting, and to cause a full statement of the position of the company with list of creditors and their claims to be laid at such meeting. — S. 207(4)); (c) by a director selected to preside to attend such meeting (S. 207(5)).  
M F. — LP. 100.
- S. 216(1) & (2). Failure by a company to give notice of a resolution to be wound up (within seven days after the passing of the resolution by advertising same in the Gazette).  
C F. — LP. 5 for each day of default.
- S. 217(1) & (2). Failure by a company which is being wound up or by a director, manager, secretary or other officer, or liquidator of such, to ensure that a statement to the effect that the company is in liquidation is contained on every document issued by or on behalf of the company.  
M F. — LP. 20.
- S. 227. Destroying, mutilating, altering or falsifying any books, papers or securities belonging to the company being wound up, with intent



to defraud or deceive any p. — by director, officer or contributory of such company.

M I. — 2 years.

- S. 228. **Fraudulently or by false pretences** (a) inducing any p. to give credit to a company in liquidation; or (b) with intent to defraud creditors, making or causing to be made a gift or transfer of, or causing or conniving at the levying of any execution against, the property of the company; (c) or, with similar intent, concealing or removing any part of the property of the company since, or within 2 months before, the date of any unsatisfied judgment or order for payment of money obtained against the company (o. by an officer of a company in liquidation).
- M I. — 2 yrs.

- S. 229(1). **Default by officer of a company in liquidation** (as specified in Sec. 229(1)(a) to (l) inclusive, and (p)).
- M I. — 2 years.

- S. 229(1)(m). **Obtaining by an officer of the company in liquidation** within 12 months next before the commencement of the winding-up, or at any time thereafter, by a false representation or other fraud, any property for or on behalf of the company on credit, which the company does not subsequently pay for.
- F I. — 5 years.

- S. 229(1)(n). **Obtaining on credit by such officer**, within the same period (see S. 229(1)(m) above), for or on behalf of the company, and under the false pretence that the company is carrying on business, any property for which the company does not subsequently pay for.
- F I. — 5 years.

- S. 229(1)(o). **Pawning, pledging or disposing of any property** of the company obtained on credit and not paid for (unless such act be in the ordinary way of business of the company) by such officer and within such period (see S. 229(1)(m), above).
- F I. — 5 years.

**Note. Defence.** Proof of absence of intent to defraud is a good defence to charges under S. 229(1)(a)–(d) inclusive, (f), (n) & (o); proof of absence of intent to conceal the state of affairs of the company or to defeat the law is a good defence to charges under S. 229(1)(h), (i) or (j). — S. 229(1) (Proviso).

- S. 229(2) (& S. 309, C.C.O., 1936). **Taking in pawn or pledge or otherwise receiving property** knowing it to be disposed of in circumstances

stated in S. 229(1)(o) (*Supra*).

F I. — 10 years.

**Note.** If accused is tried before a court competent to try the offender under S. 229(1)(o) from whom property was obtained by the accused under this Section, then, I. — 5 years. — S. 309 (Proviso) C.C.O. 1936.

- S. 233(1). **Where any company has gone into liquidation and proper books of accounts were not kept** by it throughout the period of two years immediately preceding the commencement of the winding-up, — being a party to or conniving at such default by every director or officer of the company.
- M I. — 1 year.

- S. 234(1) & (4). **Where any business of any company was carried on with intent to defraud creditors, or for any fraudulent purpose, — being a party to such by a director of the company.**
- M I. — 1 year.

- S. 234(5). **Acting in contravention of an order made by the court** forbidding a person convicted under S. 234(1–4) to be a director or to be concerned in the management of the company (for a period not exceeding 5 years).
- M I. — 2 years or & F. — LP. 500.

- S. 235(4). **Contravening rules made under S. 235 or any directions of the court thereunder** as to the disposal of books and papers of a company which has been wound up & is to be dissolved.
- M F. — LP. 100.

- S. 236(2). **Failure** (by a p. on whose application an order has been made by a court to declare the dissolution of a company to have been void) to file with the Registrar of Cos., within seven days of the order or period allowed by the court, a certified copy of the order.
- C F. — LP. 5 for each day of default.

- S. 237(2). **Knowingly & falsely stating oneself in writing to be a creditor or contributory** of the company which is being wound up with a view to obtaining inspection or a copy of statement as to position of the liquidation (S. 237(1)).
- M F. — LP. 50, on application of liquidator or the official receiver.

- S. 237(3). **Failure by a liquidator of a company to send to the Registrar of Cos., within one year after the commencement of the winding up and at such intervals as may be prescribed, a statement containing**



particulars with respect to the proceedings in, & position of liquidation.

C F. — LP. 5 for each day of default.

S. 248(5). Default by a foreign company with regard to registration. (S. 248).  
M F. — LP. 50 or, if the offence is a continuing one — LP. 5 for each day of its continuance. — S. 248(5).

S. 250(2). Contravening by a foreign company provisions applying to it. S. 250(1)).  
M Do.

S. 254. Carrying on business under any name of which 'limited' or contraction or imitation of that word is the last word, unless duly incorporated with limited liability.

C F. — LP. 5 for every day of default.

Note. Jurisdiction. Offences for which a daily penalty is prescribed by the O. are triable by District Courts. — S. 252.

#### CONTEMPT OF COURT O.

(Cap. 23, L. P.: — Nos. 12/1929; 25/1930; 9/1931; 74/1936).

S. 3(1). Obstructing officers of a court in the performance of duty; or misbehaving in, or close to, the Court room to the intimidation of persons resorting to the Court, or, while the Court is sitting, in order to express approval or disapproval of proceedings; or during the proceedings insulting a member of the court, assessor, or officer of the court.

M F. — LP. 5 or I. — 1 m. (penalty by the Court where the offence occurred, on enquiry & without further trial).

S. 4(1) & (2). Publishing any writing or doing an act calculated to prejudice civil or criminal proceedings pending in any court, or to bring into contempt such court, or to interrupt or delay the course of justice.  
M I. — 1 year or/ & F. — LP. 100 (by the High Court).

S. 5. Refusal to be examined according to law, or to answer lawful questions put by the court without just ground.

M I. — 1 m. (summarily by the Court where offence committed).

#### COOPERATIVE SOCIETIES O. (Cap. 24, L.P.: No. 9/1935; 16/1937).

S. 29(1). Dealing with or disposing of (or attempting such) property comprised in a charge registered under the O. by any member or past member of a Coop. Society, without first obtaining the leave in writing of the committee.

M F. — LP. 50.

S. 56(5) & (1). Failure by a cooperative society to use the word 'cooperative' as part of its name, or use of such word as part of its name by a society not registered under the O. S. 56(1).

M F. — LP. 10.

S. 56(5) & (2). Failure to have the word 'Limited' as the last word of its name — by a Coop. Society of which the liability of members is limited. S. 56(2).

M F. — LP. 10.

S. 56(5) & (3). Using the word 'bank' or 'Banking' as part of its name by a Coop. Society unless registered in accordance with S. 56(4). — (S. 56(3)).

M F. — LP. 10.

Note. If it continues, the act constitutes a new offence in every week during which it continues. — S. 56(5).

S. 57(a). Failure by a coop. society to give notice, send any return or document, or to do or allow to be done any act or thing which is required by the O. or the the Regulations thereunder or by the Companies Ordinance as applied by SS. 59 & 60.

C F. — LP. 5.

S. 57(b). Wilfully refusing or omitting by a Cooperative Society to do an act or furnish information required by the Registrar.

C Do.

S. 57(c). Doing by a Coop. Society an act forbidden by the O. or Regulations thereunder, or the Companies O., as applied by SS. 59 & 60.

C Do.

S. 57(d). Wilfully furnishing insufficient or false returns or information by any coop. society.

C Do.

Note. to S. 56 above applies to S. 57. — S. 57.

#### COPYRIGHT O. (Cap. 25 L. P.).

S. 3(1). Knowingly —

(a) making for sale or hire any infringing copy of a work in which copyright subsists;

(b) selling or letting for hire or by way of trade exposing or offering for sale or hire, any such infringing copy;

(c) distributing such infringing copies either for trade or to such an extent as to affect prejudicially the owner of the copyright;

(d) exhibiting by way of trade in public any infringing copy of such work;



importing for sale or hire into Palestine any such infringing copy.

M F. — 250 Mils. for every copy dealt with in contravention of this Section, but not exceeding LP. 50 for each transaction;

M For second & subsequent offence : —  
F. — LP. 50 or I. — 2 months.

S. 3(2). **Knowingly making or possessing any plate for making such infringing copies; or knowingly and for one's private profit causing any such work to be performed in public without the consent of the owner of the copyright.**

C F. — LP. 5. Second or subsequent offence :—

M F. — LP. 5 or I. — 2 months.

**Note.** The provisions of the Copyright Act, 1911, were extended to Palestine by an Order in-Council dated 21.3.1924, and the said Act has been brought into force in Palestine as from 21.3.1924 by a proclamation of the High Commissioner of 23.4.1924.

The Director of Customs, Excise and Trade exercises the powers given by the Act to the Commissioners of Customs and Excise of the United Kingdom for the purposes of the application of S. 14 of the said Act with regard to the importation of copyright works into Palestine.

#### CORONERS O. (Cap. 26 L. P.).

S. 14. **Failure to report to the nearest Police Station forthwith on finding the body of a person whose death is reasonably suspected to have been unnatural or violent.**

C F. — LP. 5.

#### CRIME (PREVENTION) O. (Cap. 30, L. P. — No. 48/1933).

S. 14. **Failure by any person placed under police supervision (under the O.) to comply with conditions specified in the Order of the District Commissioner or President of the District Court.**

M I. — 6 ms. or F. — LP. 50.

#### CRIMINAL PROCEDURE (ARREST & SEARCHES) O.

(Cap. 33, L. P. — No. 4/1924 & No. 34/1927) (& No. 11/1942).

S. 28(1). **Using force or threats to prevent or obstruct lawful arrest or to obstruct lawfully authorised search.**

M I. — 6 ms. or F. — LP. 50.

S. 28(2). **Failure to assist a Police Officer or other p. reasonably demanding aid in accordance with S. 14 (i. e. to effect arrest or to prevent**

escape of a person who may be lawfully arrested).

M I. — 1 m. or F. — LP. 10.

#### CRIMINAL PROCEDURE (EVIDENCE) O.

(Cap. 34, L. P. — Nos. 33/1927 & 30/1934).

S. 4(1) & (2). **Making by a witness statements contradictory in a material detail, with intention to deceive either a Police Officer, Junior Government Advocate or other authorised p., or the Magistrate before whom evidence was given (the first statement being one recorded by a Police Officer, etc., and the second given on oath in a Magistrate's court).**

M I. — 6 ms. or F. — LP. 50 (on committal by magistrate at the conclusion of proceedings in which accused appeared as witness; summary trial by District Court). \*See Summary 44.

S. 6(2) & (1). **Refusal by a p. charged with an offence to submit to, or obstructing, the process for securing identification of prisoners by photographs, bodily description or fingerprints.**

M I. — 14 days.

#### CRIMINAL PROCEDURE (TRIAL UPON INFORMATION) O.

(Cap. 36, L. P. — Nos. 22/1924; 29/1926; 37/1929; 30/1934; 17/1935; 74/1936; 44/1939).

S. 56(2) & (1). **Making by witness a statement on oath, during a trial 'on information', contradicting in a material detail a statement made by him on oath at the preliminary enquiry in the same case, with intent to deceive.**

M I. — 6 ms. or F. — LP. 50.

S. 74C(2). **Publishing any matter in contravention of a direction of a court (under S. 74C (1)) that no newspaper reports of the court proceedings shall reveal the name, address or school, or any particulars which are calculated to lead to the identification of a p. under the age of 16 years, or that no picture shall be published in any newspaper as being or including the picture of such p.**

M F. — LP. 50. (AO. 44/1939).

#### CROPS (CONCEALMENT) O. (Cap. 37, L. P. — No. 1/1923; No. 30/1934).

S. 2(1). **Removing crops from the field or threshing-floor prior to their estimation, without informing the tithes estimating commission; or concealing crops, or conveying them to any place other than an authorised threshing-floor, prior to their estimation.**

M I. — 1 m. or F. — LP. 15 (& double the tithe on the crops).



S. 2(3). **Being an accessory to an offence contrary to S. 2(1).**

M I. — 1 m. or F. — LP. 15.

**CUSTOMS O.** (Cap. 42, L. P. — Nos. 20/1935; 42/1936; 13/1937; 35/1937; 13/1939; 60/1939; 4/1940; 2/1941).

S. 25(1) & (2). **Moving, altering or interfering with goods under the control of the Customs, except by authority and in accordance with the O.**

M F. — LP. 100.

S. 83(1) & (2). **Opening any warehouse where dutiable goods are kept, or gaining access to the goods therein.**

M F. — LP. 200.

S. 132(2). **Failure to comply with, or contravening, any rule made under S. 132 (for determining the value of goods).**

M F. — LP. 100.

S. 158 A(6). **Contravening or failure to comply with any rules made by the Director of Customs, Excise & Trade under S. 158 A (5) (as to drawback of duty on goods which have lost their identity — S. 158).**

M F. — LP. 50.

S. 206. **Assembling, for the purpose of smuggling, by two or more persons; or so assembling for preventing the seizure of, or for rescuing after seizure, any smuggled goods.**

M I. — 3 yrs. (AO. 20/35, S. 4).

S. 207(a—c). (a) **Making a collusive seizure by an officer of the Customs or Police; or delivering up by such officer, or making by such officer arrangements for delivering up or not to seize any ship, boat, means of conveyance or goods liable to forfeiture; or conspiring or conniving, with any p. to import or export; or being in any way concerned in the smuggling of any goods, for seizing any ship, boat or means of conveyance or goods, and obtaining a reward for such seizure.**

(b) **Giving, or procuring the giving, or offering or promising to give, or procuring to be given any bribe, recompense or reward to, or making a collusive agreement with any such officer to induce him in any way to neglect his duty, or by threats, demands or promises attempting to influence any officer in the discharge of duty.**

(c) **Rescuing goods which have been seized or, before or after seizure, staving, breaking or destroying goods or documents relating thereto to prevent the seizure or the securing of the goods,**

or the proof of the offence.

M I. — 3 yrs. &/or F. — LP. 500.

S. 208 (a—c). (a) **Shooting at any ship or boat in the service of the Customs.**  
(b) **Shooting at any officer of Customs in the execution of duty.**  
(c) **Wounding or maiming an officer of Customs in the execution of duty.**

F I. — 15 yrs.

S. 209(1)(a—c). (a) **Removing any dutiable goods from a warehouse without the authority of the proper officer or without paying or giving security for the duty.**

(b) **Wilfully destroying any goods duly warehoused.**

(c) **By force or violence assaulting, resisting or obstructing any Customs officer, or other p. duly employed for the prevention of smuggling, in the execution of duty.**

M I. — 2 yrs. of F. — LP. 500.

S. 210(1)(a—c). (a) **Smuggling goods.**

(b) **Without lawful excuse, the proof whereof is on the accused, having possession of any smuggled goods or prohibited imports.**

(c) **Having in one's possession or under one's power or control any goods of which the export is for the time being prohibited, restricted or regulated, with intent to smuggle or knowing that the goods are intended to be smuggled. (See S. 210(2) infra).**

M I. — 6 ms. &/or F. LP. 100, & in the case of a conviction under S. 210(b), payment of treble duty on the goods.

S. 210(2) & (1). **Using a ship, boat or means of conveyance by the master or owner of such, or knowingly allowing ('suffering') it to be used, in smuggling.**

M I. — 6 ms. or F. — LP. 100.

S. 210(3). **Committing an o. contrary to S. 210(1)(c) whilst a state of war exists in which the Government of Palestine is engaged.**

M I. — 2 yrs. or F. — LP. 500.

S. 211(a—m). (a) **Evading the payment of any payable duty.**

(b) **Obtaining any drawback which is not payable.**

(c) **Preparing, passing or presenting any document purporting to be a genuine invoice which in fact is not a genuine invoice.**

(d) **Making an entry which is false or incorrect in any detail.**

(e) **Bringing into Palestine or having in possession without lawful excuse (the proof whereof is on the defendant) any bill heading or other paper appearing to be such, or a blank capable of being filled up and used as an invoice for goods from foreign parts.**



(f) Making in any declaration or document produced to an officer any statement which is untrue or incorrect in any particular, or producing or delivering to any officer any declaration or document containing any such statement.

(g) Disposal of goods which have been exempted from duty on the ground that they are imported for His Majesty's Forces or for any institution or p. who is entitled to import them free of duty, without prior notice of the particulars of the disposal to the Director, — if disposed to a firm or p. not entitled to import free of duty. — (AO. 13/39, S. 3).

(h) Fraudulently altering any document or instrument or counterfeiting the seal, signature, initials or other marks of, or used by, any Customs officer for the verification of such document or instrument, or for the security of goods or for any other purpose in the conduct of business relating to the Customs.

(i) Misleading any officer in any particular likely to affect the discharge of his duty.

(j) Moving, altering or interfering with, except by authority, any goods subject to the control of the Customs.

(k) Refusing or failing to answer questions or to produce documents.

(l) Selling or exposing for sale, or having in possession for sale, or for any purpose of trade, on board any ship in a port any goods not shown in the ship's report as required by S. 56.

(m) Selling or offering for sale any goods upon the pretence that they are prohibited imports or smuggled goods.

(S. 211(a-m)). M I. — 2 yrs. &/or F. — LP. 500.

Note. S. 211 does not apply to ps. acting under a licence issued under S. 199. — S. 211.

S. 213. Contravening a provision of the O. for which act no other penalty is prescribed.

M I. — 6 ms. or & F. — LP. 100.

S. 214(1) The following acts in regard to any prohibited, regulated or restricted import to which S. 214 applies :—

(a) Without reasonable excuse (the proof whereof is on the defendant) having in possession on board a ship any such import.

(b) Smuggling or attempting to smuggle into Palestine any such import.

(c) Without reasonable excuse, the proof whereof is on the accused, having in possession any such import which has been smuggled into Palestine.

(d) Aiding, abetting, counselling or procuring, or being otherwise concerned in the smuggling into Palestine of any such import.

(e) Failing to disclose to an officer on demand any knowledge concerning the smuggling or the intended smuggling into Palestine of any such import.

(f) Publishing, selling, offering for sale, distribution or reproduction of a publication prohibited under S. 44(3) (or any extract therefrom), — which is such import. (AO. 60/1939, S. 4).

M I. — 6 ms. or & F. — LP. 100.

S. 214(3). If any offence contrary to S. 214(1) is committed while a state of war exists in which the Government of Palestine is engaged —

M I. — 2 yrs. or F. — LP. 500.

Note. S. 214 applies to those imports which are, or may in future be, declared by an order of the High Commissioner to be imports to which S. 214 has been applied. — S. 214(2).

S. 214A. Failure to deliver (without delay) to the nearest Police Station any publication prohibited under S. 44(3) which has come into the offender's possession. (AO. 60/39, S. 5).

#### General Note to the Customs O.

**Joint and several liability.** Each and every p. is liable to pay the whole penalty where it is incurred by a number of ps. jointly and severally. — S. 215.

**Attempts.** An attempt to commit an offence against the O. is punishable as a completed offence. — S. 217.

**Aiding and abetting.** This is punishable as the actual commission of an o. under the O. — S. 216.

**Penalties.** Where any penalty under the O. is less than three times the value of any goods in respect of which an o. has been committed, together with treble the duty thereon, the maximum penalty shall be treble the value of such goods together with treble the duty thereon. — S. 218. All penalties are in addition to any forfeiture under the O. (as to which see Part XIII of the O., SS. 202–205). — S. 219. — Where a p. is convicted of an o. under the O. punishable by a pecuniary penalty, but not by imprisonment for 2 yrs. or more, and within five years prior to the conviction he has been convicted of an o. against a Customs O., he may be sentenced, in lieu of or in addition to the pecuniary penalty, to imprisonment of 2 yrs. — S. 221.

**Prosecutions.** A prosecution under the O. may be insti-



tuted within 5 years from the date of the commission of the o. — S. 224.

Power to compound offences against the O. is vested in the Director of Customs, Excise & Trade, and in other officers authorised by the High Commissioner. — S. 229(1-3).

**CUSTOMS FRONTIER O.** (Cap. 44, L. P. — Nos. 15/1924; 30/1934).

**S. 3 & S. 4(1).** Failure to make a declaration to the Director of Customs, within 15 days from the coming into force of an order by the High Commissioner (under S. 2) as to customs frontier, by a p. resident within the area between the political frontiers of Palestine and the customs frontier (as prescribed by S. 2) who is a grower of tobacco or is in possession of tobacco (manufactured or not), stating the weight of tobacco on hand.

**M** I. — 6 ms. or/ & F. — LP. 100.

**CUSTOMS HOUSE AGENT'S O.**

(Cap. 45, L. P. — Nos. 20/1925; 33/1926; 42/32; 16/36; 43/1937).

**S. 7(3).** (S. 3(b) of AO. 16/36). Offering to act as, or holding oneself out to be, or advertising oneself as a Customs House agent for transacting business with the Customs authorities, — unless in possession of a valid licence for that purpose.

**M** F. — LP. 50.

**S. 8(1).** Acting as an agent or clerk, without being licensed (S. 2), in a place where such licensing is prescribed; or making or causing to be made entry of any goods without being duly authorised for that purpose by the proprietor or consignee of the goods (unless authorised by the O.).

**M** F. — LP. 50.

**DANGEROUS DRUGS O.** (Nos. 17/1936; 1/1941; 3/1942).

\* See Summary 46, Part IV.

**Note.** 'Dangerous drugs' are substances specified in the Schedule to the O. or declared to be such by a Notice in the Palestine Gazette. The following have been declared to be dangerous drugs:—

**Part I.** — Prepared opium, raw opium, coca leaves, Indian hemp, & hasish or the resin prepared from Indian hemp or from the plant Cannabis sativa, and preparations containing the resin except those mentioned in Part II.

**Part II.** — Medicinal Opium; extracts or tinctures of Indian hemp,

Morphine & its salts, diacetylmorphine (heroin) & the other esters of morphine and their salts; Cocaine, ecgonine or their respective salts, esters of Ecgonine and their salts; Solutions of morphine or cocaine or their salts, and any substance containing not less than 1/5 per centum of morphine or 1/10 per centum of cocaine or ecgonine; or any proportion of diacetylmorphine; † dihydrooxycodine, dihydrocodeinone, dihydromorphine, acetyldihydrocodeinone, dihydromorphine, their esters & salts, and salts of their esters; morphine-N-oxide (Genomorphine), its derivatives, and any pentavalent nitrogen morphine derivatives; Thebaine & its salts; except Codeine & Dionin, & their resp. salts; benzylmorphine & the other esters of morphine & their resp. salts; any substance containing any proportion of any of the substances mentioned in parag. (g) or (h) of the Schedule (i. e. any of those mentioned above after †).

**SS. 4 & 16(1).** Exporting or importing, or facilitating export or import of, or selling, or supplying any dangerous drug mentioned in Part I of the Schedule (see above).

**F** I. — 5 yrs. &/or F. — LP. 500 on conviction by a District Court; or

I. — 1 year &/or F. — LP. 100 on conviction by a Chief Magistrate.

**Ditto** — in respect of dangerous drugs mentioned in Part II (see Note above), unless the export or import is carried out under a valid export or import authorization, or the sale or supply of the drug is in accordance with the terms of the O. or the rules thereunder.

**F** Do.

**S. 5(1) & (7) & 16(1)\*** Conveying any dangerous drug through Palestine, — unless the drug is in course of transit after lawful export from one country to another country into which it may be lawfully imported and, further, if the drug comes from a country which is a party to the International Opium Convention (of 19th February, 1925), — unless it is accompanied by a valid export authorization or 'diversion certificate' (S. 2(j)).

**F** Do.

**S. 5(2) & (7) & 16(1)\*** Diverting dangerous drug in transit through Palestine to any destination other than that to which it is originally consigned (unless under authority of a diversion certificate).

**F** Do.



**S. 5(3) & (4).** Removing (S. 5(3)), or tampering with (S. (4)) dangerous drugs in transit through Palestine.

**Note.** S. 5 does not apply to drugs in transit by post, or by air if in aircraft passing over Palestine without landing; nor to such quantities as may, bona fide, reasonably form part of the medical stores of any ship or aircraft (S. 5(6)).

**SS. 6(1) & (2) & 16(1).\*** Cultivating, manufacturing, or preparing any dangerous drug mentioned in Part I of the Schedule (see above), or manufacturing, preparing, or converting any drug obtained from any of the phenanthrene alkaloids of opium or from ecgonine alkaloids of the coca leaf.

F Do.

**SS. 7(1) & (2) & 16(1).** Except where the dangerous drug is lawfully in transit, having possession of any dangerous drug mentioned in Part I of the Schedule.

F Do.

**SS. 7(1) & (2) & 16(1).** Trading or being in possession of a dangerous drug mentioned in Part II of the Schedule, — unless authorised in accordance with the pvs. of the O. or rules thereunder.

F Do.

**SS. 8(a) & (b) & 16(1).** (a) Aiding, abetting, counselling or procuring the commission of any o. under SS. 4, 5, 6 or 7; or (b) so acting in Palestine with respect to any o. (under the pvs. of any corresponding law in force) outside Palestine; or doing any act which, if committed in Palestine would constitute an o. under SS. 4, 5, 6 or 7.

F Do.

**SS. 12 & 16(1).\*** Refusal to grant entry to the Director of Medical Services or an officer authorized by the latter (S. 2(r)) to premises of any p. authorized to be in possession of dangerous drugs (S. 9(a) (b) & (d)) for examination of stocks, prescribed records and registers; or impeding the entry, or failing to produce on demand all stocks of dangerous drugs kept by the defendant or under his control, or the records and registers prescribed to be kept, or other documents relating to transactions in d. drugs required by the Director.

F Do.

**SS. 13 & 16(1).\*** Failure by the p. required by the O. or the rules thereunder so to do, to keep records and registers of transactions in d. drugs (in the manner prescribed).

F Do.

**SS. 14(a-d) & 16(1).\*** (a) Permitting by an occupier of premises the use of

such premises for the preparation of opium or hashish for smoking, or for the sale or smoking of prepared opium or hashish.

(b) Being concerned in the management of any premises as described in subsection (a).

(c) Possessing pipes or other utensils for use in connection with the smoking of opium or hashish, or any utensils used for the preparation of hashish or opium for smoking.

(d) Smoking or otherwise using prepared opium or hashish, or frequenting any place used for the purpose of opium or hashish smoking.

F Do.

**Note.** If on conviction for any o. of contravening or failing to comply with any rule under the O. relating to the keeping of books or the issuing or dispensing of prescriptions containing d. drugs, the Court is satisfied that the o. was committed through inadvertence and not in preparation to, or in the course of, or in connection with an o. against the O., then imprisonment without the option of a fine may not be imposed as the penalty for the offence, and a fine awarded may not exceed LP. 50. (S. 16(1) — proviso).

Where conviction is under SS. 4, 5, 6, 7, or 14, the Court may confiscate any dangerous drugs, pipes or utensils used in connection with the o. and order disposal of these as it thinks fit (S. 16(2)).

Where conviction under the O. is against a company, the chairman and director or managing officer of the company is guilty of the like o. unless he proves that it was committed without his knowledge or consent. (S. 16(3)).

**Note.** Forfeiture to the Government of Palestine may be ordered by the Court on convicting under the O. of any means of conveyance, other than vessels exceeding 250 tons registered tonnage, used in the conveyance of the dang. drug in respect of which the o. was committed; or of any package having concealed therein any such drug. — (S. 16(4)).

Where conviction is under S. 7 or S. 14 for an o. committed in a café or on premises to which the public are admitted, the Court, if satisfied that a previous o. under the O. has been committed on the same premises, may order the premises to be closed to the public either permanently or for a specified period. (S. 16(5)).



**Evidence.** Proof of documents produced by defence will be on the person seeking to avail himself thereof, and it is not necessary to negative by evidence any register, certificate, licence, authorization, etc. so produced. (S. 17).

\* See Summary 46 (Part IV).

**Note as to proposed amendment of the O.**

The draft **Dangerous Drugs (Amendment) O., 1943** (published in Palestine Gazette No. 1273 of 24.6.1943 at p. 535) affects S. 16 of the O. as follows.

(a) All offences against the O. are expressly declared to be felonies.  
(b) Penalties are to be: on conviction 'upon information' — I. — 5 yrs. &/or F. — LP. 5000; on conviction summarily before a District Court — I. — 3 yrs. &/or F. — LP. 2000; before a Chief Magistrate — I. — 2 yrs. &/or F. — LP. 500. — S. 16(1) (i) of the AO.

(c) Subsection (1) is substantially re-enacted as S. 16(1) (ii).

(d) Rules made under the O. are brought within the scope of S. 16.

At the time of publication of this book the amending O. has not been promulgated as law.

**DENTISTS O. (Cap. 49, L. P. — Nos. 36/1926, 30/1934; 31/1934).**

S. 15(1). **Practising**, or holding oneself out as practising (directly or by implication), **dentistry** without being authorised to do so under the O.  
M I. — 3 months or F. — LP. 50.

S. 15(2). **Assuming** or using the title of a dentist or dental surgeon without being the holder of a licence to practise dentistry (S. 7).  
M F. — LP. 50.

S. 15(3). **Employment** by a licensed dentist of a dental dresser, nurse or attendant who is not registered under the O.  
M F. — LP. 50.

S. 15(4). **Obstructing or impeding** by a licensed dentist an officer inspecting a surgery or clinic.  
M F. — LP. 20.  
**Failure to comply with any pvn.** of the O. for which no other penalty is prescribed.  
M Do.

**DEPARTMENT OF LABOUR O. (No. 2/1943).**

S. 7(4) (a) & (b) & S. 11. (a) **Wilfully refusing**, or without lawful excuse neglecting to furnish the particulars or information required (under

S. 7) within the time allowed for furnishing the same, or — to furnish the same in the form specified or required; or (b) wilfully furnishing or causing to be furnished false particulars or information in respect of any matter specified in the notice requiring particulars or information to be furnished.

M I. — 3 ms. &/or F. — LP. 20.

S. 8(1) & S. 11. **Knowingly acting in contravention** of a declaration (under S. 8) made by a p. engaged in the collection or preparation of statistics under the O. not to disclose or make use of the contents of any returns or answers (obtained under the pvns. of the O.), except for the purpose of the O.

M Do.

S. 8(2) & S. 11. **Publishing or communicating** to another p. information which to the knowledge of the defendant has been disclosed in contravention of the pvns. of S. 8(1).

M Do.

S. 10(2) & S. 11. **Hindering or obstructing the Director or an Inspector of the Department of Labour** in the execution of duty under S. 10(1) (defining powers of entry and inspection).

M Do.

**Note.** A director, partner or officer of a company or association or body of ps., corporate or incorporate, is liable to penalties under the O. if the company, etc., has been convicted of an o. under the O., — unless such p. proves that the o. was committed without his knowledge or that he exercised all due diligence to prevent its commission. — S. 11(2).

**DRAINAGE (SURFACE WATER) O. (No. 15/42).**

S. 20(1). **Wilfully damaging or destroying any drainage works** or any part thereof, or interfering with the flowing of water in or from such works, or creating an obstruction or practising cultivation in contravention of an order made under S. 5(1) (empowering the Water Commissioner — S. 3 — to forbid obstructions or cultivation in any 'Drainage Area' — S. 2).

M I. — 12 ms. &/or F. — LP. 100, plus cost of making good the damage. — S. 20(2).

S. 21(a—e). (a) **Damaging or destroying by a negligent act or omission any drainage works** or part thereof, or interfering or causing any interference with the flowing of water in drainage works.



(b) Destroying, injuring, defacing or moving any land-mark, level mark, water gauge, or other apparatus fixed by the authority of the Drainage Officer. (S. 2).

(c) Causing animals or vehicles to pass on or across any of the works, banks or channels of any drainage works after such passage has been prohibited by the Drainage Officer.

(d) Failing to abide by any decision of the Drainage Officer taken under the O.

(e) Committing any breach of the pvns. of the O. for which no specific penalty is provided.

M I. — 1 m. &/or F. — LP. 10, plus F. — LP. 1 for every day after the first day drg. which the o. has been persisted in (in case of a continuing offence).

**EDUCATION O.** (Cap. 50, L. P. — Nos. 1/1933; 34/1933; 30/1934).

S. 10(1). Failure to register a school or knowingly allowing by a proprietor or manager of a school education to be imparted by a p. not registered as a teacher or whose dismissal has been required by the Director of Education. (S. 8(3)).

M F. — LP. 50.

S. 10(2). Refusal by a manager or p. in charge of a school to admit authorised officers to enter and inspect the school, or refusing or neglecting to give information (required under S. 5.6 & 7), or knowingly giving false information to such officer.

M Do.

S. 10(3). Failure by the manager of a school which has been ordered to be closed to close the school within the period specified in the notice, or reopening such school without the sanction of the High Commissioner, or opening or conducting any other school.

M F. — LP. 100 & I. — 3 ms. (if o. continues after conviction).

**ELECTRICITY O.** (Cap. 51, L. P. — Nos. 47/1926 & 30/1934).

S. 2(1) & (2). Establishing or extending existing installations for the production, supply, distribution or sale of electrical energy without a permit from the High Commissioner.

M F. — LP. 100.

**ESSENTIAL COMMODITIES (RESERVES) O.** (No. 35/39).

S. 16(1) S. 16(2). Contravening pvns. of S. 9 or S. 10 (S. 9 prescribes import of essential commodities by permit from Controller of Supplies;

S. 10 requires holders of such permits to comply with conditions inserted in permits and to keep the commodities in registered stores).

M F. — LP. 100 &/or I. — 6 ms. & forfeiture of commodity.

S. 16(4)(a—b). (a) Failure or refusal to furnish any return required under the O.;

(b) Making in such a return a statement false in a material particular;

(c) Resisting or obstructing the Controller of Supplies or other authorised person in the exercise of his powers under the O.

M F. — LP. 50 &/or I. — 3 ms.

**EXPLOSIVES O.** (No. 22/37).

S. 8(1). Keeping for sale, selling, or dealing in explosive substances save under a licence so to do (S. 3 — granted by District Commissioner) and upon premises specified therein.

M F. — LP. 50 &/or I. — 6 ms.

S. 8(2)(a). Offences by holders of licences to deal in explosives:—

Failure to comply with the pvns. of S. 4 (prescribing maintenance of register showing deposits & withdrawals of explosives from licensed premises), or S. 5 (prescribing production of the register to the licensing authority at least once in every six months).

S. 8(2)(b). Refusal to produce licence to, or refusal to permit inspection or obstructing such inspection by an authorised Police officer (S. 6).

S. 8(2)(c). Refusing or wilfully neglecting to comply with directions as to removal of any explosives. (S. 7).

M F. — LP. 50.

**FIREARMS O.** (Cap. 58, L. P. — Nos. 20/1922, 23/1926, 44/1933, 9/1934, 30/1934, 31/1935, 7/1936, 56/1936, 23/1938).

S. 36(1). (a) Manufacturing firearms or ammunition, save at a factory established by the Government; (b) Importing or exporting clandestinely, or attempting to do so, or being accessory to clandestine import into or export from Palestine of any firearms or ammunition.

M I. — 1 year or/8 F. LP. 100.

Ditto. — if the firearm is of military value.

F I. — 7 years. — S. 36(1), proviso as amended by S. 2, AO. 7/36.

S. 36(2)(a—g). (a) Having in custody or possession a firearm without a



licence (under S. 3).

\* See Summary 49, Part IV.

(b) **Carrying by a Beduin Arab** (to whom S. 5 applies) a firearm without a licence otherwise than in accordance with conditions of an order made under S. 5.

(c) **Keeping a warehouse for firearms or ammunition** or repairs for remuneration: or carrying on the business of a repairer or dealer in firearms or ammunition, or keeping or conducting a shooting gallery without a licence for same.

(d) **Failing to make an application (S. 23(5))** within specified time (48 hours from delivery to the importer of firearm) for a licence to keep a firearm by a p. (other than a licensed dealer who imports a firearm and is not already in possession of a licence).

(e) **Transporting** or being an accessory in transporting a firearm or ammunition when such transport is not authorised under the O. (SS. 25 & 27), or sending such through the post.

(f) **Keeping** in one's possession ammunition for any purpose unless authorised by the O.

(g) **Wilfully defacing, altering or forging any number or mark put upon a firearm**, or making such number or mark intended to resemble any such mark used by the licensing authority, with intent to deceive.

M I. — 6 months &/or F. — LP. 50.

S. 36(2), **proviso.** An offence described in S. 36(2) — (a), (b) or (d) (see above), if committed in respect of a firearm of military value.

M I. — 3 yrs. &/or F. — LP. 50.

S. 36(3)(a—d). (a) **Selling, giving, or otherwise disposing of a firearm or ammunition** except in compliance with the pvns. of the O. (SS. 19 & 22(1)).

(b) **Upon any dealing with ammunition, failure to endorse** a note of the dealing upon the licence of the p. taking delivery of such ammunition.

(c) **Failure to report the loss of a licence** under the O. to the issuing authority, or failure to deliver the licence upon expiration or upon parting with the firearm to which the licence (to carry firearm) refers — by a holder of a licence under the O.

(d) **Carrying a pistol or revolver** upon his person by a holder of a licence endorsed 'not to be carried on the person'.

M F. — LP. 10. (S. 5a, AO. 9/34).

S. 36(4). **Failure by a licensed repairer or dealer in firearms** to comply with pvns. as to the maintenance and production for inspection of pres-

cribed register (SS. 16 & 17).

M F. — LP. 50.

S. 36(5)(a) & (b). (a) **Refusing or wilfully neglecting to comply with a request under the O.** for the production of licence or ammunition to the inspecting authority, or concealing from him any such ammunition, or wilfully misleading such authority as to the amount thereof, or refusing to permit or obstructing any search or inspection authorised by the Ordinance — by a holder of licence.

(b) **Failure by a licensee to comply with a direction by the District Commissioner (S. 13A(1))** as to withdrawal of firearms in emergencies.

AO. 9/34 & 36). M F. — LP. 100 or/£ l. — 6 ms.

SS. 36(6) & 34 **Possession of a rifle of .303 calibre.**

M I. — 3 yrs. or/£ F. — LP. 50.

S. 36(7). **Using or allowing the use of a firearm** other than an air gun in a shooting gallery by the licensee to keep a gallery.

M F. — LP. 50.

#### FISHERIES O. (Nos. 6/37; 27/39; 9/42).

S. 10(1). (a) **Taking or attempting to take fish, or being in possession of a fishing apparatus** with the intention of so doing, — without being licensed (when required to be licensed. — S. 3).

(b) Ditto. — in an area in respect of which an exclusive licence has been granted to some other p. by the High Commissioner (although the offender is licensed to fish).

(c) **Landing fish in Palestine without a permit** or not in accordance with the terms thereof. (S. 4).

M I. — 3 ms. or/£ F. — LP. 50.

S. 10(2). **Being the master of a fishing vessel** (not registered in Palestine) found fishing within the territorial waters of Palestine otherwise than under a special licence (S. 3(2));

Being the owner of such vessel, — if privy to the (above) o.

M F. — LP. 500 or/£ l. 6 ms.

S. 10(3). (a) **Taking or destroying fish** (or attempting to do so) by the use of dynamite, or other explosives or noxious or poisonous matter.

(b) **Possession of dynamite etc.** (as in (a) supra) intending to take or destroy fish.

(c) **Possession, transportation, sale of, or exposing for sale, or**



hawking fish taken by the use of dynamite, etc. (as in (a) *supra*).

**M** First offence: — I. — 3 ms. or/ & F. — LP. 20.

Second offence: — I. — 1 year & F. — LP. 50, and cancellation of a licence or permit under the O., and disqualification to hold such for 3 yrs.

Third or subsequent offence: — I. — 2 yrs. and F. — LP. 100 and cancellation and disqualification, as above, for 6 years.

**S. 10(4).** Failure to give to an officer ('authorised by S. 6') information as to the source of supply of fish by a p. in possession of such.

**M** F. — LP. 10.

**S. 10(5).** Breach of a pvn. of the O., or of a rule made thereunder, for which no specific penalty is provided; or failure by a licensee under the O. to comply with a condition of his licence.

**M** F. — LP. 20.

#### FOOD CONTROL O. (No. 4/42).

**S. 10(a-h).** (a) Acting in contravention of any order or requirement of the Food Controller (S. 2) under S. 4 (defining Food Controller's powers to make orders in regard to 'controlled articles' — S. 2);

(b) Disobeying, neglecting or refusing to comply with any requirement of the Food Controller under S. 6 (defining the Controller's powers to obtain information as to foodstuffs);

(c) Aiding and abetting any p. in such disobedience, neglect or refusal;

(d) Furnishing or causing to be furnished a return under S. 6 which is false in any material particular;

(e) Preventing or attempting to prevent the Food Controller or any public officer authorised by him from entering upon any premises pursuant to S. 7 (empowering such officers to enter upon premises and examine anything therein to ensure compliance with the O. or other Ordinance connected with supplies, trade, or any other public interest);

(f) Obstructing, hindering or impeding the Food Controller when in exercise of his powers under S. 8 (defining Food Controller's powers in relation to controlled articles unreasonably withheld);

(g) Committing a breach of any of the terms of any licence or permit (issued to the defendant under S. 9 — dealing with the issue and revocation of licences and permits by the Food Controller);

(h) Acting in contravention of any rule made under the O.

**M** F. — LP. 50 &/or I. — 1 year, — in addition to any confiscation (S. 5).

**Note. Jurisdiction.** Trial by a Magistrate's Court notwithstanding SS. 3, 6, & 7 of the Magistrates' Court Jurisdiction Ordinance, No. 45/1939 or by a Municipal Tribunal established under the Defence — Municipal Tribunals — Regulations, 1941. — Gaz. 14.12.41 p. 1925. — S. 10.

**Burden of Proof.** In prosecutions under the O. for dealing in controlled articles without being licensed or permitted to do so the onus of proving that the defendant is the holder of a licence or permit for such purpose is on the defendant. — S. 13.

#### FOOD AND ESSENTIAL COMMODITIES (CONTROL) O.

(Nos. 34/39; 20/40).

\* See Summary 50, Part IV.

**S. 11(a-e).** (a) Disobeying, neglecting or refusing to comply with any lawful requisition of the Controller of Supplies (under S. 6, giving the Controller powers to obtain information as to foodstuffs and essential commodities).

(b) Aiding and abetting any p. in such disobedience, neglect or refusal.

(c) Furnishing or causing to be furnished a return under S. 6 which is false in a material particular.

(d) Preventing or attempting to prevent the Controller or any public officer authorised by him from entering upon any premises (pursuant to S. 7).

(e) Obstructing, hindering or impeding the Controller when in exercise of his powers under S. 8 (dealing with powers of Controller in relation to controlled articles unreasonably withheld).

**M** F. — LP. 50 or I. — 6 ms.

**S. 11(f).** Committing a breach of any term of a licence or permit under S. 9.

**M** Do. (S. 3, AO. 20/40).

#### FORESTS O. (Cap. 61, L. P. — No. 7/1942).

\* See Summary 51, Part IV.

**S. 17(1) & S. 5.** Contravening the pvs. of S. 5, i. e. doing or causing or knowingly permitting the following acts in a forest reserve, save in accordance with the conditions of a licence under the O. or in accordance with S. 6 (as to collection of firewood):—



- (a) Taking forest produce ;
  - (b) Uprooting, burning or otherwise damaging trees ;
  - (c) Setting fire to grass or herbage, or kindling a fire without due precautions to prevent its spreading ;
  - (d) Smoking or lighting a fire where and at a time when it is forbidden.
  - (e) Pasturing or permitting cattle to trespass ;
  - (f) Digging, cutting or turning soil.
  - (g) Trespassing in places prohibited for trespass by an order of the High Commissioner.
  - (h) Constructing a dam or weir across any river or stream, or otherwise obstructing the course of any river or stream.
  - (i) Residing or erecting any building.
- M I. — 12 ms. or/£ F. LP. 100.
- S. 17(2) & (1). Purchasing forest produce, knowing or having reason to believe it to have been taken from a forest reserve in contravention of the O.
- M I. — 12 ms. or/£ F. LP. 100.
- S. 17(3) & S. 9. Refusing to assist in the extinction of fire in a forest reserve by a p. enjoying any right therein or by an inhabitant of a village within 5 kilometres from the scene of the fire (S. 9).
- S. 17(4). Allowing by an owner of cattle his cattle to be in a forest reserve, unless licensed (S. 11) or unless cattle is in charge of a herd ; or allowing such in contravention of a condition of licence.
- C F. — Mils 50 for each head of cattle, plus compensation for any damage caused.
- S. 17(5). Causing fire by a negligent herd.
- M I. — 3 ms. or/£ F. — LP. 10.
- Note. The villagers of herd's village, his employers or members of his tribe are liable to pay compensation for any damage caused. — S. 17(5).
- S. 17(6) & (1). Trespassing or grazing cattle in a closed forest area (S. 13).
- M I. — 12 ms. or/£ F. — LP. 100.
- S. 17(7). Felling any olive tree or carob, or any protected tree, save in accordance with a licence (issued by a forest officer), or removing any timber of any such tree.
- M I. — 6 ms. or/£ F. — LP. 50.
- S. 17(9). Allowing by negligence animals to cause damage to any tree.
- M I. — 15 days or/£ F. — LP. 5.

Note. The owner of the animal is liable to pay compensation for damage. — S. 17(9).

S. 17(10). Contravening a rule made under the O.

M I. — 6 ms. &/or F. — LP. 100.

General Note. As to Powers of Director of Agriculture & Forests or any forest officer, empowered by the High Commissioner, to compound os., see S. 23 ; as to evidence, — S. 21 and S. 22 (onus of proof and acceptance of written reports by forest officers).

GAME PRESERVATION O. (Cap. 64, L. P. — Nos. 1/1924 ; 30/1939 & Proclamation of 19.2.31 ; & No. 6/1940).

S. 10(1) & S. 5(a—d). (a) Hunting game during the close season.

(b) Selling, or having in possession game, dead or alive, drg. the close season or imported from overseas.

(c) Hunting any bird or animal protected by a proclamation under S. 3(c) & (f).

(d) Hunting game in any reserve defined in proclamation under S. 3(e) without the written permission of the Chief Secretary.

M F. — LP. 50.

S. 10(1)(b). Selling game without a licence to sell game.

M Do.

S. 10(1)(c). Contravening conditions of a licence to sell game.

M Do.

S. 10(1)(d). Shooting in any district a larger number of any species of game than the limit prescribed.

M Do.

S. 10(2). (a) Hunting without a game licence.

(b) Contravening any condition of a game licence.

M F. LP. 25.

S. 10(3). Contravening pvs. of the O. for which no special penalty is provided.

C. F.—LP. 5 — 1st offence ;

M F. — LP. 20 — Subsequent offence.

Note. The court may cancel any licence or permit granted under the O.

GOVERNMENT RAILWAYS O. (Nos. 29/1936 ; 34/1941).

S. 10(1). Constructing buildings on land adjacent to a railway and being



within 50 metres of the centre of the railway line, save with the authority of the administration (S. 2: — General Manager of Pal Railways or Government of Palestine).

M F. — LP. 50 & removal of works constructed in contravention of the S. at defendant's expense.

S. 14. Being in a state of intoxication while on duty, or refusal or neglect by a railway officer to perform his duty, or performing it in an improper manner.

M F. — LP. 10.

S. 14. Ditto, if the refusal or neglect or improper performance of the duty endangers the safety of any passenger or any other p. lawfully present upon a railway.

M I. — 2 yrs. or/ & F. — LP. 50.

S. 15. Negligently and without lawful excuse doing an act which is likely to endanger the safety of any p. (including the defendant himself) being upon a railway.

M I. — 6 ms. &/or F. — LP. 50.

S. 16(1). Wilfully throwing at or causing to fall upon any train or other railway vehicle any stone or other thing so as to endanger the safety of any p.

M I. — 3 yrs. or/ & F. — LP. 200.

S. 16(1). Ditto, if the act causes bodily harm to a p. in such train or vehicle.

M I. — 5 yrs.

S. 16(1). Wilfully throwing or causing to fall from any train or other railway vehicle any thing capable of injuring any p.

M I. — 15 days or F. — LP. 5.

S. 17. Causing an accident, endangering the safety of any p., to a train or other railway vehicle by an illegal act, non-compliance with rules under the O., by want of due skill, or by negligence.

M I. — year or F. — LP. 100.

S. 18(a-e). Without authority —

(a) placing upon a railway any matter or thing;

(b) taking up, removing, loosening or displacing any rail or other matter or thing belonging to a railway;

(c) turning, moving, unlocking or diverting points or machinery belonging to a railway;

(d) making, showing, hiding, removing, or reversing any signal or light upon or near a railway;

(e) doing or causing to be done, or attempting any act or thing in

relation to a railway whereby its working is interfered with or obstructed, or the safety of any passenger or a p. on the railway is endangered.

M I. — 1 yr. &/or F. — LP. 100.

S. 19(1). Wilfully or negligently destroying or damaging any part of railway premises or thing upon it, or matter or thing belonging to the railway; or removing any sand, earth or other matter or thing from banks, bridges, culverts, retaining walls or permanent way of a railway or from land in the neighbourhood of a railway, thus endangering the stability of the way; or felling timber so as to endanger the safety of trains, or of persons in trains, or causing damage to the permanent way.

M F. — LP. 200 or I. — 2 yrs.

S. 19(2). Causing damage to or doing an act likely to damage any fence or hedge of a railway, or tying up the wires of a railway.

C F. — LP. 5.

S. 19(3). Wilfully diverting any stream or drain or by any means causing damage to a railway by water.

M F. — LP. 50.

S. 19(4). Negligently placing any material in an unsafe or careless manner, or in such manner loading or unloading goods, parcels or livestock on a railway thereby endangering the safety of a train or a p. therein.

C F. — LP. 5.

S. 19(5). Ploughing or cultivating land within the boundaries of a railway without the consent of the 'administration' (S. 2).

M F. — LP. 20.

S. 19(6). Opening a gate set up by the railway administration on either side of a railway, or passing or driving any cattle, carriage or animal or thing across the railway when a train is within sight or hearing; or at any time omitting to shut and fasten such gate as soon as the defendant's thing or animal under his charge has passed through the gate.

C F. — LP. 5.

S. 22. Defrauding or attempting to defraud the railway administration by travelling or attempting to travel upon a railway without having paid the fare due for the distance travelled without the sanction of the station master, conductor, guard or ticket examiner, or by travelling in a carriage of a superior class to that for which the ticket has been purchased; or knowingly refusing or neglecting



on arrival at the station to which the fare has been paid to quit the carriage; or transferring or profiting by the transfer of any ticket obtained, or using or attempting to use a ticket on any date or any train for which it is not available; or in any other manner whatever attempting to evade the payment of the fare.

C F. — LP. 5.

S. 23.

(a) Being upon a railway in a state of intoxication or using offensive or obscene language, or committing a nuisance or indecency, or wilfully and unlawfully causing discomfort to any passenger on a railway

(b) Persisting by a passenger in entering a carriage reserved for any other p. or when it contains the full number of ps. authorised to be carried in it and any p. therein objects.

(c) Entering by a male or adult a carriage or compartment reserved for females or children after having been informed of the reservation of the carriage.

(d) Smoking in the non-smoking compartment without the consent of the fellow-passengers.

(e) Smoking or expectorating on a railway where such is prohibited.

(f) Unreasonably making use of or interfering with the means of communication between passengers and the railway officers in charge of a train.

(g) Locking or securing any door of any compartment without authority.

(h) Taking a dog into a passenger carriage without the permission of a railway officer.

(i) Riding by a passenger in any part of a carriage or vehicle not intended for passengers without the permission of a railway officer.

(j) Leaving or entering train by a passenger when the train is in motion or at a place not appointed for such leaving or entering.

(k) Placing feet on seats in a railway carriage.

(l) Crossing the railway otherwise than by a foot-bridge or subway at a station where such is provided for the purpose.

(m) Travelling or attempting to travel or being found upon a railway while suffering from an infectious disease, without the permission of a railway officer.

(n) Wilfully trespassing upon a railway without the permission of a railway officer.

(o) Removing pegs, etc., placed along the line of a railway.

(p) Hawking any article upon a railway without the consent of a railway officer.

(q) Disobeying reasonable directions of a railway officer by porters, drivers or conductors of vehicles or beasts of burden, while on a railway.

(r) Wilfully obstructing a railway officer in execution of duty, or any p. engaged in setting out the line of a railway.

(s) Removing or damaging any authorised notice exhibited on a railway, or posting a notice upon a railway without authority.

(t) Selling or distributing obscene or seditious matter on a railway.

(u) Being found upon a railway soliciting custom as a guide, or an agent of a hotel, or for a motor or other transport undertaking without the permission of a railway officer.

M F. — LP. 5 &/or I. — 1 m.

S. 27.

Wilfully crossing the railway not at a place appointed for such purpose by riding, leading or driving an animal, bicycle, cart or other vehicle.

C F. — LP. 5.

S. 28(1).

Being the owner of an animal found straying upon a railway.

C F. — 500 Mils in respect of each animal found straying (if a cow, buffalo, bull, camel, horse, mule, or donkey), or 250 Mils (if any other animal).

S. 29(1).

Depositing grass or other inflammable material within 8 metres from the boundary of a railway.

C F. — LP. 5.

S. 29(2).

Permitting same by the occupier or owner of land, or failure by him to remove such deposit (knowingly).

C Do.

S. 38.

Failure on demand by a railway officer to give a written account of goods, parcels, or livestock carried upon a railway, — signed by the owner or p. having the care of such (the defendant); or giving such false account.

C F. — LP. 5.

Note. Prosecutions under the O., other than those under SS. 14—19 shall be commenced within 3 months after the occurrence complained of. — S. 32.

GUIDES O. (Cap. 66, L. P. — Nos. 18/1927; 30/1934; 58/1939).

S. 7(1)(a) & (b). Not being in possession of a licence —

(a) Acting, offering or holding oneself out, as a guide.



(b) **Using or exhibiting a licence of a licensed guide or any paper resembling such.**

M I. — 2 ms. &/or F. — LP. 20.

S. 7(2)(a) & (b). (a) **Using by a licensed guide a licence other than that issued to him.**

(b) **Failure by such guide to comply with the pvns. of the O.**

M I. — 2 ms. or & F. — LP. 20.

S. 7(3). **Neglecting or refusing to comply with S. 5(3), i. e. failure to deliver up forthwith to the proper authority (District Commissioner — S. 2), a licence under the O. by a guide whose licence is revoked or suspended.**

M I. — 1 m. or F. — LP. 5.

**HULE CONCESSION (BOUNDARIES) O. (No. 6/1938).**

S. 4(1) & (2). **Occupying, cultivating, or exercising any rights or practices over or in unreserved Concession Area by any p. other than the Concessionaires, save with the written permission of the Concessionaires.**

M I. — 6 ms. &/or F. — LP. 50, & eviction.

**IMMIGRATION O. (No. 5/41). (See Summary 52, Part IV).**

S. 12(1) & 12(3)(v). **Contravening, or failing to comply with, any pvn. of the O. or an order or rule made thereunder (other than aiding or abetting any such contravention, or harbouring any p. who has acted in contravention thereof).**

M F. — LP. 100 or & I. 6 ms.

(In particular, refusing to answer questions by an immigration officer or Director (S. 2); or to produce documents demanded by such officer, to enable him to carry out his duties under the O. — S. 12(1)(a); **Making false statement or return in connection with an application for a visa, immigration certificate or permit to remain in Palestine.** — S. 12(1)(b); **Unlawfully altering any certificate or copy thereof or any entry made in pursuance of the O.** — S. 12(1)(d); **Using or without reasonable excuse having in possession a forged, altered or irregular immigration certificate or passport or travel document on which any visa or endorsement has been forged, unlawfully altered or tampered with** — S. 12(1)(e); **Entering Palestine by a foreigner (i. e. a person other than a Palestinian citizen.** — S. 2) in contravention of S. 5 (enumerating disqualifications barring the grant of permission for foreigners to enter Palestine. — S. 12(2)(a)) or 'overstaying' in Palestine the

period during which a traveller or a p. admitted to Palestine on a transit visa is permitted to remain in the country. — S. 12(2)(b).

S. 12(3)(i). **Aiding or abetting any p. in any contravention of the O. or of any order or rule made thereunder, or harbouring any p. who to the defendant's knowledge or belief based on reasonable grounds has acted in contravention thereof.**

F F. — LP. 1000 &/or I. 8 yrs.

**Note. Procedure** — Trial is summary by District Court notwithstanding the pvns. of the Crim. Proc. (Trial Upon Information) O. — **Aiding, abetting or harbouring more than one p. at the same time or by the same means is deemed an o. in respect of each p. so aided, abetted or harboured.** S. 12(3)(1).

S. 12(4). **Returning to Palestine after having been deported unless the deportation order is no longer in force when the defendant re-enters Palestine.**

M F. — LP. 100 &/or I. 3 yrs.

**Note.<sup>2</sup> Evidence.** — The onus to show that the accused is not a foreigner or is in Palestine lawfully is on the accused (in prosecutions for contravention of S. 5(1)(g) or (h)).

**Note.<sup>3</sup> Ships or boats not exceeding 1000 tons registered tonnage knowingly used by their owner, agent or master in 'aiding' or 'abetting' or 'harbouring' offenders against the O. shall be forfeited to the Government of Palestine** — S. 12(3)(ii) (a); **Ditto: if any such vessel hovering within 3 nautical miles of the coast fails to depart after being required so to do by the Director or an immigration officer.** — S. 12(3)(ii) (b). **Ditto, with respect to means of conveyance other than ships or boats.** — S. 12(3)(iii). **Proceedings may be taken before the District Court for condemnation of any ship used in the manner described above if it exceeds 1000 tons registered tonnage, in a sum not exceeding LP. 10000.** — S. 12(3)(iv).

**Note.<sup>4</sup>** There is apparent contradiction between the wording of S. 12(3)(v) & that of S. 12(4), and it is likely that the penalty applicable is that of the former section, i. e. F. LP. 100 or & I. for 6 months.

**Note.<sup>5</sup> Being found on board a vessel in territorial waters of Palestine with the intention (in the opinion of the Court) of entering Palestine in contravention of S. 5 is deemed an offence under S. 12(2). (vide supra).** — S. 15.

**Note.<sup>6</sup> Prosecutions under the O. shall not be commenced**



after the expiration of two years next after the commission of the o. S. 12(5).

# INCOME TAX O. (No. 23/41; 10/42).

- S. 4(4). Communicating or attempting to communicate information or anything contained in any document, information, return, assessment list or a copy of such list, relating to the income or items of income of any p., to anyone other than a p. to whom the defendant is authorised by the High Commissioner to communicate it, or otherwise than for the purposes of the O., by a p. having possession or control of such documents, etc. (as above).  
M I. — 6 ms. or F. — LP. 100.

- S. 25(6) & S. 64. Failing or neglecting to render to an Assessing Officer an account (due under S. 25) by an officer of a company (in connection with the amounts deducted from dividends and debenture interest to be paid after 1942-43 and, where dividends have not been distributed or debenture interest has not been paid for the year preceding the year of assessment, before the coming into force of the O.).  
M F. — LP. 50 or I. — 3 ms.

- S. 35(2) & S. 64. Do. — due under S. 35.  
M Do.

- S. 64. Failure to comply with any pvn. of the O. or any rule thereunder, for which no specific penalty is provided.  
M Do.

- S. 65. Without sufficient cause —  
(a) failure to comply with a notice given under the O.; or  
(b) failure to attend in answer to a notice issued to the defendant, or having attended failing to answer any question lawfully put to him.  
M F. — LP. 50 or I. — 3 ms.; and F. — 500 Mils for each day of continuance of default.

- S. 66(1). Without reasonable excuse —  
(a) making an incorrect return by omitting or understating income where such return is required by the O.; — or  
(b) giving any incorrect information in relation to any matter affecting the defendant's liability to tax, or such liability of another p. or of a partnership.  
M F. — LP. 100 & double the amount of tax undercharged or

which might be undercharged in consequence of the default.

**Note.** Liability to penalty under S. 66(1) ceases to exist if the complaint of the o. is not made within 3 years after the expiration of the offence or during its commission, or in the year of the assessment in respect of the o. — S. 66(2).  
The offence may be compounded by the Assessing Officer, who may also stay or compound any proceedings in connection therewith (before judgment is given). — S. 66(3).

- S. 67(1). Wilfully, with intent to evade or to assist another to evade tax —  
(a) omitting from a return under the O. any income which should be included;  
(b) making a false statement in such a return;  
(c) giving a false answer, whether verbally or in writing, to any question put or request for information demanded in accordance with a provision of the O.;  
(d) preparing or maintaining, (or authorising such act) — false books of account or other records, or falsifying or authorising the falsification of any books of account or records;  
(e) making use of a fraud, art, or contrivance whatsoever or authorising the use of such.  
M F. — LP. 200 & treble the amount of tax for which the defendant is liable for the year of assessment in respect of which the o. was committed; &/or I. — 6 ms.

**Note.** The Assessing Officer has power to compound os. against S. 67 (before judgment), and may stay proceedings. — S. 67(2).

The institution of proceedings, or imposition of fine or imprisonment does not relieve any p. from liability to pay taxes due. — S. 68.

# INTOXICATING LIQUORS (MANUFACTURE & SALE) O.

(Cap. 71, L. P. — Nos. 4/35; 14/37; 3/41; 3/43).

- S. 4(2)(a) & (b). (a) Manufacturing intoxicating liquors; or having, keeping, or making use of, any still;  
(b) Having, keeping, or making use of, any vessels, utensils, or apparatus which can be used in the making of fermented liquors in circumstances indicating their use for the illegal manufacture of intox. liquors — without a licence.  
M F. — LP. 500.



- S. 5(2). **Manufacturing wine** by holder of licence (under S. 5) in excess of the quantity allowed, or disposing of any wine, or any still for a purpose other than that for which a licence under S. 5 has been granted.  
M F. — LP. 500 plus double duty on the quantity of liquors unlawfully manufactured or disposed of.
- S. 5(2). **Possession of liquors unlawfully manufactured or disposed of** (as in S. 5(2) above).  
M F. — LP. 200.
- S. 7(3). **Failure by manufacturer 'to enter'** any premises, vessels, or utensils used by him, as prescribed; or making an **unauthorised alteration** in, or failure to have such vessels or utensils marked in the prescribed manner.  
M F. — LP. 50.
- S. 9(3). **Failure by a manufacturer to keep the books** prescribed; or to produce them when required by an officer of the Dept. of Customs, Excise & Trade; or failure to make in such books any entries prescribed; or making **fraudulent entries**.  
M F. — LP. 200.
- S. 10(2). **Providing, or the use by a manufacturer of liquors, or permitting the use of any insufficient or false weight or measure;** or having on his premises any device or contrivance by which an officer may be prevented, hindered or deceived in taking the just and true quantity of any liquor or any vessels or utensils.  
M F. — LP. 100, plus double the duty undercharged on account of the false weight, etc.
- S. 11A(2). **Contravening S. 11A(1)** ('no whisky shall be delivered from the premises of a manufacturer for consumption in Palestine unless it has been matured in wood in such premises for a period of at least 3 years, and no whisky shall be sold in Palestine unless it has been so matured').  
M LP. 100.
- S. 11 B (1) & (2). (a) **Describing any substance** (in a notice, advertisement, label, or otherwise) by any name or words which are calculated to indicate that it is, or is a substitute for, or bears any resemblance to ale, beer, porter, or any description of ale, beer, porter or stout,—if this is done for the purpose of selling that substance, and it contains 2 per cent. or less of alcohol; or  
(b) **Selling or offering for sale, or permitting to be sold, or having in possession any such substance so described.**

- M F. — LP. 100 & forfeiture of articles by means of which or in relation to which the o. has been committed.
- S. 14(3). **Removal of intoxic. liquors** from manufacturers' premises without a proper permit (the manufacturer being liable).  
M F. — LP. 500 plus double the duty on the quantity unlawfully removed.
- S. 14(3). **Possession by any p. of such liquor** (see S. 14(3) above).  
M F. — LP. 200.
- S. 17. **Making use of any house, outhouse, cellar, room or other place for the storage or sale of intoxic. liquors** without the dealer or retailer of liquors having made entry in the prescribed manner of such premises, or without having caused them to be marked as prescribed by S. 17.  
M F. — LP. 50.
- S. 18. **Selling or permitting to be sold or exposing for sale intoxicating liquors without being duly licensed** under the O.  
M F. — LP. 100.
- S. 19. **Failure by a licensee under the O. to have his licence** at all times exhibited in a conspicuous place upon his premises.  
C F. — LP. 5.
- S. 20(2). **Receiving or removing from a dealer's or retailer's premises** intoxic. liquors without a permit (such dealer or retailer being liable).  
M F. — LP. 100, plus double the duty on the quantity unlawfully received or removed.
- S. 20(2). **Possession by any p. of such liquors** (see S. 20(2) above).  
M F. — LP. 100.
- S. 21(1). **Failure by a dealer or retailer** immediately upon receiving any intoxic. liquors to **cancel the permit** accompanying them, or to deliver the permit so cancelled to the officer who first inspects the premises after the receipt thereof.  
M F. — LP. 50.
- S. 21(2) & (3). **Failure by a dealer to keep any account of intoxic. liquors** received on his premises, and of those sold by him for a period of 3 years; or to produce it for inspection by an officer of the Department of Customs, Excise & Trade.  
M F. — LP. 50 plus double the duty on the quantity of liquors on the premises in excess of that shown in the accounts.
- S. 22. **Hawking intoxicating liquors.**  
M F. — LP. 50.



**Note.** Any vessels, utensils and materials used in the unlawful manufacture in possession of the defendant shall be forfeited on conviction under the O. — S. 25(1).

**Prosecutions** for os. under the O. for which the maximum penalty (fine and forfeiture) does not exceed LP. 100 shall be brought before a Magistrate; others — before a District Court. (As to Appeals, see S. 27(2)). S. 27(1).

S. 28(1). **Refusal or failure to admit an officer of the Dept. of Customs, Excise & Trade in the execution of duty to any licensed premises.**  
M F. — LP. 100.

S. 28(2) & (3). **Owning or possessing any still, vessel, liquor, utensils, or materials for the manufacture of intox. liquors kept or deposited unlawfully.**  
M F. — LP. 500.

S. 28(2) & (3). **Being found on the premises where seizure of articles mentioned in S. 28(2) (see above) is made, (the defendant not being the owner or in possession of such articles).**  
M F. — LP. 25.

S. 28(4). **Obstructing or assaulting an officer of the Dept. of Customs, Excise & Trade in the execution of duty.**  
M I. — 6 ms. or F. — LP. 100.

S. 29(3). **Failure by a p. carrying or removing intox. liquors of the same denomination exceeding the quantity of 9 litres or 100 reputed 1 litre bottles on request by an officer of the Dept. of Customs, Excise & Trade to produce a permit authorising such removal.**  
M F. — LP. 100 & forfeiture of the liquor &, by an order of the Court, of the means of conveyance used for such removal.

**Note.** Compounding of offences under the O. for a payment not exceeding the amount of maximum penalty may be accepted by the Director of Customs, Excise & Trade who may also order forfeiture of any article with respect to which the o. compounded has been committed. — S. 30(1) & (2).

S. 32(2). **Contravening any Rule made under the O. for which no specific penalty is provided.**  
M F. — LP. 100.

#### LAND (ACQUISITION FOR THE ARMY & AIR FORCE) O. (Cap. 74, L. P. — No. 16/29).

S. 21(6). **Contravening any bye-laws made by the High Commissioner**

regarding the use of land acquired or occupied under the O.  
C F. — LP. 5.

**Note as to proposed repeal of the O.**

**The draft LAND (ACQUISITION FOR PUBLIC PURPOSES) O., 1943.**  
(published in Palestine Gazette No. 1268) proposes the repeal of the O. and creates the following offences:—

S. 23. (a) **Wilfully hindering or obstructing the High Commissioner, or any p. acting on his behalf or under his authority, from, or in, entering upon or using any land in pursuance of the pvs. of the O.; or**  
(b) **Molesting, hindering or obstructing such p. when in possession of such land.**  
M F. — LP. 25 &/or I. — 3 ms.

**LAND (SETTLEMENT OF TITLE) O. (Cap. 80, L. P. — Nos. 9/28; 28/29; 18/30; 33/32; 22/33; 30/34; 25/35; 48/39).**

S. 73(1). **Failing to obey, or obstructing the carrying out of an order of a settlement officer in the execution of duty, or obstructing the work of a village settlement committee.**  
M I. — 6 ms. or/ & F. — LP. 50.

S. 73(2) & (1). **Removing or defacing demarcation or survey marks.**  
M Do.

S. 74(1). **By fraudulent means or by producing under a false name deeds or documents belonging to another, causing an entry or registration in the schedule of claims, or in the schedule of rights, or in partition schedule.**  
M I. — 3 yrs. & F. — LP. 100.

S. 74(2) & (1). **Giving false evidence or making a false statement before a settlement officer with a view to obtaining entry in a schedule of claims or of rights, or in a partition schedule.**  
M Do.

**LAND VALUERS O. (Cap. 82, L. P. — No. 18/1922).**

S. 8. **Holding oneself out to be, or practising as, a licensed valuer without being licensed under the O.**  
M F. — LP. 50.

**LOCUSTS DESTRUCTION O. (Cap. 85, L. P. — Nos. 4/32; 30/34).**

S. 10. **Failure to comply with any provision of the O.**



M I. — 1 m. or/ & F. — LP. 5.

Note. S. 4 imposes duty to give information about the presence of locusts or locust eggs;

S. 5 imposes duty on owner of land to demarcate land upon which locust eggs are found;

S. 7 compels various ps. to assist in destruction of locusts;

S. 8 empowers local locust commissions to requisition animals, implements, vehicles, etc.

#### MACHINERY (FENCING) O. (Cap. 86, L. P. — Nos. 3/28; 30/34).

S. 3(2). Failure by any owner or manager of any premises in which mechanically driven machinery is used ('factory') to comply with pvns. of S. 3: (a) hoists & flywheels directly connected to any 'prime mover' (engine or appliance providing mechanical energy from steam, water, wind, electricity, combustion or other source), and moving parts of prime movers, to be securely fenced; (b) the head & tail race of water wheels & water turbines to be so fenced; parts of electric generators or motors, transmission machinery, & every dangerous part of any machinery to be securely fenced or so placed or constructed as to be safe to employees or workers — S. 3(1); all fencing or other safeguards shall be of substantial construction & constantly maintained in position & in an efficient state.

S. 6(1). M F. — LP. 20 &/or order to adopt 'safety measures'.

S. 6(1) proviso. Failure to comply with Magistrate's order to adopt measures in conformity with the O.

C F. — LP. 5 for each day of default & order to close the factory.

S. 6(2). Wilfully molesting or obstructing an Inspector under the O.; or refusing or neglecting by an owner or manager of factory to furnish means necessary for making examination, inspection or enquiry under the O.

M I. — 3 ms. or F. — LP. 20.

S. 6(3). Contravening Rules made under the O.

M F. — LP. 20.

#### MARRIAGE & DIVORCE (REGISTRATION) O.

(Cap. 88, L. P. — Nos. 39/19; 31/34).

Failure to have one's marriage or divorce registered with the official or religious dignitary officiating at the marriage or divorce.

M F. — LP. 15 & I. — 1 m.

#### MATCHES EXCISE O. (Cap. 89, L. P. — Nos. 13/27; 39/29; 47/32; 30/34; 31/34; Order of 1.1.32; No. 55/39).

S. 9(1)(a-c). (a) Manufacturing matches without a (factory) licence.

(b) Failure to keep registers or to render returns in the prescribed manner by a licensed manufacturer.

(c) Delivering matches from a factory which are not packed in containers and surrounded by banderolles in the prescribed manner.

M I. — 3 ms. or/ & F. — LP. 100, & treble the excise duty & forfeiture of licence. (S. 9(2)).

Note. Director of Customs & other officers authorised by the High Commissioner may compound for a pecuniary payment any o. under the O.; any machinery or materials, etc., by means, or in respect of which the o. (compounded) has been committed may be confiscated by the Director of Customs, or such authorized officer. — S. 10(1) & (2).

#### MEDICAL PRACTITIONERS O. (Cap. 90, L. P. — Nos. 4/28; 30/34) (44/35; 19/37; 6/39).

S. 17(1). Practising or holding oneself out (directly or by implication) as practising or being prepared to practise medicine not being a holder of a licence to practise under the O.

M I. — 3 ms. or F. — LP. 50.

S. 17(2) & S. 7. Assuming or using the title of medical practitioner, physician, surgeon, apothecary, or any similar title implying the possession of medical qualification which the p. assuming the title does not in fact possess.

M F. — LP. 50.

S. 17(3). Fraudulently procuring or attempting to procure oneself or any other p. to be licensed under the O. by making or producing or causing to be made or produced any false or fraudulent representation or declaration, orally or in writing, or aiding or abetting such an act.

M I. — 1 year or/ & F. — LP. 100.

S. 17(4). Employment by a medical practitioner of nurses, dressers or attendants in treatment of ps. requiring professional medical skill. (S. 11).

S. 17(5). Impeding or obstructing by a medical practitioner any officer inspecting professional premises, or failure to comply with any pvns.



of the O. for which no other penalty is prescribed.  
M F. — LP. 20.

**MERCHANDISE MARKS O.** (Cap. 91, L. P. — Nos. 10/29; 30/33; 30/34; 28/39; 38/41). See **Summary 53**, Part IV.

- S. 3(1). (a) Forging a trade mark.  
(b) Falsely applying to goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive.  
(c) Applying false trade description to goods.  
(d) Causing any of the acts (a—c) to be done — unless proof is furnished of absence of intent to defraud.  
M I. — 1 year or/£ F. — LP. 100.

- S. 3(2) & (1). Selling, exposing for sale, or having in one's possession for sale or for any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark or mark so nearly resembling it as to be calculated to deceive is falsely applied, as the case may be — unless proof is furnished that — (a) all reasonable precautions against the commission of this o. having been taken, there was no reason to suspect at the time of the commission of the act the genuineness of the trade mark, etc; (b) on demand by or on behalf of the prosecutor all information with respect to the p. from whom such goods, or things had been obtained has been given & (c) defendant's conduct was innocent.  
M I. — 1 year or/£ F. — LP. 100.

**Note.** Forgery of trade marks is defined by S. 5 as: —

- (a) Without the assent of the proprietor of the trade mark making that or similar mark calculated to deceive; or  
(b) falsifying any genuine trade mark whether by alteration, addition, effacement or otherwise.

**Evidence.** The burden of proving the assent of the proprietor is on the defendant. S. 5.

**Evidence as to the port of shipment** is *prima facie* evidence of the place where goods were made.

**Liability.** S. 7 exempts certain ps. employed in the ordinary course of business from liability under S. 3(2).

- S. 11. Concurring in, counselling, aiding or abetting (within Palestine) or being an accessory to, the commission outside Palestine of any act which if committed in Palestine would be an o. under the O.  
M Penalty as for the commission of the o. concurred in, etc. — S. 3.

- S. 13. **Note.** No prosecution for an o. ag. this O. may be commenced on the expiration of 3 years after the commission of the o. or 1 year after the first discovery thereof by the prosecutor, whichever first occurs.

**Note.** Goods in respect of which an o. under this O. would be committed if such be sold in Palestine, & certain other goods are to be regarded as goods prohibited for importation to Palestine and the Director of Customs has power to compound os. in respect of such importation. For details refer to S. 14.

**MERCHANT SHIPPING (WIRELESS TELEGRAPHY) O.** (No. 21/37).

- S. 4. Non-compliance by a master or owner of a ship to which the O. applies (i. e. registered in Palestine and enumerated in the schedule to the O.) with any provision of the O.  
M First offence: I. — 3 ms. or/£ LP. 50.  
Subsequent offence: 6 ms. or/£ LP. 100.

**Note.** The principal provision prescribes the installation of wireless telegraph service on passenger ships and cargo ships of 1,600 tons gross tonnage or upwards — S. 2(2) & schedule.

**METHYLATED SPIRITS O.** (Cap. 92, L. P. — Nos. 11/32; 30/34; 11/37; 16/39).

- S. 11(2). Obstructing an officer exercising powers of inspection in respect of premises of a licensee or a retailer of methylated spirits or of any p. authorised to receive methylated spirits.  
M F. — LP. 50.

- S. 13. Purifying or attempting to purify methylated spirits, or recovering or attempting to recover the spirits of alcohol by distillation or condensation or otherwise, save in accordance with the O. or with the consent of the Director of Customs (if the methyl. spirits have once been used).  
M F. — LP. 200.

- S. 16. Contravening any provision of the O. for which no specific penalty is prescribed.  
M F. — LP. 50.

- S. 18. **Note.** Director of Customs or officers authorised by the High Commissioner may compound offences against the O. by accepting payment of money not exceeding the maximum penalty prescribed.



**MIDWIVES O.** (Cap. 93, L. P. — Nos. 20/29; 30/34).

S. 18(1). Not being authorised to practise under the O. practising or holding oneself out (directly or by implication) as practising or being prepared to practise midwifery.

M I. — 3 ms. or F. — LP. 50.

S. 18(2). Not being authorised under the O. to practise, assuming or using the title of midwife or a similar title implying the possession of qualifications which are in fact not possessed by the defendant or otherwise failing to comply with S. 8 or S. 10 (as to the use of the term midwife and registration of unqualified persons practising midwifery outside prescribed areas).

M F. — LP. 50.

S. 18(3). Employment by an authorised midwife of an unauthorised p. as a substitute midwife.

M F. — LP. 50.

S. 18(4). Impeding or obstructing by an authorised midwife an officer inspecting professional premises; or failure by her to comply with any provision of the O. for which no other penalty is prescribed.

M F. — LP. 20.

**MINING O.** (Cap. 94, L. P. — Nos. 19/25; 10/26; 21/33; 30/34; 25/38; 8/40).

S. 87(4). (a) Without lawful cause interfering with any prospecting, exploration, or mining operation, authorised by or under the O.

(b) Obstructing any p. in the exercise of any right conferred by the O. or in the performance of any duty imposed by it.

(c) Interference with any beacon, notice board, machinery plant, works or property established on, in, under or over any land, in exercise of any right, or in performing any duty, conferred by the O.

M I. — 1 year or/£ F. — LP. 500.

Note. Cancellation of permits may be ordered by the Director of Department charged with the administration of the O.

S. 87(2). Failure to comply with rules under the O., or acting in contravention thereof, for which no specific penalty is provided.

M I. — 6 ms or F. — LP. 50.

S. 88. Exploring, prospecting, or mining contrary to the pvns. of the O.

M I. — 1 year or/£ F. — LP. 20 for every day of default, by way of penalty, and F. — LP. 500.

S. 89. Prospecting, exploring or mining on land contrary to the pvns. of S. 7 or S. 8 (as to closed areas & excluded lands).

M I. — 6 ms or F. — LP. 50, & cost of remedying damage to land.

S. 90. Failure to comply with pvns. of S. 36(1) (as to disposal of minerals raised) or S. 57 (furnishing of half-yearly reports by holders of rights and leases).

M I. — 12 ms. or F. — LP. 100.

S. 91. Failure to comply with S. 37(2) & (4), as to abandonment of prospecting or exploration areas.

M I. — 3 ms. or F. LP. 25.

S. 92. Failing to comply with S. 38 (as to making reports by holders or permits or licences); or failure to notify the Controller (under the O.) of a discovery as required by S. 39.

M F. — LP. 25.

S. 93. Removing or interfering with any timber in an abandoned mine.

M I. 12 ms. or F. — LP. 500.

S. 94. Failing to comply with S. 70 (as to proceedings on failure to comply with a notice to remedy defective arrangements in a mine, etc.).

M F. — LP. 500.

S. 95. Failing to comply with S. 73 (as to 'Notice of accidents').

M F. — LP. 500.

S. 96. Failing to comply with S. 65(2) (as to removal of surface works).

M I. — 12 ms or F. — LP. 1000.

S. 97. Placing or depositing, or being an accessory to such act, any mineral or substance in any place for the purpose of misleading any p. as to the mineral bearing qualities of any land, or tampering with any sample with the like object, with intent to mislead or defraud.

F I. — 5 years or/£ F. — LP. 500; and forfeiture of all rights under the O.

S. 111(1). Working a quarry without being licensed under Part XII of the O. or failure to comply with rules under the O.

M I. — 3 ms. or/£ F. — LP. 50.

Note. Removal of sand, etc. from foreshore (of a river or sea) within a municipal or local council area requires a licence (granted by District Commissioner) — S. 109A(1-3). The taking of sand, etc., without a licence is deemed to be 'working quarry' — S. 109A(4).



- S. 111(2). Failure by a holder of a licence, after a notification in writing that he has failed to comply with conditions of licence, to act in conformity therewith.

M F. — LP. 50.

**MUNICIPAL CORPORATIONS O** (Nos. 1/34; 10/34; 11/35; 4/37; 18/38; 22/38; 26/38; 32/39; 3/40; 7/41; 17/42).

**S. 21(a—d). Election offences.**

(a) Forging, or fraudulently defacing or destroying any nomination paper, or party list, or delivering to the Presiding Officer any such, knowing the same to be forged.

(b) Wilfully obstructing or by threats or violence interfering with any voter on the way to or while at the polling station.

(c) Without due authority taking, opening, or otherwise interfering with a ballot box.

(d) Wilfully interrupting or impeding an election.

M F. — LP. 20 or/£ I. — 3 ms.

**S. 22. Personation.**

Applying to vote at an election in the name of some p. other than the defendant's; or having once voted in the election applying again in the same election to vote; aiding, abetting, concealing or procuring the offence of personation.

M F. — LP. 20 or/£ I. — 3 ms.

**S. 23(1). Treating.**

Corruptly, directly or indirectly, giving or providing, or paying, wholly or in part, the expense of any food, drink or entertainment or provision to or for any p. for the purpose of corruptly influencing him or another p. to give or refrain from giving his vote at an election.

M F. — LP. 20 &/or I. — 3 ms.

**S. 23(2). Corruptly accepting or taking such entertainment or provision (see S. 23(1)) by an elector.**

M Do.

**Undue Influence.**

- S. 24.** Directly or indirectly making use of, or threatening to make use of any force, violence or restraint, or inflicting, or threatening to inflict, by the defendant or by another, any temporal or spiritual injury, or loss upon or against any p. for inducing or compelling him to vote or refrain from voting at an election under the O.; or by

abduction, duress, or a fraudulent device or contrivance, impeding or preventing the free exercise of the franchise of an elector, or thereby compelling or inducing any elector to give or refrain from giving his vote.

M Do.

**S. 25(1)(a—e). Bribery.**

(a) Directly or indirectly giving, lending, or agreeing to do so, or offering, or promising to procure any money or valuable consideration to or for an elector in order to induce an elector to vote or refrain from voting.

(b) Directly or indirectly giving or procuring or agreeing to do so, or offering, or promising to procure any office, place or employment to or for any elector, in order to induce an elector to vote or refrain from voting, or corruptly doing such an act on account of any elector having voted or refrained from voting.

(c) Directly or indirectly making any gift, loan, offer, promise, procurement or agreement as aforesaid to or for any p. in order to induce him to procure the return of any p. as a member of a Municipal Council, or the vote of any elector.

(d) Upon or in consequence of any such gift, loan offer, promise, procurement or agreement, procuring or engaging, promising or endeavouring to procure the election of any p. as a member of a Municipal Council, or the vote of an elector.

(e) Advancing or paying, or causing to be paid, any money to or for the use of any other p. with the intent that such money shall be expended in bribery at any election, or knowingly paying or causing to be paid any money to any p. in discharge or repayment of any money, wholly or in part, expended in bribery at an election.

M I. — 3 ms. &/or F. — LP. 20.

**Note.** Legal expenses bona fide incurred at, or concerning, an election under the O. are not within the provision of this Section.

- S. 25(2)(a—b).** (a) Directly or indirectly receiving or agreeing to receive, or contracting for any money, gift, loan, or valuable consideration, office or place of employment for the defendant or for any other p. for voting or agreeing to vote or for refraining or agreeing to refrain from voting at an election.

(b) Directly or indirectly recovering any money or valuable consideration on account of any p. having voted or refrained from voting or having induced any other p. to vote or refrain from voting at an election.

M Do.



**S. 32. 'Illegal Practice'.**

Being guilty of an 'illegal practice'.

M F. — LP. 20 or/£ I. — 3 ms.

Note. Illegal practices in connection with municipal elections are defined by S. 27, S. 32(2) & 31(3).

**S. 33(1). 'Illegal payment'.**

Being guilty of an 'illegal payment'.

M F. — LP. 20.

Note. Illegal Payments are defined by S. 28.

**S. 33(1). Illegal Employment.**

Being guilty of an 'illegal employment'.

M Do.

Note. Illegal Employment is defined by S. 29.

Note. Limitation of prosecutions for Personation, Treating, Undue Influence or Bribery, or Illegal Payment or Illegal Employment under the O. Such prosecutions may only be instituted within 15 days of the publication in the Palestine Gazette of the result of the election at which the o. is alleged to have been committed, — by the Police with the consent of the District Commissioner of the district where the municipal corporation is situated. S. 34(a) & (b).

**S. 43. Printing, publishing or posting, or causing to do so, any bill, placard or poster having reference to a municipal election which does not bear upon its face the name and address of the printer and publisher.**

M F. — LP. 25.

**S. 43 & S. 32. Do., if the defendant is a candidate at the election, the offence is deemed to be an 'illegal practice'.**

M F. — LP. 20 &/or I. 3 ms.

**S. 44(a) & (b). Offences by Councillors.**

Acting as a municipal councillor by an unqualified p. (S.11).

M F. — LP. 250 (& disqualification from voting, or from being a candidate at municipal elections for a period not exceeding 7 years).

**S. 45. Being a municipal councillor while concerned, directly or indirectly, in any loan or bargain or contract entered into with the municipal corporation of which the defendant is a councillor, or participating in the profits of any such bargain or contract, or work done under the authority of such corporation.**

M F. — LP. 250.

Note. As to acts exempted from the operation of this S. see the proviso to S. 45.

**S. 70(1) & (2)(a) & (b). Neglecting or refusing to appear before the municipal auditor or to produce any books, deeds, contracts, accounts, vouchers, receipts or other documents or papers, or to make or sign a declaration; or falsely or corruptly making or signing any declaration knowing the same to be untrue in a material particular (when required by summons in writing to do so by a municipal auditor).**

C F. — LP. 5.

**S. 91. Being interested in a contract, or work made with or executed for a municipal council or corporation — while being an official or servant of such council or corporation.**

M F. — LP. 10.

Note. As to exemptions from liability under S. 91, see proviso thereto.

**S. 108(3)(a—c). (a) Refusing or failing to furnish a return or to produce a document or to give information, as required by S. 108 (in connection with assessments) for the space of 1 week from the day on which such return, document or information was required by an assessment committee.**

(b) Knowingly making such return falsely or incorrectly, or giving such information knowing it to be false or incorrect.

(c) Hindering, obstructing or preventing the assessment committee or any p. appointed by them from entering, inspecting or surveying any lands or buildings.

M F. — LP. 50 or/£ I. — 6 ms.

**S. 112(a) & (b). Knowingly making a false statement or giving false information in any application for rectification of an assessment list or to any Appeals Tribunal constituted under the pvns. of the O.**

M F. — LP. 50 or/£ I. — 6 ms.

**S. 122. Knowingly making a false statement in any form required to be filled up under the O.**

M F. — LP. 20 or/£ I. — 3 ms., unless other punishment is provided by the O.

**S. 123. Obstructing officials or servants of a municipal corporation in the execution of any pvns. of the O. or any other O. or law.**

M F. — LP. 2 or/£ I. — 14 days, plus damages to the Corporation.



- S. 126. Contravening any provision of the O. for which no specific penalty is provided.

C F. — LP. 5.

Note. On convicting any p. under this O. the Court may impose on him the payment of any fees or dues (connected with the charge) which the defendant ought to have paid but failed, or refused or neglected to pay. S. 124(1).

**MUNICIPAL CORPORATIONS (SEWERAGE, DRAINAGE and WATER) O. — (No. 1/1936).**

- S. 10(4)(a). Failure to comply with a lawful order by the Municipal Council or an officer appointed by them under S. 10(2) for the stoppage of any work which is being executed in contravention of Part I of the O. or municipal bye-laws relating to sewerage or drainage.

M F. — LP. 20 & LP. 1 for each day of default after the making of the order.

- S. 10(4)(b). Failure by an owner of premises to which a drain or cesspool belongs (after notice by the Municipal Council) to alter, repair, or put the same in good condition within the period required by the notice.

M Do.

- S. 10(4)(b). Constructing a new sewer, drain or cesspool without the consent of the Municipal Council.

M Do.

Note. Magistrates may order alteration, repair, or demolition to be carried out by the Municipal Council at defendant's expense (recoverable as arrears of rates). — S. 10(4).

Appeals ag. such orders (or ag. the refusal to make such order) lie to District Court (President or Relieving President). — S. 10(5).

- S. 12. Knowingly permitting (by an 'owner' of premises — S. 2) rain-water to discharge into a sewer without written authority of the municipal council.

M F. — LP. 20 & defraying the expense of providing an alternative channel for disposal of rain-water.

- S. 23(1) & (2). Causing or permitting by an owner of a house in a municipal area such house to be occupied without first obtaining a certificate from the Municipal Council that a supply of wholesome water sufficient for the use of the inmates is introduced.

C F. — LP. 1 for each day of unlawful occupancy.

- S. 24(1) & (2). Selling or causing to be sold any water in a municipal area without the written consent of the Municipal Council.

M F. — LP. 20.

**NOTARIES PUBLIC (FOREIGN DOCUMENTS) O.**

(Cap. 99, L. P. — No. 31/21; 5/37).

- S. 6. Holding oneself out to be a notary public under the O. by a p. not enrolled as such.

M F. — LP. 50.

**OFFICIAL SECRETS O. (Cap. 100, L. P. — Nos. 18/32; 32/32).**

- SS. 3(1) & 19(1). (a) Approaching, inspecting, passing over, or being in the neighbourhood of, or entering, any prohibited place within the meaning of the O.

(b) Making sketches, plans, models, or notes calculated to, or which might be intended to, be useful to an enemy.

(c) Obtaining, recording, publishing or communicating any secret official code word, pass word, or sketch, plan, model, article, note, or other document calculated, or which might be intended, to be useful to an enemy.

F I. — 14 years.

Note. S. 3(2) deals with presumption of prejudicial purpose; As to evidence of communication with a foreign agent, refer to S. 10.

- SS. 4(a—d) & 19(2). (a) Communicating a secret official code word, sketch, plan, document or information (possessed or known by the offender by virtue of his position as a holder of office under His Majesty, etc.) to any p. other than a p. to whom he is authorised to communicate it.

(b) Using such information (see (a) supra) for the benefit of any foreign power, or in any other manner prejudicial to the safety or interests of the State.

(c) Retaining any sketch, plan, model, article, document, or note, when the defendant has no right to retain or when it is contrary to his duty to retain it, or failure to comply with directions issued by lawful authority with regard to the return or disposal thereof.

(d) Failing to take reasonable care of, or so conducting oneself as to endanger the safety of such code word, document, article, or information.

M I. — 3 years or/ & F. — LP. 200.

- S. 5 & S. 19(2). Communicating any sketch, plan, model, article, note, document or information relating to munitions of war and in the possession



or control of the defendant, directly or indirectly, to a foreign power, or in any other manner prejudicial to the safety or interests of the State.

M Do.

S. 6 & S. 19(2). Receiving secret official information or article, knowing or having reasonable ground to believe at the time of receipt of such that it is communicated in contravention of the O. (unless proof is furnished of communication contrary to defendant's desire).

M Do.

S. 7 & 19(2). For the purpose of gaining admission to a place 'prohibited' within the meaning of the O., or for any other purpose prejudicial to the safety or interests of the State —

(a) Using or wearing any official uniform or uniform nearly resembling same, or falsely representing oneself to be a p. entitled to wear same; or

(b) Knowingly making orally or in writing (in any application or declaration signed by the defendant or on his behalf) a false statement or omission; or

(c) Forging, altering, or tampering with any passport, naval, military, police or official pass, permit, certificate, licence or other similar document; or using or possessing such irregular official document; or

(d) Personating, or falsely representing oneself to be a p. in the employment of His Majesty, or a p. (or not a p.) to whom an official pass word, etc. has been duly issued or communicated; or, with intent to obtain an official document, etc., knowingly making a false statement.

(e) Using or having in possession, without the authority from the department or person concerned, any die, seal or stamp of any government department or diplomatic, naval, military or air force authority appointed by His Majesty, or an article resembling any such die, etc., or counterfeiting such seal, etc. or using or having in possession any such counterfeit die, seal, etc.

M Do.

See Note to S. 3(1) above.

S. 8(a-c) & S. 19(2). (a) Retaining for any purpose prejudicial to the State any official document without having the right to retain it or when it is contrary to defendant's duty to retain it, or failing to comply with direction as to its return or disposal issued by a government department or a p. authorised by a government department.

(b) Allowing any other p. to have possession of any official document issued solely for the defendant's use or communicating a secret official code word or pass word so issued; or without lawful authority or excuse having in one's possession an official document issued for the use of some other p. or, on obtaining possession of an official document by finding or otherwise, failing to restore it to the p. for whose use or by whom it was issued, or to a police constable.

(c) Without lawful authority or excuse manufacturing or selling or having in one's possession for sale any die, seal, or stamp as aforesaid.

M I. — 3 yrs. or/ & F. — LP. 200.

Note. See Note to S. 3(1) above (applicable to S. 8 — S. 9).

S. 11 & S. 19(2). Obstructing, knowingly misleading or otherwise interfering with, or impeding the police or members of His Majesty's forces on sentry, guard, patrol or similar duty, in the vicinity of 'prohibited' places.

M Do.

S. 12 & S. 19(2). Knowingly harbouring a p. who has committed or is about to commit an offence against the O.; or knowingly permitting to meet or assemble on premises in or under one's occupation or control, any such ps. or wilfully omitting or refusing to disclose to a Superior Police Officer in charge of a District any information in relation to such p.

M Do.

S. 15(2). Refusing or neglecting to produce an original, or transcript of any, telegram when required to do so. — S. 15(1).

M I. — 3 ms. or/ & F. — LP. 50.

S. 16(4). Failure to comply with the pvns. of the O.s as to the registration of ps. carrying on the business of receiving postal packets and as to maintenance of "books" by such ps.

M I. — 1 m. or/ & F. — LP. 10.

S. 17 & S. 19(2). Failure to give information to the Inspector General of Police or a superior officer appointed for the purpose, or to a member of His Majesty's forces, as to an o. or suspected o. ag. the O.; or failing to attend at a reasonable time and place when required to do so for such purpose.

M I. — 3 yrs. or/ & F. — LP. 200.

Note. Attempts to commit an offence ag. the O., aiding and abetting, soliciting the commission of such, or persuading another



to commit such an o. is punishable as the o. itself (see SS. 3, 4, 5, 6, 7, 8, 11, 12, 15, 16, 17; & 19 supra).

Prosecutions under the O. may only be instituted by or with the consent of the Attorney-General. Arrests and remand in custody or on bail do not require such consent, but further proceedings may not be taken until it has been obtained. — S. 13.

#### OIL IN NAVIGABLE WATERS O. (No. 53/36).

- S. 3. Unlawful discharge of oil into territorial or inland waters of Palestine or allowing such discharge or escape of oil (the offender being an owner or master of the vessel or hulk, or the occupier of the land from which the oil is discharged or the p. having charge of the apparatus used for the purpose of transferring oil from or to any vessel or hulk or from or to any place on land, as the case may be).  
M F. — LP. 100.

Note. Certain defences to proceedings under S. 3 are enumerated in the proviso to the section.

- S. 4(1) & (2). Transferring oil between sunset and sunrise to or from any vessel or hulk in territorial or inland waters of Palestine without obtaining a written permission for such from the officer in charge of the port (the defendant being the master of the vessel or occupier of the premises — if the oil is transferred to or from such premises).  
M F. — LP. 20.

- S. 5(4). Failure to keep a record with respect to transfer of oil, or to make proper entries in such record, or to produce it upon demand (by a p. authorised to inspect it) — by a p. who is required to keep such record, or by an agent of such a p. — S. 5(1-4).  
M F. — LP. 50.

- S. 5(4). Making (knowingly) a false entry in such a record or an entry which is in a material particular misleading, or wilfully failing to make entry in such record.  
M F. — LP. 100.

- S. 6(2). Giving a certificate under S. 6 (as to liquid contained in spaces used for carriage of oil) by a master of a vessel or hulk, which is to the knowledge of the defendant false or misleading in a material particular.  
M F. — LP. 50.

Note. Prosecutions. Prosecutions under this O. may be instituted only by the officer in charge of the port or, if the

o. be committed not in a port within the meaning of the Ports O., — by the District Commissioner of the District wherein such o. is committed. — S. 8(3).

Prosecutions may be instituted against a master of a vessel who departs from Palestine before the expiration of the period within which proceedings for the o. might have been instituted against him, at any time within 2 months next after the date on which he first returns to Palestine. — S. 8(1).

#### OIL MINING O. (No. 25/38; 9/40).

- S. 24(1) (a) & (b). Without lawful cause —

(a) interfering with any oil prospecting or mining operation authorised under the O.;

(b) obstructing any p. in exercise of any right conferred by the O. or in the performance of any duty imposed by it.

M F. — LP. 500 &/or I. — 1 year. Licence or lease granted to defendant under the O. may be cancelled by the High Commissioner.

- S. 24(2). Contravening a provision of the O. for which no specific penalty is provided.  
M F. — LP. 50.

- S. 25. Prospecting or mining contrary to the pvns. of the O. or Rules thereunder.

M F. — LP. 20 for each day on which the o. is committed & LP. 500 or I. — 1 year.

- S. 26. Prospecting or mining for oil on land over which such operation is prohibited by the O. or rules thereunder.

M F. — LP. 50 or I. — 6 ms. & remedying damages to the land.

- S. 27. Failure to comply with S. 20 (prescribing the furnishing to the Controller of Oil Mines of half-yearly reports on oil won or raised, to be rendered by the p. or manager or secretary of the company holding mining lease).

M F. — LP. 100 or I. — 12 ms.

- S. 28. Failure to comply with S. 15(2) (prescribing compliance with a notice requiring remedying of defects in an oil mine served by a duly authorised officer on an owner, manager or agent of the mine, — unless an objection to the notice is sent to the Controller of Oil Mines by the p. served with the notice within 21 days of its receipt).

M F. — LP. 500.



- S. 29. Failure to comply with pvns. of S. 18 (prescribing a written notification of any serious injury or death caused by an accident, — to be sent to the Controller of Oil Mines or other prescribed officer within 24 hours next after the accident).  
M F. — LP. 500.

**PALESTINE POST OFFICE SAVINGS BANK O.** (No. 40/41).

- S. 15(1) & (2). Disclosure by ps. appointed to carry the O. into effect of the name of any depositor or of the amount deposited or withdrawn by a depositor, except in the course of law or to ps. appointed to assist in carrying the O. into effect.  
M F. — LP. 100 on summary conviction.

**PARTNERSHIP O.** (Cap. 103, L. P. — No. 19/30).

- S. 6(5). Making default in complying with S. 6 by a partnership (each partner being liable) as to its registration.
- S. 8(2). Default in complying with S. 8 (as to registration of changes in matters required to be registered) by partnership (each partner being liable, unless a 'limited partner').  
C Do.
- S. 54(2). Making default in complying with S. 54 (as to registration of changes in certain matters concerning Limited Partnership) by a Limited Partnership (each general partner being liable).  
C Do.
- S. 56(6). Commencing business by a Limited Partnership prior to the receipt of notification that the High Commissioner has authorised its registration (S. 56(5)) (each partner being liable).  
M F. — LP. 50.
- S. 59(2). Failure by a Limited Partnership to state in its circulars, etc., that the Partnership is a limited one and the names of all limited and unlimited partners. (S. 59(1)).  
C F. — LP. 5.
- S. 64(2) & (3). Failure to exhibit in conspicuous place in principal place of business a certificate (or certified copy thereof) of registration by a partnership.  
C F. — LP. 1 for each day of default.
- S. 68(8). Contravening S. 68(7) as to forwarding to the Registrar of a copy of Order of the Court as to restoration of name of a partnership (within 7 days of the making of the Order).  
C F. — LP. 1 for each day's default.

- S. 70(2). Contravening pvns. of S. 70 prohibiting foreign firms to carry on business in Palestine, unless registered.  
C F. — LP. 250.
- S. 72(2). Default by a foreign firm to register a change in a matter requiring registration (S. 72(1)) (each partner other than limited partner being liable).  
C F. — LP. 1 for each day's default.

**PASSPORTS O.** (Nos. 35/1934; 23/1938).

- S. 5(1)(a—g). (a) Forging, altering, or tampering with any travel document or knowingly using or having in one's possession any such forged, or irregular travel document.  
(b) Being found in unlawful possession of any such document.  
(c) On finding such document neglecting or failing to send it to the Director of Dept. of Immigration or Superintendent of Police or the officer in charge of the nearest Police Station.  
(d) By personation or false representation holding oneself out as the rightful possessor of such document.  
(e) Parting with the possession of such document to another p. without lawful authority.  
(f) Destroying, making away with, or by wilful neglect allowing any other p. to obtain possession of such document.  
(g) Refusing to surrender such document when required (under S. 3).  
M I. — 1 year or/ & F. — LP. 100.
- S. 6. For the purpose of obtaining a travel document or renewal, endorsement or other service under the O. either for the defendant himself or for another, making a false statement or representation.  
M I. — 6 ms. or/ & F. — LP. 100.

**PATENTS & DESIGNS O.** (Cap. 105, L. P. Nos. 33/24; 13/30; 9/33; 23/34; 7/35; 66/35; 19/38; 56/39).

- S. 55(1). Making or causing to be made a false entry in any register kept under the O., or a writing falsely purporting to be a copy of an entry in any such register, or producing in evidence any such writing, knowing the entry or the writing to be false.  
M I. — 1 year or F. — LP. 100.
- S. 55(2). Falsely representing that any article sold by the defendant is a patented article, or falsely describing any design applied to any article sold by the defendant as registered.  
M F. LP. 10.



- S. 55(4). Putting or causing to be put on any article to which the design has been applied the word 'registered', or any word or words implying that a copyright subsists in the design, whereas the copyright has expired.

M F. — LP. 25.

**Note. Jurisdiction.** — Offences ag. S. 55 are triable by District Courts. — S. 55(5).

Persons aggrieved by any offence under S. 55 are not prevented from taking proceedings for an injunction and/or for the recovery of damages, whether or not a prosecution was instituted as a result of information given by the aggrieved party. — S. 55(b).

#### PERSONAL INJURIES (EMERGENCY PROVISIONS) O. (No. 19/42).

- S. 6(2). (a) Failure to comply with the requirements of any notice in writing, issued by a Compensation Commissioner (S. 2), requiring information relating to earnings and circumstances of a p. injured to whom compensation may be awarded in respect of war injuries and 'war service injuries', or (b) in purported compliance with such a notice knowingly or recklessly making an untrue statement or representation, or producing a document which is false in a material particular or calculated to deceive.

M F. — LP. 20.

- S. 7. Knowingly making an untrue statement or representation for the purpose of obtaining an award of compensation under a scheme made under the O., either to the defendant or to any other p.

M I. — 3 ms.

#### PETITION WRITERS O. (Cap. 103, L. P. — No. 34/19; 20/39).

- S. 5. Contravening pvn. of the O. (S. 2 — licensing of petition writers; S. 3 — each petition to be signed both by the petition writer and the p. for whom it is written).

C I. 1 week or F. — LP. 5.

#### PHARMACISTS O. (Cap. 110, L. P. — Nos. 41/21; 21/25; 25/28; 15/30; 30/34).

- S. 46(a) — (e). Contravening any provision of the O.

M F. — LP. 50 or/£ I. — 6 ms. or/£ withdrawal of licence, or/£ closure of establishment permanently or for a period, or/£ withdrawal of 'poison permit', permanently or for a period.

#### PLANT PROTECTION O. (Cap. 111, L. P. — Nos. 10/24; 11/31; 7/33; 14/34; 30/34).

- S. 12. (a) Obstructing or impeding a p. in the execution of any power conferred by the O.  
(b) Refusing or neglecting to comply with, or acting in contravention of any, pvn. of the O., or an order given under S. 7.  
(c) Introducing any disease or pest into any cultivation, unless proof is furnished to the satisfaction of the Court that it was accidental and not due to neglect or malice.

M F. — LP. 20.

#### PLAYING CARDS EXCISE O. (No. 13/1938).

- S. 9(1) & (2). (a) Manufacturing playing cards without holding a licence under S. 4.

(b) Failure to keep a prescribed register or to render a return in the prescribed manner (S. 5(4)) by a licensed manufacturer.

(c) Delivering from a factory pl. cards not packed in containers surrounded by banderolles in the prescribed manner (S. 5(2) & (3)).

M I. — 3 ms. or/£ F. — LP. 100 & treble excise duty due.

Manufacturer's licence may be forfeited by order of the Court.

**Note.** Director of Customs, Excise & Trade or other officer authorised by the High Commissioner has power to compound for pecuniary payment any o. ag. the O. — S. 10.

#### POLICE O. (Cap. 112, L. P. — Nos. 17/26; 49/29; 2/34; 30/34; 25/36; 32/36; 37/36; 41/36; 65/36; 31/37; 38/38; 22/39; 42/39; 17/40; 26/40; 39/40).

- S. 11. Wilfully giving a false answer to any question in the attestation paper (on enlistment in the Police Force).

M I. — 6 ms. & dismissal from the Police Force.

- S. 20(1). Failure to deliver up on ceasing to be a Police Officer, all arms, clothing etc. supplied to the defendant for the execution of his duties as such officer.

M F. — LP. 20.

- S. 20(1). Ditto, if (by culpable negligence or wilfully) any such articles were destroyed or made away with.

M F. — LP. 20 & I. — 3 ms.

- S. 31(4). Refusal or neglect to serve as a special constable without sufficient excuse after being appointed a special constable, or refusal or neglect to obey lawful orders as to performance of duties by special constables.

M I. — 10 days or F. — LP. 5.



- S. 32(2). Keeping open a café or other place of public resort or a club after having been ordered by a District Commissioner, magistrate or a superior police officer to close such premises (in anticipation of riots, etc).

M I. — 6 ms. or/£ F. — LP. 50.

- S. 33(a). Refusing or delaying to disperse or reassembling after dispersal of an assembly when an Order under S. 33 (made by the District Commissioner, prohibiting assemblies in any public place) is in force.

M I. — 3 ms or/£ F. — LP. 25.

Note. Arrest without a warrant of offenders ag. this S. is authorised by S. 33(a).

- S. 33(b). Being found in a public place when such Order (see above, S. 33(a)) is in force in possession of a knife, stick, iron bar, stone or weapon of any sort likely to be used in case of a disturbance or for the purpose of assisting in a disturbance; or inciting persons to assemble (by word or writing, or otherwise); or singing a song or using words or gestures in the opinion of a police officer likely to lead to a breach of peace.

M Do.

Note. Note to S. 33(a) applies — S. 33(b).

- S. 35 A & B, & S. 80. Taking part in a meeting or procession deemed an unlawful C.C.O., assembly under S. 35 or S. 35B.

1936. M I. — year.

(S. 35 — prescribes application for a licence to hold a meeting or assembly of fifty or more ps. at least five days prior to the date of such assembly. Licence is granted or refused by the District Commissioner. This procedure is only in force when a Notice by Superintendent of Police requiring such applications has been published. — S. 35B. empowers Superintendent of Police in the District to regulate the conduct of gatherings in streets, and the extent to which music may be played on the occasion of festivities, etc.).

- S. 35 B(3). Failure to comply with Police directions as to the extent to which music may be played (S. 35B—(1)(b)).

M F. — LP. 20.

- S. 36. Failure to comply with Police orders forbidding the flying of flags.

M F. — LP. 20.

- S. 38. (a) By threats, bribes, gifts, or other consideration endeavouring to induce any Police Officer to do something which is not his duty to do or refrain from doing his duty.

(b) Knowingly detaining, buying, exchanging, or receiving from a member of the Police Force, or deserter from the Police Force, or soliciting or enticing, or being employed by any such member or deserter of the Force to sell, put away or dispose of, any arms, clothing, equipment or accoutrements belonging to the Force, or possession of such articles without giving a satisfactory account of how the possession was acquired.

(c) Wearing Police uniform or equipment without being a member of the Force, so as to lead the public to believe the defendant to be a member of the Force.

(d) Not being a member of the Force, purporting to be such or making a statement, or doing an act likely to cause the public to believe the defendant to be a member of the Force.

M I. — 6 ms. or/£ F. — LP. 50.

Note. Offender may be arrested without a warrant. — S. 38.

PORTS O. (Cap. 114 — L. P. — Nos. 16/26; 36/27; 11/30; 23/33; 47/33; 30/34; 32/35; 5/36; 9/37; 3/39; 28/42).

- S. 15(1)(a—g). (a) Demanding or imposing any payment for service in excess of the tariff for the time being in force.

(b) Carrying passengers or goods in excess of the authorised number, weight, or quantity by a p. in charge of a vessel licensed under the O.

(c) Plying for hire an unlicensed vessel or not bearing upon it a mark required by the O.

(d) Being required to obtain a licence to carry on his occupation within a port, frequenting the port without obtaining such licence.

(e) Being the owner or part-owner of any vessel required to be registered (S. 7) failing to register it.

(f) Refusing to obey lawful orders (by duly authorised ps.) for good order & management of the port.

(g) Refusal or failure to comply with any provision of the O. for which no specific penalty is prescribed.

M First o. I. — 3 ms. or/£ F. — LP. 25.

Subseq. o. F. — LP. 50/£ I. 6 ms.

- S. 15(2). Taking his vessel out of a port by the master of vessel without having previously obtained a clearance certificate.

M F. — LP. 100 (plus dues, & fees).

- S. 15(3). Acting as a pilot without a licence, or refusing or failing to comply with the prescribed regulations as to pilots.

M I. — 1 year or/£ F. — LP. 50.



**Note.** The Court may forfeit any licence issued under the O. — S. 15(4).

**Power to Compound** any offence under the O. not punishable with a fine exceeding LP. 100 is given to the Director of Customs and other officers designated by the High Commissioner. — S. 16.

**S. 15A(a).** I. Receiving any sum of money or anything whatever as reward or bribe by a p. authorised to load or unload or arrange for loading or unloading of goods within any port or employed in or about any port in consideration for his giving undue preference in the execution of office, or for doing or omitting to do anything relating to his office.

II. Giving by such p. of undue preference or showing undue favour in loading or unloading goods.

**M** I. 3 ms. or/£ F. — LP. 25 (1st offence);

I. — 6 ms. or/£ F. — LP. 50 (Subsequent o.).

**S. 15A(b).** Giving or offering such reward or bribe (as in S. 15A(a) *supra*).

**M** Do.

**POST OFFICE O.** (Cap. 115, L. P. — Nos. 20/30; 16/33; 30/34; 25/41).

\* See Summary 54, Part IV.

**S. 24(1) & (2).** Failure by master of a vessel outward bound to receive mail bags tendered by an officer of the post office for conveyance; or failure to deliver such mail without delay on arriving at the port or place of destination.

**M** F. — LP. 200.

**S. 25(1) & (3).** Failure by master of a vessel inward bound duly to deliver any postal packets to the proper officer of the post office demanding them, or at the post office with which he can first communicate, without delay.

**S. 25(4) & (2).** Failure by such master to make the declaration in the presence of an officer of the post office in the form of the Schedule to the Ordinance (L. P. vol. ii., p. 1213).

**M** F. — LP. 50.

**S. 26(1)(a) & (b).** Opening a sealed mail bag, or removing from such bag any postal packet or other thing, by a master of a vessel entrusted with the bag for conveyance.

**M** F. — LP. 200.

**S. 26(2).** Opening mail bag or breaking its seals by a p. to whom postal

packets have been entrusted by a master of a vessel to bring on shore.

**M** F. — LP. 20.

**S. 27(2).** With intent to evade postage falsely superscribing a letter as being the owner or charterer or consignee of the vessel conveying the letter or as the owner or the shipper or the consignee of goods shipped on the vessel.

**M** F. — LP. 10 for each offence.

**S. 29.** Knowingly having in baggage or possession or custody any postal packet (except one not within the privilege of the Postmaster-General), by the master or an officer or a member of the crew or a passenger of a vessel inward bound, after the master has sent any part of the postal packets on board his vessel to the post office.

**C** F. — LP. 5 for each packet.

**S. 29.** Ditto, after a demand by a p. authorised by the Postmaster-General to deliver postal packets.

**M** F. — LP. 10 for each packet.

**S. 31.** Sending or causing to be sent, tendering or delivering in order to be sent, or conveying or performing any service incidental to conveyance otherwise than by post any letter not excepted from the exclusive privilege of the Postmaster-General, or making collection of letters excepted from the privilege for the purpose of conveying or sending them by post or otherwise.

**M** F. — LP. 50 for every letter.

**Note.** The letters may be confiscated by order of the Court, and in such cases will be handed over to the Postmaster-General, who may deal with them as he sees fit in his absolute discretion.

**S. 35(1) & (2).** Failure to deliver to the Postmaster-Gen. articles issued to him for the execution of duty by an officer of the Post Office on vacating his office (or by his personal representative if the office was vacated on officer's death).

**C** F. — LP. 2, and the value of articles or damage to them.

**S. 47.** Destroying or injuring telegraph by any p. personally or by agents or contractors thereby carelessly or wilfully interrupting telegraphic communication.

**M** F. — LP. 20 for each day of interruption.

**S. 47 — Proviso.** Ditto, if the defendants are not authorised by the High Com-



missioner to execute works required to remedy the interruption.  
M F. — LP. 50 in lieu of above daily fine.

- S. 46. Obstructing the Postmaster-Gen. or his agents (personally or by agents or contractors) in placing, maintaining, altering, examining or repairing any telegraph in pursuance of the O.

M F. — LP. 10 for every act of obstruction; or, if continuous, for every day of obstruction.

- S. 55(1) & (2). Navigating a vessel by its master so as to endanger any telegraph lying under the territorial waters of Palestine.

M F. — LP. 50 plus cost of repairs. (Liability is incurred by master or owner of the vessel).

- S. 74(a—d). (a) Stealing a mail bag.

(b) Stealing a postal packet in course of transmission by post.

(c) Stealing money or valuable security or article out of a postal packet in course of transmission by post.

(d) Stopping a mail with intent to rob or search it.

F I. — 15 years.

- S. 75. Unlawfully taking away or opening a mail bag sent by a vessel or train, car or other means of conveyance for the transmission of postal packets employed by the Post Office, or unlawfully taking a postal packet in course of transmission by post out of a mail bag so sent.

F I. — 10 years.

- S. 76. Fraudulently retaining or wilfully secreting or detaining or, when required by an officer of the post office, neglecting or refusing to deliver up any postal packet or telegram which is found by the defendant or wrongly delivered to him and which ought to his knowledge to have been delivered to another p.

M I. — 2 yrs.

- S. 77(a) & (b). (a) Establishing or maintaining without due authority any telegraph.

(b) Knowingly transmitting or receiving any message by such unauthorised telegraph, or performing a service incidental thereto or to the delivery of any message for transmission by such telegraph, or accepting delivery of a message sent thereby.

M F. LP. 10 (first offence);

F. — LP. 50 (a second or subseq. offence).

- S. 78(a) & (b). Wilfully and unlawfully —

(a) destroying, damaging or removing any telegraph works, or

(b) preventing or obstructing the sending or delivering of a communication by telegraph.

M I. — 3 yrs.

- S. 79. Attempt to commit an offence contrary to S. 78 (see supra).

M I. 12 ms. or F. LP. 50.

- S. 80. Negligently (a) destroying or damaging telegraph works, or (b) preventing or obstructing the sending or delivering of a communication by telegraph.

C F. — LP. 5.

Note. Kites or other articles causing damage or interference may be confiscated by a Police or Post Office officer.

- S. 80A. Planting or allowing to grow (without prior written authority of (S. 2, AO. the Postmaster-Gen.) any kind of tree or bush underneath or near 25/41). any overhead telegraph, so as to make interference with it likely.

M F. — LP. 10.

Note. Trees or bush so planted may be cut down by the P. G. without compensation.

- S. 81. Publishing or communicating the contents or substance of a telegram or any information relating to the despatch or receipt of any telegram by a post office or telegraph officer, except to some p. to whom he is authorised to deliver the telegram.

M I. 3 yrs.

- S. 82(1). Wilfully and maliciously, with intent to injure another p., opening or causing to be opened any letter which ought to have been delivered to that other p., or doing any act or thing whereby the due delivery of the letter to that p. is prevented or impeded.

M I. — 6 ms. or F. — LP. 50.

Note. Parents or guardians of persons to whom such letters are addressed are exempt from liability under this section.

Postmaster-General's consent is required for a prosecution under S. 82 — S. 82(3).

- S. 83. Stealing or (for any purpose whatever) embezzling, secreting or destroying a postal packet (in course of transmission by post) by an officer of Post Office.

F I. — 7 years.

Ditto, if the packet contains money or valuable security or article.

F I. — 15 yrs.



- S. 84(1)(a-c). (a) Unlawfully removing any stamp or post office label from a postal packet in course of transmission by post or from any post office document.  
 (b) Removing from any stamp previously used any mark made thereon at a post office.  
 (c) Knowingly using a postage stamp which has been obliterated or defaced by a mark made thereon at a post office.  
 F I. — 7 yrs.
- S. 85. With intent to avoid payment of postage, superscribing any postal packet not relating to the business of his office or department, by a p. empowered under the O. to frank postal packets.  
 M F. — LP. 100.
- S. 86. Tampering with telegrams or postal packets, or knowingly permitting same by another, by any officer of the post office.  
 M I. — 3 yrs.
- S. 87(a-c). (a) Knowingly and fraudulently putting into a post office anything in or upon which there is any letter, writing or mark not allowed by law to be there placed.  
 (b) Wilfully inscribing on the outside of anything sent by post false statement of its contents.  
 (c) Knowingly & fraudulently putting into a post office anything which falsely purports to be a thing falling within an exemption or privilege relating to postal packets.  
 M F. — LP. 50.
- S. 88(a-f). Doing any of the following by a p. employed to convey or deliver a mail bag or postal packet in course of transmission by post: —  
 (a) Leaving a mail bag or postal packet in his custody or possession, or suffering any p. (other than guard) to ride at the place appointed for the guard on the vehicle or animal used for the conveyance of the mail.  
 (b) Being drunk whilst so employed.  
 (c) Being careless, negligent or misconducting himself, whereby the safety of the mail is endangered.  
 (d) Without authority and irregularly collecting or receiving or conveying or delivering a postal packet.  
 (e) Giving any false information of an assault or attempt at robbery upon him.  
 (f) Loitering or wilfully mispending his time so as to retard the progress or delay the arrival of a mail bag or postal packet, or failure to use due care and diligence safely to convey a mail bag or postal packet at the due rate of speed.  
 M F. — LP. 20.

- S. 89. Wilfully obstructing or delaying the conveyance or delivery of a postal packet.  
 M F. — LP. 50.
- S. 90(1). Issuing a money order by an officer of the Post Office with a fraudulent intent.  
 F I. — 7 years.  
 Note. Re-issuing a money order previously paid is deemed to be issuing it with a fraudulent intent. — S. 90(2).
- S. 91(2) & S. 343 With intent to defraud obliterating, adding to or altering (a) & (b), any lines or words on a money order as would, in the case of a C.C.O., cheque, be a crossing of that cheque; or knowingly offering, uttering, 1936. or disposing of any money order with such fraudulent obliteration, addition or alteration.  
 F I. — 7 yrs.
- S. 92. With intent to defraud sending to any other p. a false or misleading letter, telegram or message concerning a money order or money payable under such order, by an officer of the Post Office charged with any duty in connection with money orders.  
 M I. — 3 yrs.
- S. 94. Placing or attempting to place in or against post office letter box or telephone box, any fire, match, light, explosive or dangerous substance or fluid, or doing or attempting to do anything likely to injure the box or its appurtenances or contents.  
 M I. — 6 ms. & F. — LP. 10.
- S. 95(1) & (2). Affixing placards, notices, etc. on, painting or tarring any post office, post office letter box, plate or sign, telegraph, post or other property of, or used by the Postmaster-General.  
 M I. — 6 ms. & F. — LP. 10.
- S. 96(1)(a-d) & (2). Sending or attempting to send a postal packet containing:  
 (a) explosive substance, dangerous substance, filth, noxious or deleterious substance, narcotics (unless expressly authorised by the convention & agreements of the Universal Postal Union), sharp instrument not properly protected, any living creature either noxious or likely to injure other postal packets or an officer of the Post Office, or  
 (b) any obscene or indecent print, painting, photograph, lithograph, engraving, book or card, article, or seditious publication, or  
 (c) advertisement or ticket relating to a lottery, or an advertisement issued by or on behalf of a p. offering to tell fortunes, or an advertisement or circular, coupon or notice relating to an illegal



Note. On convicting a p. for publication of a seditious or other libel the Court may, either in lieu of or in addition to any other punishment, order: — (a) suspension of publication of the newspaper for a period not exceeding 3 years.

(b) that for a period not exceeding three years the proprietor or editor of a newspaper may not edit, write for or publish, or assist (whether with money, money's worth, or otherwise) in the publication, editing or production of the newspaper,

(c) that for a similar period any printing press used in the production of a newspaper be seized by the police or closed, or be used on conditions specified in the order, or (d) the publication of the 'copy of the conviction' at the expense of the p. convicted. — S. 23(1).

S. 23(3). Contravening an order of the court made under S. 23(1).

M I. — 6 ms. or/£ F. — LP. 100.

S. 27 & 24. Failure by a printer to deliver copies of any book printed by him to Director of Education (2 copies) & Distr. Commissioner (1 copy) within a month of delivery of the book from the printing press.  
C F. — LP. 2.

S. 28. Failure by any p. employing a printer to supply the latter with any engravings, maps or prints, within one month of the delivery from the printing press of the book ordered (to enable compliance with S. 24).

C F. LP. 2.

S. 30(5). Keeping or having in possession a printing press without a permit (by the Distr. Commissioner under S. 30(1), or failure (by the p. keeping the printing press) to notify the Distr. Commissioner in writing of the change in the name or situation of the press.

M I. — 3 ms. or/£ F. — LP. 20.

S. 31(1–3). Failure to exhibit permit granted under the O.

C F. — LP. 2.

S. 32(1) & (2). Printing or publishing any matter other than newspapers, books or bona fide commercial publications, without showing at the foot of the last page thereof the names and addresses of the printer & publisher.

M I. — 3 ms. or/£ F. — LP. 25.

Note. Prosecutions under this O. can be instituted only with the Attorney-General's consent, & within 6 months of the commission of the offence. — S. 37.

# PREVENTION OF CRIME (TRIBES & FACTIONS) O. (No. 47/35).

S. 4. Failure by a sheikh placed under police supervision under the O. to comply with any of the restrictions imposed upon him by District Commissioner under S. 3.

M I. — 6 ms. or/£ F. — LP. 50.

## PRISONS O. (No. 2/40).

S. 17. Failure by a subordinate prison officer (i. e. below the rank of Assistant Superintendent — S. 2) to deliver up equipment on ceasing to be a prison officer.

M F. — LP. 20 or/£ I. 6 ms.

S. 18. Deserting the prison service.

M I. — 2 yrs. & F. — LP. 50.

Note. Such deserter may be apprehended without warrant by any p. (upon reasonable suspicion) and will be forthwith brought before a magistrate.

S. 44. Committing an o. against the O.; or failure to comply with any of the conditions of the 'licence to be at large' (S. 43) by its holder.

M I. — 3 ms. & forfeiture of the licence (to be served after the completion of the term of imprisonment served in respect of which the licence has been granted. — S. 45).

S. 51(a). Bringing, throwing, or attempting otherwise to introduce into any prison, or giving to any prisoner, any spirituous liquor, tobacco or any intoxicating or poisonous drug, or any article whatsoever.

M I. — 6 ms. or/£ LP. 30.

S. 51(b). Communicating with any prisoner contrary to any rule or regulation.

M Do.

S. 60. Committing an offence against prison discipline by a prisoner.

M I. — 6 ms.

Note. Offences against prison discipline, 41 in number, are enumerated in S. 55, and power to try them is given to Superior Prison Officers and visiting justices (S. 21) by SS. 56 & 57, who may not, however, inflict punishments of imprisonment.

S. 69. Committing an o. ag. the O. or any rule thereunder for which no penalty is expressly provided.

M F. — LP. 100 &/or I. — 1 year.



**PUBLIC BATHING PLACES O.** (Cap. 120, L. P. Nos. 19/33 & 30/34).

- S. 4.** Contravening a bye-law made under S. 3 (S. 3 authorises bye-laws to be made by Distr. Commissioner for specified 'public bathing places', not being a part of a municipal or local council area, concerning:— (a) costumes of bathers, (b) playing of games and driving of vehicles and animals, (c) litter and rubbish (d) measures of sanitation, (e) safety of bathers, (f) dogs, (g) good order & cleanliness).
- C F.** — LP. 5.

**PUBLIC ENTERTAINMENTS O.** (Nos. 5/35; 57/39).

- S. 11 A.** Failure by an usher, door-keeper, waiter, watchman, fireman, box-office attendant or other official in a place of public entertainment, or by other bona fide employee therein, to wear a distinctive uniform or badge or headgear (sufficient to enable such p. to be distinguished from other members of the public).
- S. 11 A.** Being a proprietor of a place of public entertainment where an o. described above (see S. 11A) has occurred, or being responsible for such default.
- M Do.**
- S. 11B(1)(2) & (3).** Failure by a proprietor of a cinema to display on a large board in front of the cinema a notice in lettering not less than 5 centimetres in height stating whether the films on the programme have been licensed for universal exhibition or for exhibition to adults only; or failure to display a notice in similar lettering to the effect that children under 16 yrs. are not admitted, in respect of any film licensed for exhibition to adults only; or failure by a proprietor of a cinema to send to the Police officer in charge of the Division a programme stating the films which will be shown at the cinema during the coming week; — stating whether the films are for universal exhibition or for exhibition to adults only; or altering such programme without 24 hours' due notification to the Police concerned.
- M I.** — 1 m. or **F.** — LP. 50.
- S. 21(1).** Making use of any premises for a public entertainment without a valid licence.
- M F.** — LP. 100 or/ & I. — 3 ms.
- S. 12(2).** Failure to exhibit a licence in accordance with S. 9 (prescribing exhibition of licence in conspicuous place on the licensed premises during the public entertainment).
- C F.** — LP. 5.

- S. 12(3).** Failure to comply with any direction to close premises given by District Commissioner, magistrate or a superior Police Officer (under S. 10, in cases of an emergency).
- M F.** — LP. 50 or/ & I. — 6 ms.
- S. 12(4).** Refusing or failing to admit any Police Officer in the execution of duty demanding to enter under S. 11 (empowering Police Officers to enter licensed places of public entertainment for the purpose of preventing breaches of public peace or for the prevention or detection of breaches of any pvns. of the O.).
- M F.** — LP. 10.

**PUBLIC HEALTH O.** (Nos. 40/40; 34/41).

- S. 10(1).** Failure by a p. responsible for notifying a birth or death in accordance with Part III of the O. to do so.
- M F.** — LP. 5 or I. — 1 m.
- S. 10(2).** Contravening pvns. of S. 8 (prescribing conditions to be fulfilled before burial can take place).
- M F.** — LP. 5 or I. 1 m.
- S. 10(3)(a—c).** Wilfully making a false answer to question put by the Medical Officer relating to the particulars required to be registered concerning any birth or death, or wilfully giving to the Medical Officer false information concerning any birth or death or the cause of such.
- (b) Wilfully making in a register a false certificate, declaration or entry required for the purpose of the O., or forging or falsifying certificate, etc., or knowing any such certificate, etc., to be false or forged, using it as true, or giving, or sending it as true to any p.
- (c) Making a false statement with intent to have it entered in any register of births or deaths.
- M F.** — LP. 10 &/ or I. — 6 ms.
- S. 12(2).** Failure by a p. required by S. 12(1) (head of family, relative, p. in charge or in attendance on the patient and medical practitioner in attendance) to inform 'within 12 hours' the Medical Officer of the district of a patient's infectious disease.
- Ditto.** — by a mukhtar when so informed.
- M F.** — LP. 5 or I. — 1 m.
- S. 14.** Refusing the admission of a Medical Officer or inspector, or obstructing the examination or inspection of any premises or persons thereon by such officer, where an infectious disease is supposed to exist or has recently existed, and a warrant has been issued by



- a Magistrate authorising the entry.  
C F. — LP. 2.
- S. 19. Wilfully refusing to submit to inoculation or vaccination prescribed by S. 19 against smallpox, cholera or plague.  
M F. — LP 5 or I. — 1 m.
- S. 20(5). Wilfully refusing to comply with any order or direction lawfully given under the pvn. of S. 20 (giving the Director of Medical Services and medical officers 'emergency powers' in parts of Palestine threatened or affected with a formidable epidemic of infectious disease, such as cholera, plague, etc.).  
M F. — LP. 25 &/or I. — 1 yr.
- S. 21(4). Refusing to permit a Medical Officer to examine any dairy in a district where an infectious disease attributable to milk exists; or supplying milk in contravention of an order not to supply milk made by the Senior Medical Officer under S. 21(1).  
M F. — LP. 10, & LP. 5 for every day during which the o. continues.
- S. 22(1)(a-c). (a) Exposing himself in a manner dangerous to public health in a street, public place, conveyance, etc.; or entering a public conveyance in a condition of health likely to endanger public health by a p. suffering from an infectious disease.  
(b) Being in charge of any p. so suffering, so exposing such sufferer.  
(c) Giving, lending, selling, transmitting, exposing, or permitting to be washed or exposed in laundry or place used in common by persons other than the family or household to which the sufferer belongs, without previous disinfection satisfactory to the Medical Officer, any bedding, clothing, rags, or other things which are likely to harbour infection.  
C F. — LP. 5.
- S. 22(2). Failure by owner or driver of a public conveyance to provide for its disinfection immediately after it has to his knowledge conveyed any p. suffering from an infectious disease so that the conveyance is likely to harbour infection.  
C F. — LP. 5.
- S. 22(3). Knowingly letting for hire any house, or a part thereof, in which any p. has been suffering from an infectious disease, without having the premises and articles therein disinfected to the satisfaction of the Medical Officer or Inspector.  
M F. — LP. 20.

- S. 22(4). Knowingly or negligently permitting (by a parent or person having charge of a child) such child to attend school if that child is or has been suffering from a disease set out in the Third Schedule to the O. or without procuring and producing to the school authority a certificate from the Medical Officer or from a licensed practitioner that proper prophylactic precautions have been taken and that the child may attend school without the risk of infecting others.  
C F. — LP. 5.

Note. Third Schedule to the O.:— Cerebro-Spinal Meningitis, Chicken Pox, Diptheria, Dysentery, Enteric Fever, German Measles, Leprosy, Measles, Mumps, Scarlet Fever, Smallpox, Tuberculosis of Lung, Typhus, Whooping Cough.

- S. 22(4). Ditto, — if the child suffered from any other disease declared by notice in the Palestine Gazette to be an infectious disease within a specified area, or if the child resides in a house where any such disease exists or has existed within the period of 3 months.  
C F. — LP. 5.

- S. 22(4). Knowingly permitting such child to attend school by a teacher.  
C F. — LP. 5.

- S. 22(5). Knowingly:—

(a) Without proper precautions against spreading an infectious disease, engaging in an occupation connected with food supply;

(b) Carrying on any trade or business in a manner likely to spread the disease — by a p. suffering from an infectious disease or who is living in an infected house or who has been proved to be harbouring the infective agent so as to be a danger to others.

M F. — LP. 10.

- S. 22(6)(a) & (b). Wilfully removing the body of a person who died in a hospital from any infectious disease.

M F. — LP. 10.

- S. 25. Establishing or conducting a 'hospital' (S. 24) unless it has been registered by the Director of Medical Services.

M F. — LP. 50.

- SS. 32 & 31(2). Where the registration of a hospital or nursing home has been cancelled or suspended (under S. 31(1)) failure to have the hospital immediately closed or to have the in-patients discharged or transferred to another hospital as instructed by the Director of Med. Services.

M F. LP. 50.



- SS. 32 & 26. Failure to have a hospital under the management of a licensed medical practitioner.  
M F. — LP. 50.
- SS. 29 & 32. Failure by the manager of a hospital to furnish such statistical returns and records to the Medical Officer as may be prescribed by the Director of Medical Services.  
M F. — LP. 50.
- S. 32 & 33. Failure to comply with any rule made under S. 33 (regarding the conduct of hospitals).  
M F. — LP. 50.
- S. 39. Where the District Commissioner has by public notice ordered all persons residing in the district or part thereof to be vaccinated within a specified time, failure by such a p. to comply with the order, unless he can show that he has been successfully vaccinated within a period less than 3 years.  
M F. — LP. 1 or I. — 1 m.
- S. 40. Where a child is not vaccinated within the period prescribed by the O. (S.35—38), and the parent or the p. having the care, nurture or custody of such child has been served by the Med. Officer with an intimation in writing of such default, — failure by such parent etc., to have the child vaccinated within 20 days of the notice.  
M F. — LP. 1 or I. — 1 m.
- S. 41. Producing or attempting to produce the disease of smallpox in any p. by inoculation with variolous matter, or wilfully otherwise producing or attempting to produce the disease in Palestine.  
M F. — LP. 25 or I. — 6 ms.
- SS. 43 to 52. Contravening any pvns. of Part V of the O. (SS. 43 — 52 incl.— 'anti malaria provisions'), or failure to comply with lawful directions of the Director of Med. Services under the said Part.  
M First offence: F. — LP. 5 or I. — 15 days;  
Subsequent offence: F. — LP. 15 or I. 1 m.
- Note. S. 43 prescribes precautions by occupiers of premises ag. breeding of mosquitoes; S. 44 — Restriction upon growing of rice; S. 45 — measures to prevent breeding of mosquitoes by occupiers of irrigated lands; S. 46 — drainage of marsh lands; S. 47 — proper condition of streams & water courses; S. 48 authorises entry by officials of the Department of Health upon any premises; S. 49 empowers Director of Med. Services to carry out preventive measures; S. 50 — makes it an offence on the part of the occupier of premises, or in the

- absence of such, on the part of the owner, to have living immature forms of mosquitoes found by a Medical Officer or Inspector in any house or garden attached thereto; S. 52 authorises the making of Rules under Part V by the Director of Med. Services.
- S. 54(4). Where a notice requiring abatement of nuisance (S. 53) has been served on a p. (under S. 54), and the nuisance arose from the wilful act of that p., making default by such p. in complying with the notice within the time therein specified.  
M F. — LP. 10.
- S. 55(9). Failure to comply with the pvns. of a 'nuisance order' (issued in case of non-compliance with a 'notice' under S. 54, and which may be either an 'abatement' or a 'prohibition', or 'closing order' — S. 55(8) — with respect to the abatement of a nuisance) — unless proof of a diligent endeavour to carry out the order is furnished.  
C F. — LP. 1 for each day of default.
- S. 55(9). Knowingly & wilfully acting contrary to a 'prohibition order' or a 'closing order'.  
C F. — LP. 2 for each day of default.
- Note. Local Sanitary Authority (S. 2) may enter the premises to which the nuisance order relates and abate or remove the nuisance at the expense of the p. in default. S. 54(9).
- S. 56(1). Disobedience of a closing order by an owner or occupier of a house to which the order refers on the expiration of the period specified in a notice of the order (not less than 14 days) served on the defendant by the Local Sanitary Authority.  
C F. — LP. 1 per day during continuance of default.
- Note. District Commissioner may order ejectment of the p. disobeying the closing order, which order may be carried into effect by any Police officer. — S. 56(1).
- SS. 57 & 71. Depositing in any street any refuse, or pouring in any street any liquid or water from any premises.  
C F. — LP. 5.
- S. 63(2). Failure by occupiers or owners (of unoccupied) premises in rural areas to cleanse the premises and their immediate vicinity when served with a notice to do so within a specified period (not less than 24 hours).



- C F. — LP. 1 and 100 mls for each day of the continuance of the default.
- S. 67. Obstructing the execution of an order by a Medical Officer under S. 67 (as to removal of a dead body to mortuary).  
M F. — LP. 10.
- S. 69. Refusal by an occupier of premises to comply with an order in writing made by a magistrate requiring him to permit the execution of works by the owner of premises for the purpose of complying with the pvns. of the O.  
C F. — LP. 5 for each day of default.
- S. 71. Wilfully violating or contravening any provision of the O. for which act no pecuniary penalty is attached; or obstructing any p. acting under the authority of the O.; or violating any lawful direction under the O.  
C F. — LP. 5.

**PUBLIC PERFORMANCES (CENSORSHIP) O.** (Cap. 123, L. P. — Nos. 28/27; 43/33; 30/34; 5/35).

- S. 7(1)(a) & (b). (a) Advertising, directing, or taking part in, any performance at a public entertainment not authorised in accordance with the pvns. of the O.  
(b) Causing such play or performance to be given contrary to conditions imposed by the Censorship Board.  
M I. — 1 m. or F. — LP. 50.

**QUARANTINE O.** (Cap. 124, L. P. — Nos. 19/22; 38/37).

- S. 3. Contravening a rule made under the O.  
M I. — 1 m. or F. — LP. 15.  
Note. The Director of Health or other officer authorised by the High Commissioner may compound offences for payments not to exceed the maximum penalty. — S. 4A.

**REGISTRATION OF BUSINESS NAMES O.** (Nos. 23/35; 23/42).

- S. 11. Knowingly signing a statement (required to be furnished under the O.) false in a material particular.  
M F. — LP. 20 or/8 I. — 3 ms.
- S. 12(1). Failure to supply particulars when required by the Registrar (S. 19 amended) which it is in the defendant's power to give; or supplying information which is false in a material particular.  
M F. — LP. 20 or/8 I. — 3 ms.

- S. 13. Failure to exhibit a certificate of registration by the p. or firm registered under the O. in the principal place of business.  
M F. — LP. 20.
- S. 15(1). Failure by partners of a firm or an individual registered under the O. ceasing to carry on business within one month of ceasing business to deliver to the Registrar a notice in the prescribed form that the firm or the individual has ceased to carry on business.  
M F. — LP. 20.
- SS. 20(1) & (2). Failure by an individual or firm required to be registered by the O. to show in legible characters in all catalogues, circulars, orders, business letters, — in case of an individual, his present name and any former name; — and in case of a firm, the present name and any former name of each of the individuals who are partners in the firm.  
C F. — LP. 5.

Note. Attorney-General's consent is required for the institution of proceedings under S. 20, — S. 20.

**ROAD TRANSPORT O.** (Cap. 128, L. P. — Nos. 23/29; 13/31; 22/32; 46/32; 20/33; 30/34; 37/35; 15/41).

\* See Summary 55, Part IV.

- S. 18(a—i). (a) Failing to comply with any provision of the O.  
(b) Driving a vehicle on a road recklessly or negligently, or at a speed which, though below the maximum speed prescribed, is dangerous to the public having regard to the circumstances of the case.  
(c) Being the driver or in charge of a vehicle on any road or public place whilst drunk.  
(d) Being a driver of a vehicle so driven that an offence is committed, and refusing to give the name and address, or giving false name and address.  
(e) Being the owner of a vehicle so driven (see(d)) and failing to give any information which is in his power to give and which may lead to the identification and apprehension of the driver.  
(f) Being the driver of a motor or public vehicle and failing to produce his licence when it is demanded by a Police officer.  
(g) Being the driver of a vehicle and failing to stop when an accident occurs to any p. or animal or vehicle in charge of any p. owing to the presence of his vehicle on the road, and, if required, failing to give his name and address & the name and address of the



owner of the vehicle & the registration mark or number of the vehicle,  
(h) Failing to comply with any road-sign or the signal of a police officer in uniform.

(i) Forging or fraudulently altering, or using, or lending, or allowing to be used by any other p. any mark for identifying a vehicle, or any licence under the O.

M First offence :— 1. — 1 m. &/or F. LP. 25.

Subseq. offence :— 1. — 3 ms. &/or LP. 50.

S. 21(5) & S. 18. Applying for or obtaining a licence to drive a vehicle during the period for which applicant has been disqualified to hold a licence under the O., without giving particulars of the endorsement of the Court on the old licence as to the disqualification.

M First offence :— 1 m. or & F. — LP. 25.

Subseq. offence :— 1. — 3 ms. or & F. — LP. 50.

Note. A Police Officer may apprehend without a Warrant any offender committing an offence under S. 18 within his view if he fails to give his name & address or to produce his licence on demand, or if the vehicle does not bear the prescribed identification mark. — S. 19.

Evidence. — A conviction under the Ordinance is possible on the evidence of a single uncorroborated witness. — S. 20.  
On conviction under the O. or for any o. connected with the driving of a vehicle the Court may :

(a) suspend the driver's licence for a specified period and  
(b) declare the defendant disqualified for obtaining a licence for a further period (after the expiration of the licence, if defendant holds one). If conviction is under S. 18(c) (Drunk whilst driving or in charge of a vehicle) the Court shall do so for a period not less than 12 ms. from date of conviction. — S. 21(1)(a). An appeal ag. such order lies to District Court, pending the hearing of which the Court may defer the operation of the Order. — S. 21(4).

Civil (or criminal) liability of drivers or owners of vehicles is not affected by any provision of the O. (except that no p. may be punished twice for the same o.). — S. 22.

ROADS (WIDTH & ALIGNMENT) O. (Cap. 129, L. P. — Nos. 24/26; 23/27; 41/35).

S. 4(3). Erecting or carrying out any 'permanent work of improvement' on any road to which the O. has been applied by an Order

by the High Commissioner-in-Council — (S. 3) in contravention of such an order.

M F. — LP. 50 & removal of the work (or cost of removal).

RURAL PROPERTY TAX O. (No. 5/42).

S. 36(1). Omission to fill in or submit any particulars or information as required by the O. in any form prescribed, or wilfully making any false statement in such a form, or refusing to answer any question (put to the defendant) by any p. for enabling such p. to carry out any duties or powers under the O., or wilfully making a false answer to such a question.

M 1. — 1 year &/or F. — LP. 100.

S. 36(2). Obstructing any p. in the carrying out of any duties or powers under the O.

M 1. — 1 year &/or F. — LP. 100.

S. 36(3). Failure to comply with the pvns. of S. 5 (as to change of 'category' of land) or S. 31 (change of ownership).

M 1. — 3 ms. &/or F. — LP. 20 (plus payment of tax).

SAFEGUARDING OF PUBLIC WATER SUPPLIES O. (Nos. 17/37; 20/38).

S. 10. Commencing or continuing any operations prohibited by the District Commissioner or otherwise than in accordance with a licence granted by him in a Public Water Supply Area (S. 2 — i. e. constructing new wells or apparatus for raising to the surface underground water, or altering existing wells or apparatus whereby depth or diameter of the well, or the power utilised to raise water from it, is increased — S. 4).

M 1. — 6 ms. &/or F. — LP. 100 & daily penalty of LP. 2 for every day of continuance of o. after the first day.

SALE OF INTOXICATING LIQUOR O. (Nos. 4/1935; 10/1938).

S. 27(1). Selling, or exposing or keeping for sale any intoxicating liquor without having a valid licence.

M 1. — 6 ms. &/or F. — LP. 100 & forfeiture of the liquor and vessels in which it is contained.

S. 27(2). The following acts by persons 'licensed or in possession of a permit' (under SS. 19 & 21) :—

(a) Selling or exposing, or keeping for sale intox. liquor contrary to the pvns. of the O. or regulations thereunder.

(b) Ditto. — contrary to the terms or conditions of the licence or permit.



- (c) Permitting drunkenness or violent or riotous conduct on the 'licensed premises'.
  - (d) Selling or permitting the sale of intox. liquor to a drunken p.
  - (e) Permitting the 'licensed premises' to be the resort or place of meeting of prostitutes.
  - (f) Knowingly permitting a Police officer to remain on such premises during his tour of duty, unless for keeping or restoring order.
  - (g) Supplying intox. liquor to a Police officer on duty (unless by authority of a superior Police officer).
  - (h) Suffering unlawful game or lottery on such premises.
  - (i) Employing or allowing the employment of females in the sale of intox. liquors (otherwise than in accordance with the pvns. of the O. — S. 22).
  - (j) Supplying intox. liquor in contravention of S. 23 (sale on credit).
  - (k) Failure to exhibit the licence or permit (SS. 11 & 19).
- M First o. :— F. — LP. 10 or/8 I. — 3 ms.  
Subsequent o. :— F. — LP. 50 or/8 I. — 3 ms.

Note. A licensee's liability for the above mentioned acts is not affected by the fact that they may have been done by his servant or agent.

- S. 27(3). Failure to close premises after having been directed to do so by the District Commissioner, magistrate or a superior Police officer (S. 21(2)) — in the interest of public order or in an emergency.  
M F. — LP. 50 or/8 I. — 6 ms.
- S. 27(4). Failure to close premises after having been directed to do so by the District Commissioner (S. 21(3)) — on conviction under S. 27.  
M F. — LP. 10 or/8 I. 15 days.
- S. 27(5). Consuming intox. liquor in contravention of S. 23 (re sale on credit).  
C F. — LP. 5.
- S. 27(6). Refusing or failing to admit a Police officer on duty demanding to enter in pursuance of S. 26 (to prevent or detect a violation of a provision of the O. or to prevent a breach of public peace).  
C F. — LP. 5.

SALT O. (Cap. 130, L. P. — Nos. 36/25; 38/27; 51/33; 30/34; 28/38).

- S. 3(4); S. 9(1). Possession of salt collected or manufactured in Palestine otherwise than in accordance with a licence granted under S. 3.  
M F. — LP. 100.

S. 4 & S. 9(2). Possession by a retailer of salt, save salt collected or manufac-

tured in Palestine or imported by the holder of a licence under the O.

M F. — LP. 20 & 500 mils for each gm. of salt seized or I. — 2 yrs. & confiscation of salt.

- S. 3(1) & S. 9(2). Collecting or attempting to collect, or manufacturing or attempting to manufacture salt, without a licence from the High Commissioner.

M Do.

- S. 3(3) & S. 9(1). Selling salt, by holder of licence to collect or manufacture salt, save in quantities of 100 kilogrammes or any multiple thereof at any one time to any one p.

M F. — LP. 100.

- S. 7(2) & S. 9(1). Importing salt at places other than prescribed places of entry.

M F. — LP. 100.

- S. 9(1). Contravening by holder of licence to collect or manufacture salt any condition of the licence or rules under the O.

M F. — LP. 100.

- S. 9(2). Possession of salt collected or manufactured without a licence or knowingly concealing, or assisting in concealing, any salt so collected or manufactured, or being concerned in its removal or being the occupier of the premises upon which salt is so manufactured.

M F. — LP. 20 & 500 mils for each kilogramme of salt seized or, in default, I. — 2 yrs., and confiscation of salt seized.

- S. 9(3). Selling salt at a price exceeding the maximum prescribed.

M F. — LP. 50.

- S. 9(4). Resisting a Customs & Excise or Police officer in execution of duty under S. 8 (entering upon or searching premises licensed for collection or manufacture of salt or other premises reasonably believed to be used for keeping, manufacturing or selling salt; inspecting and searching any means of conveyance or load suspected to contain contraband salt, boarding and searching any vessel suspected of carrying salt for smuggling — within inland or territorial waters).

M I. — 6 ms. or/8 F. — LP. 50.

Note. A Warrant of Search must be obtained only in respect of a dwelling house, but not for any other premises. — (S. 8).

- S. 9(5). Being found in possession of contraband salt.

C F. — 10 mils for each kgm. (first offence), if less than 50 kgms. is found; 50 mils if 50 kgms. or more is found; & confiscation of salt seized (in either case).



M Subsequent o. Do. &/or I. — 6 ms.

**Note** (1) Any vessel not exceeding 250 tons register, or any means of conveyance used in connection with contraband salt, may be seized by a Customs authority or Police officer and shall be confiscated by order of the Court. — S. 9(6). If such a vessel exceeds 250 tons register, then it may be detained until the payment of the fine imposed on the owner or security is given for its payment, and the Court may fine the owner of such vessel in the sum of LP. 500. — S. 9(7).

(2) The Director of Customs, Excise & Trade is empowered to compound offences under the O. for which the maximum fine does not exceed LP. 100. He may not, however, release or restore any salt seized. S. 2(1) & (3).

(3) **Evidence.** In a prosecution in respect of any salt seized for non-payment of excise duty or a contravention of the O., the burden of proof as to the payment of the duty or as to the legality of collecting, manufacturing or possessing the salt, is upon the defendant. — S. 10.

**STAMP DUTY O.** (Cap. 133, L. P. — Nos. 31/27, 24/29, 21/32, 30/34, 10/36, 11/40, 8/41).

**Note.** Various fines are prescribed by the O. for contravening its provisions but S. 9 prescribes that 'all fines imposed by this Ordinance are to be deemed to be debts due to the Government and are to be sued for and recovered in the district court having jurisdiction by civil proceedings in the name of the Attorney-General'. Accordingly, only such offences under the O. as are punishable by imprisonment are to be deemed criminal offences proper, and only such offences have been enumerated below. —

S. 81(a—i). Doing, or causing, or procuring to be done, or knowingly aiding, abetting or assisting in doing any of the following:—

- (a) Forging a die or stamp (for definition of die & stamp see S. 2).
- (b) Printing or making an impression upon any material, with a forged die.
- (c) Fraudulently printing or making an impression upon, any material from a genuine die.
- (d) Fraudulently cutting, tearing, or removing from any material any stamp, with intent that any use be made of any part thereof or of the whole stamp.

(e) Fraudulently mutilating any stamp with such intent (see (d)).

(f) Fraudulently fixing or placing upon any material or stamp, any stamp or part of a stamp, which has been cut, torn or removed from any other material or other stamp.

(g) Fraudulently erasing or otherwise removing from any stamped material any name, sum, date, or other matter or thing thereon written, with the intent that any use should be made of the stamp on such material.

(h) Knowingly selling, or exposing for sale, or uttering or using, any forged stamp or a stamp fraudulently printed or impressed from a genuine die.

(i) Without lawful excuse (the proof whereof is on the accused) possessing a forged die or stamp, or a stamp or part thereof fraudulently printed or impressed from a genuine die, or a stamp or part of stamp fraudulently cut, torn or otherwise removed from any material, or a stamp fraudulently mutilated, or any stamped material out of which any name or other matter has been fraudulently erased or removed.

F I. — 7 yrs.

S. 82(a) & (b). Without lawful authority or excuse, (the proof of which is on the accused) —

(a) Making, or causing or procuring to be made, or aiding or assisting in making, or knowingly having in possession or custody any paper in the substance of which appear any words, letters, figures or other devices (or any part of such) peculiar to, and appearing in the substance of any paper provided or used under the direction of the Commissioners of Stamp Duties for receiving the impression of any die, and intended to imitate or pass for such paper.

(b) Causing or assisting in causing any such words, letters, marks or devices as aforesaid (or any part thereof) and intended to pass for same, to appear in the substance of any paper whatsoever.

F I. — 5 yrs.

S. 83. Without lawful authority or excuse (the proof of which is on the accused) purchasing or receiving, or knowingly having in custody or possession — (a) any paper manufactured and provided by or under the direction of Commissioners of Stamp Duties for being used for receiving the impression of any die, before such paper shall have been duly stamped and issued for public use, or (b) any plate, die, roller, mould or other implement, peculiarly used in the manufacture of any such paper.

M I. — I. 3 yrs.



**STATISTICS O.** (No. 22/35).

- S. 12(3).** Failure by an enumerator, agent, or other p. employed under the O. to comply with the terms and conditions of an oath taken by him.  
M I. — 3 yrs.
- S. 12(4).** Accepting the office of enumerator, agent or a similar appointment under the O. and afterwards without sufficient excuse neglecting or refusing to perform duty under the O.  
M F. — LP. 50.
- S. 16(2).** Hindering or obstructing the Government Statistician or a duly authorised p. in the execution of any power under S. 16 of the O. (conferring right of entry on premises on persons acting in pursuance of the O.).  
M F. — LP. 10.
- S. 19.** Neglecting or refusing to fill up particulars required in any schedule, form or document lawfully left with or sent to the defendant; or refusing or neglecting to answer any question lawfully addressed to the defendant by the Government Statistician or by an enumerator or other p. acting under the O.  
M F. — LP. 50 & LP. 1 for each day of default after conviction.
- S. 20.** Knowingly making in any schedule or other document pursuant to the O. or in answer to any question asked under the authority of the O., a statement which is untrue in any material particular.  
M F. — LP. 50.
- S. 21(1).** Without lawful authority publishing or communicating to any p. any information acquired by the defendant in the course of employment under the O.  
M I. — 2 yrs. or/ & F. — LP. 200.
- S. 21(2).** Ditto, by a p. in possession of information, wrongly disclosed in contravention of the O.  
M I. — 2 yrs. or/ & F. — LP. 200.
- S. 22.** Without lawful authority destroying, defacing, mutilating or inscribing with blasphemous, obscene, insulting or indecent writing or drawing, any schedule or document issued under the O. and furnished to the Government Statistician.  
M F. — LP. 50.
- S. 23.** Committing a breach of the pvns. of the O. for which no specific penalty is provided.  
M F. — LP. 20.

**STEAM BOILERS O.** (Cap. 134, L. P.; — 1/26; 30/34; 31/34).

- S. 10(1).** The use of a boiler (cylinder or vessel for generating steam under pressure other than used exclusively for domestic purposes at a pressure of one atmosphere—S. 2) or 'prime mover' (which term includes steam engines, fly wheels and first driving shafts and pulley attached to any such engine — S. 2(1)) by its owner (or any agent, manager or hirer using same, — S. 2(1)), without, or contrary to the terms of a certificate (under S. 5(2)) by an Inspector appointed under S. 3, specifying inter alia maximum pressure of steam allowed and time for which the boiler or prime mover is to be used.  
M F. — LP. 50 plus LP. 20 for every day of use after conviction.
- S. 10(2).** Failure or neglect by 'owner' of a 'boiler' or 'prime mover' to render a report of an accident as required by S. 9.  
M F. — LP. 50.
- Note.** S. 11(2) provides that any Rules made under the O. may provide penalties for the breach thereof not exceeding LP. 10 for each offence.

**SURVEY O.** (Cap. 136: Nos. — 48/29, 30/34, 31/34).

- S. 6(1).** Practising or professing to practise as a surveyor, not being the holder of a licence to practise.  
M F. — LP. 50 for each transaction requiring a licence.
- S. 6(2).** Failure by a surveyor to deliver to the Director of Dept. of Surveys a licence which has been cancelled or suspended (within 14 days of the cancellation or suspension).  
M F. — LP. 20.
- S. 12.** Wilfully and without authority obliterating, removing or injuring any survey or boundary mark placed for the purpose of any public survey.  
M I. — 3 ms. or/ & F. — LP. 50, and cost of the mark and of the survey involved in establishing such mark, or of its repair.
- S. 13(5).** Being responsible for maintaining a boundary mark or preserving a survey mark and reporting any obliteration, removal or injury of such, failing to discharge this duty (this refers to owners or occupiers of lands concerned, local authorities of towns or mukhtars of villages with public or undivided village land, and the sheikhs of tribes concerned) — S. 13(1-4).  
C F. — LP. 5.
- S. 14(2).** (a) Uncovering any survey mark buried below the surface of the ground or covered with earth or stones.



(b) Having lawfully uncovered a survey mark neglecting to cover it in the prescribed manner or to fill up the hole with the same material as the ground or road under which the mark is buried.  
M F. — LP. 20.

- S. 15. Failure to obey the order of the Director of Dept. of Surveys or an officer authorised by the latter, or of District Commissioner, or Settlement Officer, given under the O., or obstructing, hindering or resisting an authorised officer of the Dept. of Surveys, or an employee assisting him, in the execution of duty; or contravening the O. otherwise (unless other penalty is prescribed for the act).  
M I. — 3 ms. or/£ F. — LP. 50, & expenses incurred by the Dept. of Surveys arising out of the default.

TELEGRAPHIC PRESS MESSAGES O. (Cap. 138, L. P. — Nos. 41/32; 35/33).

- S. 6. Contravening any provision of the O. (S. 3 prohibits the printing or publication of messages, or part, or substance thereof, transmitted by telegraph, or comment, except by the newspaper for which the message is intended, save with the written consent of the p. receiving the message, or after the expiration of 72 hours from first publication, or of 84 hours from the time of the receipt of the message at a telegraph office. — This protection does not extend to messages printed in a newspaper without a heading indicating that it was received by telegraph and showing the time and date of its receipt at a telegraph office: S. 7 excludes from the protection of the O. messages concerning Government publications or reports on proceedings of any Council of the Government; S. 4 prohibits the transmission for publication of messages protected by S. 3 — within the periods specified therein, — without written consent of the p. for whom the message was intended in the first instance).

M First offence:— F. — LP. 20.  
Subsequent o.:— F. — LP. 50.

Note. Presumptions in prosecutions under the O. (i) The production of any document (a) purporting to be a telegraphic message, or (b) containing the intelligence published or supplied for publication, and (c) addressed to or delivered to, the p. publishing it (or to another p. on his behalf) by Telegraph officials, shall be *prima facie* evidence that such message is under the protection of the O.; and (ii) proof that any p. is the responsible editor of any newspaper in which the message was published shall be *prima facie* evidence that such p. wilfully caused the publication. — S. 5.

TITHE LAW (AMENDMENT) O. (Cap. 139, L. P. — Nos. 20/20, 46/20, 10/25, 49/27, (S. 15) 27/28 (S. 6)).

- S. 6. Receiving within the boundaries of a village by any of its inhabitants (if the Tithes (Commutation) O. applies to such village), any crops from outside village boundaries for assisting in evading the payment of tithe on such crop.  
M I. — 3 ms. or/£ F. — LP. 50, & the crops to be forfeited.

TOBACCO O. (Cap. 141, L. P. — Nos. 22/21, 8/25, 21/26, 5/27, 2/29, 46/29, 7/31, 32/33, 30/34).

See Summary 56, Part IV.

- S. 4(5). Planting tobacco in contravention of S. 4(i. e. without a licence or in a plot the area of which is less than 2 dunams; or planting heishch tobacco, save in specially exempted areas).  
M I. — 3 ms. or F. — LP. 50.

- S. 38(2). Being found in possession of contraband tobacco, and the quantity found is 1 kgm. or more.  
C (First offence:—) F. — LP. 3 per each kgm. or part thereof.

- S. 38(2). Ditto, if the quantity found is less than 1 kgm.  
C F. — 1 mil per gramme of tobacco found or 250 mils (whichever be the greater).  
M Subsequent offence:— As above, & I. — 6 ms.

Note. Any vessel not exceeding 250 tons register, or any means of conveyance made use of in connection with the transport of such tobacco may be seized by a Customs or Police officer and be confiscated by order of the Court. The owner of a vessel made use of for transportation of such tobacco, if the vessel exceeds 250 tons register, may be fined LP. 1000, and the vessel may be detained until the penalty is paid or security given for payment. — S. 38(2).

- S. 39(1) (a—g). (a) Wilfully or negligently making, or causing to be made, a false statement in a declaration, bill of sale, statement of origin, endorsement or memorandum of delivery in connection with the import, transfer, sale or transport of unmanufactured tobacco.  
(b) Making, issuing or selling labels purporting to be banderolles or imitations of banderolles prescribed, or using, or having in possession banderolles which have already been used.  
(c) Selling manufactured tobacco otherwise than in containers, or surrounded by banderolles of the prescribed character.  
(d) Manufacturing tobacco without having a factory licence.



- (e) Being found in possession of tobacco cutting machinery or other appliances used or capable of being used in the manufacture of tobacco (the defendant not being the holder of a factory licence).
- (f) Dealing in tobacco without having a dealer's licence.
- (g) Being found in possession of cigarette paper which has been illegally issued or imported into Palestine.

M I. — 2 yrs. or/£ F. — LP. 1000.

Note. On convicting under S. 39(1)(e), the Court may order confiscation of machinery. — S. 39(2).

- S. 39(3). (a) Wilfully or negligently failing to produce any document of which the production is required under the O.
- (b) Failure by a licensed dealer or manufacturer to keep the registers or render the returns prescribed under the O.
- (c) Failure by a grower or manufacturer of tobacco promptly to deliver to the officer of Excise an expired transport permit.
- (d) Planting tobacco without having obtained a licence therefor, or planting an area other than that specified in the licence, or less than two standard dunams.

M I. — 3 ms. or/£ F. — LP. 50.

- S. 39(4). Contravening a provision of the O. for which no specific penalty is provided.

M F. — LP. 50.

Note. For certain offences under the O., not included in this Code, the penalty of double excise duty is provided (recoverable as a 'criminal penalty' — S. 39(5)).

Power to compound for a pecuniary payment an offence under the O. is vested in the Director of Customs & Excise, (and other officers from time to time designated by the High Commissioner). S. 40(1).

Any vessel, means of conveyance, tobacco, machinery or appliances connected with the commission of the offence compounded may be confiscated by the Director or authorised officer. — S. 40(2).

Upon conviction of licensed manufacturer or dealer or shop-keeper the licence granted to him may be forfeited by order of the Court. — S. 42.

#### TOWN PLANNING O. (Nos. 28/1936; 31/1941).

\* See Summary 57, Part IV.

- S. 35(1). Within a 'town planning area' —

- (a) & (b) Carrying out work or non-conforming use for which a

permit is required without having obtained such; or not conforming with the conditions of the permit; or

- (b) otherwise than in accordance with any bye-law, rules, or town-planning schemes made under the O. or any O. repealed by it.
- (c) Failure to comply with any provision of such rule or bye-law or rule or bye-law made under any other O. as to the demolition of any dangerous structure.

M F. — LP. 50, plus LP. 5 for each day drg. which the o. is continued after written 'notice' from the Local Commission or after conviction.

Note. The Court may order demolition by the Local Commn. at defendant's expense, and may issue a closing order, or make any other order as may seem just. — S. 35(1)(i) & (ii).

- S. 35(2)(b). Failure to comply with an order of the Court made under S. 35(1) within the time specified, or if no time is specified in the order, within reasonable time; or failure to comply with the direction made by the Court under S. 35(2)(b) (directing the defendant to carry out any such order).

M F. — LP. 200 or/£ I. — 3 ms. plus F. — LP. 5 for every day of default after the expiry of the time allowed for the carrying out of the order and for the carrying out of the demolition, etc., by the Local Commn. at the defendant's expense.

- S. 35(3). Giving to a Local or District Commission (S. 2) or Municipal Council, or to any official thereof, false or misleading information in order to obtain approval of any town planning scheme or part thereof, or a building permit, or for any similar purpose.

M I. — 6 ms. or/£ F. — LP. 100.

Note. On conviction under this S. any permit, etc., granted as a result of the giving of false information will be void and the work carried out under it will be deemed to have been carried out without a permit. — S. 36(3).

- S. 36(3). Failure to comply with an order of the Court directing that pending the institution of proceedings under the O. any work or non-conforming use should cease ('Interim Order') — S. 36(1)(2).

M F. — LP. 10 for every day of default.

Note. Offenders ag. this S. may be arrested by Police without warrant. — S. 36(2).

#### TRADES & INDUSTRIES (REGULATION) O. (Cap. 143, L. P. — 52/27; 29/33; 30/34; 4/35; 7/39; 18/41).

\* See Summary 58, Part IV.



**S. 10(1) & (2).** In an area to which the O. has been applied (which includes all municipal areas and certain other areas determined by order of District Commissioner concerned. — (S. 3)) : —

- (a) Carrying on a 'classified trade' (specified in the Schedule to the O.) without having a licence (issued by the Municipal Council concerned or the District Commissioner if outside a municipal area).
- (b) Refusing or neglecting to produce a licence on demand of any p. authorised to enter on the premises (S. 9), or obstructing such p.
- (c) Failure to comply with the conditions of the licence or with any other prescribed condition.

**M** I. — 15 days or/£ F. — LP. 5 for first offence;  
I. — 1 m. or/£ F. — LP. 50 for a subsequent o.; & closure of premises, in either case.

**Note.** Provisional Closing Order in respect of premises on which an o. has been committed under S. 10(1) (a) or (c), or where business has been conducted so as to endanger public health or order, may be made by the District Commissioner of the area, provided that a charge has been brought in respect of the o. — S. 11(1-3).

**S. 12.** Carrying on a classified trade upon premises which have been closed by order of the Court or Distr. Commissioner.

**M** I. — 1 m. or/£ F. — LP. 50.

**TRADE MARKS O.** (Nos. 35/1938; 37/1941).

\* See Summary 53, Part IV.

**S. 33(1).** Falsely representing a trade mark as 'registered'.

**M** F. — LP. 50.

**S. 38(1)(a-e).** With intent to deceive committing or attempting to commit, or aiding and abetting another in committing, any of the following acts :—

- (a) Not being the proprietor thereof making use of a trade mark registered under the O., or of an imitation of such trade mark, on goods of the same class as that in respect of which the mark is registered.
- (b) Selling, storing or exposing for sale goods bearing a mark the use of which is an offence under S. 38(1)(a).
- (c) Using a mark duly registered by another p. for advertising (in the public press or otherwise) goods of the same classification as those for which registration has already been obtained by another p.

(d) Making, engraving, printing, or selling any plate, die, block, or other representation of a duly registered mark, or any other imitation thereof, in order that use may be made by a p. other than the registered proprietor of the mark or imitation in connection with goods of the same classification as those for which registration has already been obtained by another p.

(e) Making or causing to be made false entry in the Register kept under this O., or a writing falsely purporting to be a copy of an entry in any such register, or producing or tendering in evidence any such writing, knowing the entry or writing to be false.

**M** I. — 1 yr. &/or F. — LP. 100 &/or an injunction against continued repetition of the offence. — S. 38(2). The Court may order confiscation or destruction of goods, wrappings, advertising material and apparatus, dies, etc. for printing the mark, etc. — in respect of which the o. is committed. — S. 39.

**TRADING WITH THE ENEMY O.** (No. 36/39).

\* See Summary 59, Part IV.

**S. 3(1)(a) & (b).** Trading (or attempting to trade — P. G. No. 1050 of 11.10.1940. Suppl. No. 2, p. 1347) with the enemy within the meaning of the O. (S. 2).

**F** I. — 7 yrs. or/£ F. — LP. 200, on trial 'upon information' (Distr. Court);

I. — 2 yrs. or/£ F. — LP. 200, on trial by a Magistrate.

**Note.** 'Trading with the enemy' is defined as 'having commercial, financial or other dealings or intercourse with or for the benefit of the enemy' — S. 3(2).

**S. 5(3).** Failure to produce a document or to furnish information to an inspector or supervisor when duly requested to do so.

**M** I. — 6 ms. &/or LP. 50.

**S. 5(4).** With intent to evade the provisions of S. 5, destroying, defacing or mutilating any book or document. (S. 5 deals with inspection & supervision of business).

**F** I. — 5 yrs. or/£ F. — LP. 200 (on trial 'upon information') or I. — 2 yrs. or/£ F. — LP. 200 on summary trial (by a Magistrate).

**S. 7(3).** Contravening the provisions of S. 7 (as to 'transfer and allotment of securities').

**M** I. — 6 ms. or/£ F. — LP. 100.



- S. 9(5).** Paying any debt or dealing with any property, to which an order under S. 9 applies (S. 9 deals with 'collection of enemy debts and custody of enemy property') contrary to the provisions of the order.  
M I. — 6 ms. or/ & F. — LP. 100.
- S. 9(6).** Failure to produce any document or to furnish information as required by an order under S. 9.  
M F. — LP. 10 for every day of default.
- S. 9C (4).** With intent to evade the provisions of S. 9C (as to Custodian's powers to require the furnishing of accounts, returns, etc.) **destroying, defacing or mutilating any document relating to a matter on which information has been required by a notice under S. 9C.**  
F I. — 5 yrs. or/ & F. — LP. 200 (on 'trial upon information');  
or I. — 2 yrs. or/ & F. — LP. 200, on summary trial).
- S. 10(1).** Knowingly or recklessly making a statement which is false in a material particular for the purpose of obtaining any authority or sanction or in giving information under the O.).  
M I. — 6 ms. or/ & F. — LP. 100.
- S. 10(2).** Wilfully obstructing a person in the exercise of powers under the O.  
M F. — LP. 50.

**Note. Prosecutions.** No prosecution under the O. may be instituted except by or with the consent of the Attorney-General. — S. 3(2).

# TRANSJORDAN FRONTIER FORCE O. (No. 34/40).

- S. 84(1).** (a) Buying, exchanging, taking in pawn, detaining, or receiving from any p. on any pretence whatever —  
(b) Soliciting or enticing any p. to sell, exchange, pawn, or give away —  
(c) Assisting or acting for any p. in selling, exchanging, pawning, or making away with — any of the following: arms, ammunition, equipment, instruments, regimental necessities, or clothing, issued to officers or soldiers, or decorations of an officer or soldier, or any furniture, bedding, blankets, sheets, utensils or stores on the charge of the Force, or any provisions or forage issued for the use of an officer or soldier, or his horse, or any horse employed in the service of the Government of Palestine or Transjordan — unless defendant proves ignorance of the nature of the property, or that it was sold by order or with the consent of the High Commissioner or a competent military authority, or that it was the personal property

of a retired officer or of a discharged soldier, or of the legal personal representative of a deceased officer or soldier.

M F. — LP. 80 plus double the value of the property unlawfully possessed by the defendant &/or I. — 6 ms.

- S. 84(2).** Possession of property enumerated in S. 84(1) unless lawful acquisition of same is proved by the defendant.

M Do.

**Note.** 'Possession' for the purposes of S. 84 is defined as including the following: knowingly having the property in the actual possession or keeping of another p., or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by the defendant or not, and whether the property is had for his own use or benefit or not. — S. 84(5).

- S. 84(6)(a).** Receiving, or having in possession any identity certificate, life certificate, or other certificate, or official document, evidencing or issued in connection with the right of any p. to a military pension, pay, or reserve pay, or to any bounty, allowance, gratuity, relief, benefit, or advantage granted in connection with military service, — as a pledge or security for debt from the p. entitled thereto or with a view to obtaining payment from such p. of a debt due to any p.  
M Do.

- S. 84(6)(b).** Without lawful authority or excuse (the proof whereof is on the accused) having in possession any such certificate or document, or any certificate of discharge, or any other official document issued in connection with mobilization or demobilization of the Force or of any of His Majesty's Forces, or of any member thereof.  
M Do.

- S. 85.** Inducing desertion.  
Procuring or persuading, or attempting to do so, any soldier of the Force to desert, or aiding, abetting, or being an accessory to the desertion of any soldier of the Force, or having reason to believe any p. to be a deserter harbouring such deserter or aiding him in concealing himself, or aiding or assisting in his rescue.

M I. — 3 yrs. & F. — LP. 100.

- S. 86.** Inciting to Mutiny.  
Aiding, abetting, or being an accessory to any mutiny, sedition or disobedience to a lawful command of a superior officer by any soldier of the Force or seducing such soldier from allegiance or duty.  
F I. — 5 yrs.



S. 87. **Personating.**

Not being a member of the Force, or being a deserter therefrom, putting on the dress or accoutrements of a p. serving in the Force or part thereof, or any medal or badge which is not authorized to be worn, or taking the name, designation, or character of a p. appointed to or serving in the Force, for the purpose of thereby doing or obtaining to be done any act which the perpetrator would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose.

M I. — 2 yrs. or/£ F. — LP. 80.

**VETERINARY SURGEONS O.** (Cap. 148, L. P. — 5/29, 30/34, 21/41).

S. 15(1). Practising, or holding oneself out as practising or being prepared to practise, **veterinary surgery** not being the holder of a licence to practise.

M I. — 3 ms. or F. — LP. 50.

S. 15(2). Assuming or using the title of **veterinary surgeon** not being the holder of a licence to practise it (or otherwise failing to comply with S. 7).

M F. — LP. 50.

S. 15(3). Fraudulently procuring, or attempting to procure, for any one to be licensed under the O. by making or producing (or causing such act) any false or fraudulent representation or declaration, either orally or in writing, or aiding or abetting such act.

M I. — 1 year or/£ F. — LP. 100.

S. 15(4). Employment by a **veterinary surgeon of an attendant or dresser**, except in accordance with S. 10 (prescribing personal supervision by the vet. surgeons of such attendants and forbidding the employment of these attendants for treatment requiring professional skill or discretion).

M F. — LP. 50.

S. 20(5). Impeding or obstructing by a vet. surgeon an officer inspecting professional premises, or failure by a vet. surgeon to comply with any provision of the O. for which no other penalty is prescribed.

M F. — LP. 20.

Note. The Court may recommend the cancellation or suspension of the licence to practise vet. surgery and may order the confiscation of articles the use of which constitutes an offence for which the defendant is convicted. — S. 15(6).

**WAR RISKS INSURANCE O.** (No. 31/41).

\* See Summary 60, Part IV.

S. 6(2). Contravening any provision of S. 6 (prescribing compulsory insurance of goods in certain cases).

M F. — LP. 500 & further F. — LP. 100 for every day on which the contravention continues.

S. 11(2). Wilfully obstructing any p. in the exercise of power under S. 11 (conferring powers to inspect premises and to call for information), or failing (without reasonable excuse) to comply with a request made under the O.

M F. — LP. 50.

S. 11(3). In purporting to comply with an obligation under S. 11 knowingly or recklessly making a statement false in a material particular.

M I. — 3 ms. or/£ F. — LP. 100.

Note. Prosecutions under the O. may be instituted only with consent of the Attorney-General or Solicitor-General. — S. 12.

**WATER SUPPLY O.** (No. 2/1938).

S. 5. Wilfully interfering with, or obstructing any operation authorised by S. 2 (for discovery & raising of underground water in the opinion of the High Commissioner necessary for such purpose); or contravening or failure to comply with any provision of the O.

M I. — 12 ms. &/or F. — LP. 10.

**WEIGHTS & MEASURES O.** (Cap. 150, L. P. — Nos. 2/28; 36/33; 30/34; 1/37).

S. 13(1). Neglecting or refusing to produce for inspection (to authorised officer) metric measures or weights or weighing machines in defendant's possession or on his premises, or refusing to admit or obstructing or hindering an inspector under the O.

C F. — LP. 5.

S. 13(2). Using for sale, contract or dealing, or possession for use in any trade, any metric weight, or weighing machine which is false or unjust.

M First offence: F. — LP. 20;

Subseq. o.: F. — LP. 50.

S. 13(3). Knowingly making, or selling, or causing such act, any unjust metric weight, measure, or weighing machine.

M First offence: F. — LP. 50;

Subseq. o.: I. — 6 ms. or F. — LP. 100.



- S. 13(4). Forging or counterfeiting, (or causing such an act, or knowingly assisting in it) — any stamp or mark used for marking any weight, measure or weighing machine under the O.

M I. — 6 ms. or F. — LP. 50.

- S. 13(5). Knowingly selling or disposing of any metric weight, measure or weighing machine with any forged or counterfeited stamp or mark.

M I. — 3 ms. or F. — LP. 50.

**Note. Evidence.** A presumption as to possession of weights, measures or weighing machines for the purposes of trade exists, until the contrary is proved, where such are found in the possession of a p. carrying on trade, or on the premises of a p. which are in use for trade. — S. 14.

**Forfeitures.** The weight, measure or w. machine may be forfeited. — S. 15.

#### WHITE PHOSPHORUS MATCHES (PROHIBITION) O. (Cap. 151, L. P. — Nos. 23/25; 30/34).

- S. 5. Contravening the pvns of the O. (prohibiting the making, sale, possession or importation of matches in which white phosphorus is used. — SS. 3 & 4).

M F. — LP. 20 (& forfeiture of matches).

#### WIRELESS TELEGRAPHY O. (Cap. 152, L. P. — Nos. 20/24; 31/32; 30/34; 12/36; 43/39).

\* See Summary 1, Part IV.

- S. 5(1). Establishing or maintaining a wireless telegraph station, or installing maintaining or working any apparatus for w. telegraphy, without a licence.

M I. — 6 ms. or F. — LP. 200 (and forfeiture of the apparatus).

- S. 5(2)(a-c). (a) Sending or attempting to send by wireless telegraphy a message or communication of an indecent, obscene or offensive character, or subversive to public order or calculated to disturb the public peace.

(b) Ditto, — a signal of distress of a false or misleading character or a false or misleading message as to a vessel or aircraft in distress.

(c) Improperly divulging the purport of any message received or sent or proposed to be sent by w. t.

M I. — 6 ms. or/8 F. — LP. 50 (and forfeiture of licence and of apparatus used in the perpetration of the o.).

- S. 5(3). Failure to comply with a rule under S. 4 or S. 7.

M I. — 6 ms. or/8 F. — LP. 50 plus LP. 5 for every day drg.

which o. continues; and forfeiture of the apparatus used in the commission of the o.

**Note.** Where publication by means of the press or at a public meeting is an offence under any law, the sending of a similar message by w. t. is punishable in the same manner as such publication. — S. 5(4).

No proceedings may be taken under the O. except by order of the Attorney-General, save prosecutions for establishing or maintaining unlicensed receiving stations. — S. 6.

#### WOMEN AND CHILDREN (INDUSTRIAL EMPLOYMENT) O.

(Cap. 153, L. P. — Nos. 53/27; 30/34).

- S. 6. Contravening or attempting to contravene the pvns. of the O. (regulating the ages of employees and other conditions of employment of women and children, vide the Schedule to the O.).

M I. — 6 ms. or/8 F. — LP. 50 in respect of each p. irregularly employed.

#### WORKMEN'S COMPENSATION (AMENDMENT) O. (No. 33/40).

- S. 2. When called upon by the registrar of the District Court, failure to account for any sums paid into the said court in connection with death of a workman and subsequently paid out to an individual or institution by an order of the court.

O.) M I. — 1 m.

#### WRECKS AND SALVAGE O. (Cap. 155, L. P. — No. 30/34).

- S. 4(2). Wilfully disobeying the directions of 'assistant receiver' (officer in charge Customs at the nearest port area where no other p. has been appointed to act as such. — S. 3), when a ship is in distress.

M F. — LP. 50.

- S. 5(2). Refusing without any reasonable cause to comply with any requisition by an assistant receiver, or with his demand (within the scope of pvns. of S. 5(1)(a-d), viz. demands of assistance or aid by a master of a vessel, the use of boats, etc., and the handing over of any wreck).

M F. — LP. 100 for each default.

- S. 6(3)(a-c). (a) Hindering or impeding by owner or occupier of lands any p. exercising a right under S. 6 (to pass over lands adjoining the place where a vessel is wrecked or stranded), by locking gates or otherwise.



- (b) **Hindering or impeding** by such owner, etc. (as in (a)) the deposit of any cargo, or other article recovered from vessel, on land.
- (c) **Preventing or endeavouring to prevent** by such owner, etc. ((a) supra) any such cargo or article from remaining deposited on the land for a reasonable time until its removal to a safe place.  
M F. — LP. 100.
- S. 9(2). **Failure to comply without reasonable cause with pyms. of S. 9(1)** (imposing the duty on finder or p. taking possession of any wreck within Palestine to notify the nearest asst. receiver, and to deliver the wreck to the said official without delay, unless the finder, etc., is the owner of the wreck).  
M F. — LP. LP. 100 & forfeiture of claims to salvage (if the offender is not the owner of the wreck), plus payment of double the value of the wreck to its owner.
- S. 10(1) & (2). **Secreting or keeping possession of any cargo or article or refusal to deliver it to asst. receiver or the p. authorised by the latter, where such cargo or article belongs to or was separated from the vessel in distress or wrecked or stranded and has been washed ashore or otherwise lost or taken from the vessel.**  
M F. — LP. 100.
- S. 16. **Taking into any foreign port any vessel stranded, derelict or otherwise in distress, found in the waters of Palestine, or any part of the cargo or apparel thereof, or any wreck found in the waters of Palestine, — and there selling it.**  
M F. — 3 yrs.
- S. 17(1). **Boarding or endeavouring to board, without leave of the master, by an unauthorised p. any vessel which is wrecked, stranded or in distress.**  
M F. — LP. 50.
- S. 17(2). (a) **Impeding or hindering the saving of any vessel stranded or in danger of being stranded, or in distress in the waters of Palestine, or of any part of the cargo or apparel thereof, or of any wreck; or endeavouring to impede or hinder, etc. (as above).**  
(b) **Secreting any wreck or defacing, or obliterating any mark thereof.**  
(c) **Wrongfully carrying away or removing any part of a vessel stranded or in danger of being stranded or in distress in the waters of Palestine, or any part of the cargo or apparel thereof, or any wreck.**  
M F. — LP. 50 (in addition to any other penalty to which offender may be liable).

## SUPPLEMENT.

Due to the promulgation of certain legislation during the passage of the book through the press, the following should be added, deleted etc. as indicated, in order to bring the work up to date (1st September, 1943).

Due to the promulgation of the Ordinance shown hereunder, ADD at the end of the text under 'Citrus Crop Loans (Govt. Guarantee), 1942, O.' :—  
(page 122)

**CITRUS CROP LOANS (GOVERNMENT GUARANTEE) 1943 O.**  
(No. 12/43).

- S. 7. **Ditto., but with respect to charges on any citrus crop for the year 1943—1944.**  
M F. — LP. 100 or I. — 1 year.

**DANGEROUS DRUGS O.**

(Due to the promulgation of Dangerous Drugs Amendment) O., No. 16/1943).

(page 142)

ADD to the list of Amending Ordinances :—  
No. 16/1943.

(page 143)

**SUBSTITUTE FOR THE PENALTIES** (under the marginal note)  
SS. 4 & 16(1).

- F I. — 10 yrs. &/or F. — LP. 5000, on conviction 'on information';  
I. — 4 yrs. .... F. — LP. 2000, on summary conviction by a District Court;  
I. — 2 yrs. .... F. — LP. 1000, on conviction by a Chief Magistrate.

(S. 16(1)(i)(a) & (b) as amended by S. 2 of AO. No. 16/43).  
(page 145)

SUBSTITUTE for (S. 16(1)—proviso) in the 20th line :— S. 16(1)(ii).  
(page 145)

INSERT in lines 25 and 30 after the words 'under the O. :— or any rules made thereunder'.

(page 146)

DELETE the 'Note as to proposed amendment' in whole.

ADD at the end of the text :—

**Note.** Trial of offences under the Dang. Drugs. O. may be 'upon information' in a District Court; or summary in the said Court or by a Chief Magistrate — S. 16(1)(i).



# Summaries of Judgments

NOTE: In the preparation of this book, the author has endeavored to present the judgments of the Supreme Court of the United States as they appear in the official reports. The judgments are here presented in the form of summaries, and are not intended to be used as a substitute for the full text of the judgments. The summaries are prepared by the author, and are not intended to be used as a substitute for the full text of the judgments. The summaries are prepared by the author, and are not intended to be used as a substitute for the full text of the judgments.

## PART FOUR

All the judgments have been carefully reviewed, and the author has endeavored to present them in the most accurate and complete manner possible. The judgments are here presented in the form of summaries, and are not intended to be used as a substitute for the full text of the judgments. The summaries are prepared by the author, and are not intended to be used as a substitute for the full text of the judgments.

## SUMMARIES OF JUDGMENTS

### OF THE SUPREME COURT OF JUSTICE SITTING AS A COURT OF CRIMINAL APPEAL

(1920 — 1943)

The author has endeavored to present the judgments of the Supreme Court of the United States as they appear in the official reports. The judgments are here presented in the form of summaries, and are not intended to be used as a substitute for the full text of the judgments. The summaries are prepared by the author, and are not intended to be used as a substitute for the full text of the judgments.

#### METHOD OF CITING VALUATION CASES

Valuation cases are those cases in which the Supreme Court of the United States has decided upon the value of property for tax purposes. The judgments in these cases are here presented in the form of summaries, and are not intended to be used as a substitute for the full text of the judgments. The summaries are prepared by the author, and are not intended to be used as a substitute for the full text of the judgments.

# Summaries of Judgments

NOTE: In the preparation of this book, the author has endeavored to present the judgments of the Supreme Court of the United States as they appear in the official reports. The judgments are here presented in the form of summaries, and are not intended to be used as a substitute for the full text of the judgments. The summaries are prepared by the author, and are not intended to be used as a substitute for the full text of the judgments.

Part Four

Summaries of Judgments

Of the Supreme Court of Justice

Sitting as a Court of Criminal Appeal

(1920 — 1943)

The author has endeavored to present the judgments of the Supreme Court of the United States as they appear in the official reports. The judgments are here presented in the form of summaries, and are not intended to be used as a substitute for the full text of the judgments. The summaries are prepared by the author, and are not intended to be used as a substitute for the full text of the judgments.



## Summaries of Judgments.

**NOTE.** In this Part are collated propositions contained in judgments of the Supreme Court sitting as a Court of Criminal Appeal, and in one or two cases, in its capacity of the High Court of Justice. The selection has been made of those propositions which have more than transient value: and the rules and dicta included in the 'summaries' mostly concern **substantive Criminal Law**, but certain matters of procedure and, particularly, of Evidence, have been incorporated as well, — however, no claim is laid to anything like comprehensiveness so far as those latter branches of the Law are concerned.

It is not to be assumed that all the propositions are in the nature of *rationes decidendi*, although the majority probably are, and thus establish binding precedents.

All the judgments have not been treated uniformly.

In a few cases, those of great importance or intricacy, the words of the learned judges are quoted *verbatim*, but the compiler, to preserve the general plan of this Code, has taken the liberty of emphasizing certain passages to facilitate reference by the use of thicker type.

Some propositions are stated quite briefly; and the 'facts' of any particular case have been stated only where they appeared to make a difference.

The 'summaries' are arranged in three Divisions. The headings in Division I correspond to the subject-matter of the various sections of the Criminal Code Ordinance (Part II of this work), and are arranged in the order corresponding to that of the sections.

Division II deals with judgments under the headings of other Ordinances.

Division III deals with judgements of miscellaneous character — Evidence, Procedure and rules of practice.

The headings in Divisions II and III are arranged in alphabetical order.

The vast majority of the cases cited are to be found in one or more of the well-known collections of the Palestine Law Reports.

### METHOD OF CITING PALESTINE CASES.

**CRA.** means Criminal Appeal; **AA.** — Assize Appeal. These letters are prefixed to the serial number of the case, and its year is indicated by the figure following an oblique line.

The source (not necessarily the one solely referred to by the compiler) is indicated within brackets following the number of the case. The sources are indicated as follows:—

**P.** — Official Law Reports of Palestine.

**M.I** — Sir Michael McDonnell's Reports, 1920—1933.

**M.II** — Sir Michael McDonnell's Reports, 1933—1935.

**A.** — Apelbom's Annotated Supreme Court Judgments.

**L.** — Lebanon's Current Law Reports.

**R.** — Rotenberg's Collection of Judgments.

**AL.** — Annotated Reports (Apelbom & Lebanon, 1943).

The volume of the Reports is shown (within brackets) by a Roman figure, and the page always by the last figure within brackets. When the year of the Reports is not the same as that of the judgment, it is also shown after the index letter of the source.

Thus, **CRA. 16/39 (P. VI—200)** means Criminal Appeal No. 16 of 1939, vide the Official Law Reports, volume VI, page 200; **CRA. 138/40 (A. 41—I—48)** means 'Crim. Appeal No. 138 of 1940, Apelbom's Collection, 1941, vol. I, p. 48.'

### DIVISION I.

Marginal references are to sections of Criminal Code Ordinance.

**S. 3(a).** Liability for an offence against a law other than Criminal Code O. — see Summary 46 h & i.

**S. 11(3).** Motive — see Summaries 2f, 20b & 22c.

### Summary 1.

**S. 12.**

### MISTAKE OF FACT.

- a. Prima facie a court would require strong evidence to satisfy it that an individual was under an honest and reasonable mistake as to the date of expiration of a licence when that date (the 'fact') was stated prominently on the document itself.
- b. Belief that defendant had a justifiable claim to a licence for longer period than that of its actual currency would be no defence to a charge of possession of a wireless set without licence (after the expiration of a prior licence) under SS.2(1), (3) (1) & 5(1) of Wireless Telegraphy O. — **CRA. 17/39 (A. I — 232).**

### Summary 2.

**S. 13 & S. 14.**

### LEGAL INSANITY.

- a. There is only one kind, or degree, of legal insanity, and it is defined in S. 14; no lesser degree exists. **CRA. 199/42 (P. X—1).**
- b. The test of l. i. in English Law, laid down in *Macnaughton's* case and applied since, has been substantially enacted in S. 14.
- c. Where that test was not put by the defence to the doctor, called by them although he stated at trial that he found the appellant immediately before the crime suffering from neurasthenia and that he thought that the appellant was a 'mental', but his note-



- book contained no reference to appellant's insanity; and other witnesses testified that the appellant had been 'depressed, used to cry, and seemed peculiar' — held, that there was **no evidence** on which any court could find the appellant insane. (This was an appeal against conviction of murder) — CRA. 8/40 (A. I—33).
- d. Medical evidence as to insanity was rejected by the Trial Court because the doctors had drawn inferences from the past history of the accused. Held, medical witnesses are qualified to, and must, draw such inferences.
  - e. Held also, that it is not necessary to prove insanity affirmatively by the evidence, it being a question of probability (*R. v. Sodeman*, 2 All Engl. Rep. p. 1138, followed).
  - f. Absence of motive in a case of such nature (murder) is a matter for comment and consideration. (Appeal ag. sentence of death allowed).
  - g. Where insanity is established, the proper verdict is: Guilty but insane. — Followed also: *R. v. McNaughton*, 1843, 10 Cl. & F. 200; *R. v. True*, 1922, 16 CR. A. R. 164; *R. v. Lloyd*, 1927, 20 CR. A. R. 139.
  - h. (the latter case as to usefulness of non-expert witnesses to establish insanity). — CRA. 6/42 (A. I—88).
  - i. The defence of insanity must be proved in the court of trial. — CRA. 85/41 (A. I—246).
  - j. Persons are assumed to be sane until shown to be insane. Insanity is a plea which should be put forward by the defence.
  - k. Application to hear further medical evidence on appeal, made in the course of hearing, refused where there was no indication, by affidavit or otherwise, as to the nature of that evidence. — CRA. 16/39 (P. VI—200).
  - l. Temporary mental derangement was not a ground for interference with conviction (of robbery) in a case where the appellant had pleaded guilty. — CRA. 64/41 (A. I—198).
- S. 19. Justification — See Summary 20f.

## Summary 3.

## S. 21. PERSON NOT TO BE TWICE CRIMINALLY RESPONSIBLE FOR SAME OFFENCE.

- a. Appellant was charged with manslaughter and was acquitted. The trial court amended the charge to 'unintentionally causing death'

- (S. 218) without complying with S. 31(3), Cr. Pr. (Trial Upon Inform.) O. Held, failure by the Court below to make a note on the information of the order of its amendment was fatal. Having acquitted the appellant, the Court had no information left which could be amended, as the proceedings were at an end; the defence of *autrefois acquit* might be applied. — CRA. 71/41 (P. VIII—230). See also CRA. 14/41 (Summary 29f).
- b. Appellant was convicted on two charges: (1) Committing a public mischief (S. 105), & (2) under S. 38 of Police O. Both were based on the fact that he endeavoured to induce a Police officer to arrest certain people, with certain suggestions with regard thereto, and simultaneously handed to the officer a sum of money. Held, as the charges were not laid in the alternative, the appellant had been 'criminally in danger for the same o. arising out of the same facts', which was not in compliance with S. 21. Conviction & sentence on the first charge quashed. (Conviction on the second charge upheld). — CRA. 179/42 (A. II—932).

## Summary 4.

## S. 23.

## 'PRINCIPALS'.

- a. As S. 23 does not create an o., it is not necessary to join it in the information. — CRA. 143/41 (P. IX—7).
- b. Principals, as defined by S. 23, may be accomplices (not defined by the Cr. Code O.), i. e. concerned with another or others in the commission of a crime. — CRA. 46/38 (P. V—330).
- c. A. together with two other ps. met M. (with others). M. ran away and was followed by one of A's companions, and was shot and killed some 500 metres from the place of the original meeting with A. where the latter remained and prevented M's companions from rendering assistance to M. detaining them. A. did not seem to be the man who fired the shot. Held, A. was present, aiding and abetting the perpetrator of murder, within the meaning of S. 23(1)(c). — CRA. 83/41 (A. I—266). — See also CRA. 9/42 (P. IX—46) (Summary 22c).

## Summary 5.

## S. 24. OFFENCES COMMITTED IN PROSECUTION OF COMMON PURPOSE.

- a. S. 24 is slightly wider in its effect than the Common Law because at Common Law the 'common intention' is 'to commit a crime'



of violence', whereas under S. 24 it is 'to prosecute an unlawful purpose.'

b. S. 24 is a definition clause and need not be set out in an information.

c. When ps. go out armed to commit robbery, the inference is that they intend to use their arms, if necessary, to overcome opposition, and the use of arms must be in the contemplation of all in the party, — they contemplate that violence may be used.

d. 'In the case of a common design to commit robbery with violence if one prisoner causes death while another is present aiding and abetting the felony as a principal "in the second degree", both are guilty of murder, although the latter had not specifically consented to such a degree of violence as was in fact used'. (Following *R. v. Betts & Ridley* 22 Cr. App. R. 148. The difference between this case and the English case followed was only that the killing was committed by some one other than the ps. who actually stole the money). It is not necessary in law that there should have been an agreement to kill. (Appeal ag. conviction dismissed. Facts: A. killed X. when the latter was about to shout, whilst B. & C. were carrying out robbery in an adjacent room. All three convicted of murder, S. 214(c). Appeal of B. & C. dismissed by majority). (Pridmore, 8 Cr. App. R., 193, & Short, 23, Cr. App. R. 170, distinguished). — CRA. 30/43 (P. X-194). See Summary 22c.

S. 29(b). Attempted Manslaughter — see Summary 21a.

#### Summary 6.

#### S. 34.

#### CONSPIRACIES.

S. 35. a. There is nothing in S. 30 of Cr. Pr. (Trial Upon Inform.) O.

S. 36. which prevents charging both conspiracy to commit an o. and the completed o. in the same information; but if this is done, care is needed on the part of the prosecuting counsel, and on the part of the Court, to keep the issues clear.

b. Where there is such an information it would not be right to increase the punishment by reason of the conspiracy. — CRA. 58/39 (P. VI-567).

c. Once the existence of the conspiracy and complicity of the accused ps. are proved, acts and statements of one of the several conspirators are evidence ag. the others; but only so far as they were done, or made, in furtherance of the common purpose.

d. Once the agreement between the ps. charged to commit an o. has been established, conspiracy is completely proved. It is then immaterial whether the o. was actually committed or not. — CRA. 29/39 (P. VI-405). See also CRA. 146/41 (P. IX-33) (Summary 38).

e. A conviction of 'the other' conspirators is unnecessary for the conviction of one of the conspirators, so long as a conspiracy with others is proved. — CRA. 44/43 (P. X-283).

See Summary 38.

#### Summary 7.

#### S. 37(d).

#### COMPENSATION AS PUNISHMENT.

a. Under S. 37(d) payment of compensation is a punishment, and therefore it cannot be made 'joint and several'. — CRA. 72/41 (P. VIII-265).

b. Compensation is unsuitable punishment in the case of a young boy. (Conviction was under S. 152(1)(a). — CRA. 113/42 (A. II-500).

c. In a case of loss of a member (an eye), the Court of Appeal considered the amounts to be awarded under Workmen's Compensation O., 1927. (LP. 150 awarded by the Court below was reduced to LP. 75). — CRA 6/27 (M. I - 130).

#### Summary 8.

#### S. 37(e).

#### BINDING OVER AS PUNISHMENT.

a. There is no rule of law that a 'first offender' should necessarily be bound over.

b. The Attorney-General may appeal ag. a sentence of binding over, as it is a punishment under S. 37. — CRA. 98/41 (P. VIII-351).

#### Summary 9.

#### S. 40.

#### SPECIAL TREATMENT.

a. Special treatment should not generally be granted in crimes of violence. — CRA. 143/41 (P. IX-7).

b. Medical grounds are not to be taken into consideration in deciding whether special treatment should be granted. — MISC. APPL. 2/42 (P. IX-12) (so decided by the Supreme Court sitting as a High Court of Justice).



S. 43. Compensation — see Summary 7.

S. 45 & S. 46. Security to be of good behaviour, etc. — see Summary 8.

#### Summary 10.

### S. 48. SENTENCES TO BE CUMULATIVE UNLESS OTHERWISE ORDERED.

- a. Consecutive sentences should not be imposed save in special circumstances.
- b. It is the duty of the Police to bring to the notice of the prosecution, and the duty of the prosecution to inform the Court, if more charges are pending ag. the prisoner. — CRA. 81/42 (P. IX—356). (As to a, also CRA. 147/41 (P. IX—8).

#### Summary 11.

### S. 81. RIOT.

- a. In considering whether there was 'terror to the public', the test applied by Swift, J. in *Pitchers v. Surrey County Council*, 1923, 2 K. B. 57, was followed (evidence of a Police officer relied upon). — CRA. 69/40 (P. VII—456; A. II—529).

#### Summary 12.

### S. 105. PUBLIC MISCHIEF.

- a. Gordon-Smith, C. J.: — '... public mischief is rather a novel offence, and on the submissions... before us on that charge, with which we agree, there must be two ingredients as is exemplified in the well-known case of *Rex v. Manley*, 24 C. A. R., p. 29. In that case the conviction was upheld, and the Lord Chief Justice said:— 'The indictment aptly describes two at least of the ingredients of public mischief or prejudice to the community involved; the first that officers of the Metropolitan Police were caused by false statements to devote their time to the investigation of idle charges; the second, that members of the public — at any rate members who answered or were thought to answer certain detailed description — were put in peril'. Those two essentials are not present in this case'. (As to the facts, see Summary 3b). — CRA. 179/42 (A. II—932).

#### Summary 13.

### S. 106. OFFICIAL CORRUPTION.

- a. Where A., an accomplice, testified to giving a bribe to a Police officer, who admitted receiving the money but explained

at trial that the transaction had been of a different nature, which explanation the Trial Court disbelieved; and the Court did not specify the facts considered as corroboration of A.'s evidence; and the Court of Appeal held that the only substantial matter which could be adduced as corroboration was the payment to the officer of money marked by his superior, — the question was whether such payment necessarily connected the officer with the charge of bribery. Held, that in spite of strong grounds for suspicion, there was a flaw in the case for the prosecution because the transaction might well have an innocent explanation, notwithstanding that the particular explanation by the officer (the appellant) was disbelieved by the Court below. Conviction quashed. — CRA. 77/40 (P. VII—438).

#### Summary 14.

### S. 123(1). FALSE INFORMATION.

- a. Where, in the course of an investigation by the Police, an untrue statement had been given to an officer, conviction under S. 123 was wrong. To constitute an o. under this section the information must be given with the object of setting the law in motion. — CRA. 64/40 (P. VII—427; A. I—249).

#### Summary 15.

### S. 149. OUTRAGING RELIGIOUS FEELINGS.

- a. The onus of proving that the o. took place in a public place is on the prosecution; failure to prove that is fatal to conviction. — CRA. 82/41 (A. I—284).

#### Summary 16.

### S. 158. 'BROTHEL'.

- a. The definition of 'brothel' in English Law is wider than that of Criminal Code O. — CRA. 22/40 (A. I—99). See also Summary 18.

#### Summary 17.

### S. 152(1)(a). RAPE & SEXUAL OFFENCES.

- a. The charge was of rape 'on divers dates during the month of...' Gordon-Smith, C. J.:— 'A particular date, if it was known, should have been selected and then the allegation made that it occurred also on divers other previous occasions during such



month. If such specific date could not have been ascertained, then the charge should have been dropped'. Rape is one of those offences a charge of which it is very easy to make and which, although entirely innocent, an accused may find it very difficult to refute. It is particularly necessary, therefore, to examine and scrutinize the facts and circumstances with the greatest care. (Appeal ag. conviction allowed; the charge referred to o. committed in appellant's house). — CRA. 118/42 (A. II-472).

- b. Where there was evidence of complainant's conduct in preliminary stages consistent with consent, and the first complaint was made eight days after the alleged rape; and the accused, on arrest, made a statement consistent with his guilt, but at the trial denied the charge; — held, that it was not safe to rely upon the accused's statement as corroborative evidence. (Conviction quashed). The possibility of some indirect or improper motive on the part of the complainant must be borne in mind in a prosecution for rape. — CRA. 75/39 (P. VII-15).

S. 152(1) c. The charge was laid under S. 152(1)(c), but the Court convicted the appellant under S. 152(1)(a). Held, 'in this case the necessary findings of facts to establish the offence charged were firstly that the appellant had had intercourse with this girl, and secondly, this girl was under the age of sixteen. These findings of facts did not cover a charge under S. 152(1)(a) because in a charge under that section the question whether a girl was under the age of 16 or not would be immaterial, and a further finding of facts as to lack of consent would be necessary. We therefore decide that it was not open to the Court below to convict on a charge under S. 152(1)(a)'. — CRA. 13/38 (P. V-69).

S. 152(1)(b).d. The charge was under SS. 152(1)(a) & (b) & 154, and S. 152(2), but the Court of Trial (a District Court) convicted the appellant of indecent assault under S. 157. Relying on S. 52, Cr. Pr. (Trial Upon Inform.) O., counsel for the appellant argued that conviction could not be justified. Trusted, C. J.:— '... We are of opinion that the theoretical findings of facts necessary to establish a charge under S. 152 cover the findings of facts necessary to establish a charge under S. 157, if I may so put it, the greater includes the lesser, ... the Court below was justified, so far as that part of the case is concerned, in doing what it did. The distinction in the case... No. 13/38 (Summary 17c) is that it was there necessary in order to convict to introduce some new

finding of fact, not merely to bring the case within the findings of facts necessary for the original charge'.

- e. On the question of lack of corroboration of the complainant's evidence (also raised by counsel for the appellant), the judgment proceeds:— 'It is quite clear that according to English Law which for this purpose now applies, in order to convict of sexual offences, the evidence of the complainant must be, to some extent, corroborated... The only evidence in this case which could possibly be regarded as corroboration is the evidence of G.. to whom the girl made a statement, and the girl's own identification. In G's evidence, he says: 'She told me a man had taken her in his car and had attempted to rape her, ... she would recognise the man if she saw him again' ... and he also describes her condition...:— 'She left us about 10 p. m. to go home. At 1 a. m. she came back. She was distressed. She had wound on her eye. Her hair was disordered and she had blood on her hand. Her clothes were all disarranged'. We are of opinion that that is not sufficient to corroborate her story against the accused. It is also said that she identified the accused and identified the motor-car. This seems to me very much on the same lines as the evidence of Mrs. A. in A. G. v. Stavsky & others (AJM 3/34), who identified one accused and his coat, and the Court, in that case, took the view that that was one identification and the identification of the coat was not corroboration of the witness's story... We do not think it would be safe to convict on the evidence in this case'. — CRA. 54/38 (P. V-338). See Summary 17c as to CRA. 13/38, and AA. 7/34 (M. II-148) as to A.JM. 3/34; see also CRA. 64/35 (R. VII-260), as to complaints elicited by questions followed by a beating (inadmissible). — R. v. Osborne, 1905, 1 K. B. 551, followed; R. v. Baskerville, 1916, 2 K. B. 665, referred to.

S. 152(1)(c). f. Unsworn evidence of a child of ten yrs. cannot be accepted as corroboration. (This was a charge contr. to S. 152(1)(c)). — CRA. 81/37 (L. II-54).

- g. Appeal ag. conviction under S. 152(c) was allowed where the only evidence ag. the appellant had been that of two unsworn children. — CRA. 79/38 (A. II-113).

S. 153. h. The principal evidence was that of the victim (of rape by deception), an imbecile girl 19 yrs. old whose mentality was that of a child, not given on oath or affirmation. Held, as S. 34. Cr. Pr. (Trial Upon Inform.) O. refers only to one exception to the rule that evidence must be on oath or affirmation, viz., in



the case of a young child, the evidence could not be accepted. — CRA. 67/39 (P. VII—4).

- i. Before convicting, the Court must be satisfied that someone had intercourse with the victim at the time alleged. —
- j. If the victim is an imbecile, her statements are inadmissible under S.7, Evidence O.; they are also inadmissible to show consistency with the evidence in the box, as she could give none; or to show consent, which is not a defence in such a case. The rule in *Reg. v. Lillyman*, 1896, 2 Q. B., 167, is inapplicable in such a case. — CRA 104/40 (A. II—395).

S. 154. See Summary 17d. *supra*.

- k. Following the rule in *Reg. v. Lillyman* (1896; 2 Q. B. 167), the complaint by a victim immediately after the event is not corroboration implicating the accused, though admissible evidence to negative consent. — CRA. 138/40 (A. 41 — I—48).

S. 157. See Summary 17d. *supra*.

#### Summary 18.

#### S. 163 KEEPING, MANAGING, OR PERMITTING PREMISES TO BE USED AS A BROTHEL.

- S. 163(a). a. Evidence of a prostitute in a brothel, and of a p. who admitted that he 'worked with the accused as a 'pimp'', required corroboration as they were accomplices. — CRA. 65/41 (A. I—194).
- S. 163(b). b. The accent of the paragraph (S. 163(b)) should be laid on the word permits, and the gravamen of the o. is permitting, not using. Where there was clear evidence of the accused having used the premises for habitual prostitution, but there was indication in the judgment of the Court of Trial that it misdirected itself in that it appeared to think that it was sufficient for a conviction under the section for the appellant herself to be shown to have used the premises for habitual prostitution, and the 'evidence of permitting' another woman so to use the premises was scanty, conviction was quashed. — CRA. 67/41 (P. VIII—223).

See also Summary 16.

#### Summary 19.

#### S. 181. BIGAMY.

- a. Where Jewish religious law is applicable, there is a doubt as to its effect, and the accused is entitled to the benefit of that doubt

(as to the validity of a 'subsequent' marriage). — CRA. 85/38 (P. VI—34).

- b. The test in determining the nullity of the 'subsequent' marriage in bigamy is whether the marriage is void for the reason of its taking place during the life of the accused's previous divorced spouse. — CRA. 85/38 (P. VI—34); CRA. 11/40 (P. VII—147; A. II—368). (The latter judgment embodies the opinion of the Armenian Patriarch on questions of personal status with regard to validity of marriage from the viewpoint of the Armenian Church).

#### Summary 20.

#### HOMICIDE.

S. 212.

- S. 213. a. There is nothing objectionable in not recording the actual questions put to a victim of violence in taking down a dying declaration; there is no rule of law requiring the details of a dying declaration to be corroborated. — CRA. 18/42 (P. IX—168; A. 42—I—171). Practically the only evidence against the appellant was the dying declaration; as the Court of Trial believed it, — so held by the Court of Appeal, — in accordance with the Law of Palestine there was sufficient evidence to convict (of manslaughter, S. 212). CRA. 90/42 (A. II—439).
- S. 214. b. The prosecution need not prove motive in criminal homicide. — CRA. 96/37 (L. II—108).
- S. 218. c. As a general principle, in murder cases there must be evidence as to the finding of victim's body, or a satisfactory explanation given as to why it was not found. — Where there was evidence that the body had been thrown into a well, together with another body, the Court of Trial was entitled to find that one of the skeletons was that of the victim. — CRA. 21/41 (P. VIII—89). (Note. The judgment refers to "murder cases", but it is a reasonable assumption that the rule equally applies to other cases of criminal homicide).
- d. The fact of absence of dissection cannot be made a ground for challenging the verdict (as to the cause of death). Coroners O. gives discretion to the medical officers in this respect. The matter is one for adequate cross-examination at trial. — CRA. 14/38 (P. V—129).
- e. Where appeal ag. conviction of manslaughter (by smothering) was on the ground that the cause of death had not been established because all the three main cavities of the body had not



been opened by the medical officer; but there was other medical evidence, and from the surrounding circumstances the Court of Trial arrived at the conclusion that death had been caused by smothering; — held, it was not necessary that a full autopsy or post mortem dissection with minute examination of all organs should have been made (thus to exclude the possibility that death had been caused by some means or disease other than that alleged by the prosecution). (Appeal dismissed). — CRA. 146/42 (A. II—670).

- f. Copland J.:— 'Putting it generally, a Police constable is entitled to use all reasonable means to prevent the escape of a prisoner who has been charged with a serious offence..., and if firing is the only means or reasonable means available to him, then he is entitled to fire — but the means must be reasonable — circumstances must be such that if this last resort of firing be not taken then there is a reasonable probability of a prisoner escaping. That, I think, is a fair summary of the law derived from the textbooks. From this it is apparent that every case has got to be considered on its own merits, with regard to the surrounding circumstances'. — 'Justification as to firing is entirely a question of law to be considered on the circumstances surrounding each case, taking into account inferences to be drawn from facts, and the facts proved.' — CRA. 5/39 (P. VI—44 & 46).

Note. In this particular case the conviction of a Police constable under SS. 238 & 30 (attempt to do grievous harm) by the Court of Criminal Assize was quashed. The charge as laid by the prosecution had been under S. 214 (murder of an escaping prisoner during the period of disturbances). — See CRA. 49/35 (M. II—444), in which case facts related to the killing by a Police officer of a person carrying a shot gun on refusal to give himself up, and the killing was held unjustifiable.

- g. If in a quarrel A. is armed with a knife, and B. with a stick, B. may be justified in protecting himself with his stick; but not if A. is being held by another p. — CRA. 21/39 (L. VI—34).

#### Summary 21.

#### S. 212. MANSLAUGHTER AND ATTEMPTED MANSLAUGHTER.

- S. 213. a. Attempted manslaughter is attempting to cause death by an unlawful act or omission. It is an offence under the law of Palestine, though it is unknown in English Law. — manslaughter in

E. L. having a different meaning. — CRA. 1/39 (P. VI—51); CRA. 163/42 (A. II—685).

- b. Where an information was struck out by a District Court because it should have stated (further) particulars of the 'culpable negligence in the driving of a motor-car', alleged to have been the unlawful act constituting manslaughter, — held, the information was a good one, and the case was remitted for retrial. However, (the Court of Appeal remarked), it is undesirable that any from other than that given in the Schedule to the Cr. Pr. (Trial Upon Inform.) O. should be used. — CRA. 127/40 (P. VII—593; A. II—452). — See CRA. 125/40 (P. VII—567; A. II—415) as to a defective information where the charge was under S. 309.
- c. Where the prosecution omitted to lead evidence to link up the victim's death with the accident in which the accused had been involved, and the Trial Court recalled witnesses to remedy the omission, — held, the Court was entitled to do so, but the Courts should be reluctant to adopt such course to the detriment of the accused. The matter is governed by S. 41, Cr. Pr. (Trial Upon Inform.) O., which is not identical with the English rule. — CRA. 126/41 (P. VIII—478). See also CRA. 16/38 (P. V—142).

#### Summary 22.

#### MURDER.

- S. 214. a. A conviction of murder (as of any offence, apart from certain well-known exceptions) may be on the evidence of a single witness; no corroboration is required. — CRA. 39/43 (P. X—213).
- S. 215. b. Though there is no objection to charge separate offences in several counts, they may be charged all in the same count, with the exception of murder. In cases of murder, more than one murder should not be charged in the same count or in the same information. — CRA. 133/41 (P. VIII—528).
- c. Motive is not always important in a murder case, but it becomes of great importance where it is necessary to consider whether a common enterprise or purpose exists between two co-accused. Where the accused, armed with a rifle, was present with a co-accused where the deceased p. was fired at and killed, the Court of Cr. Assize found: 'We have some doubt whether the accused actually fired.' Held, the Court of Appeal were bound by the finding, and that was tantamount from the point of view



- of the appellant (ag. conviction) to a finding that he did not fire. The Court of Appeal would not of its own motion draw the inference that the accused was brought by the Court below within the purview of S. 23 (b-d); it is for the Court below to give reasonable grounds for the inferences it draws; conviction was quashed. — CRA. 9/42 (P. IX-46).
- d. 'Wilful' does not mean merely non-accidental; applied to acts, it means acts to which the will is a party, and excludes negligent acts except acts done by a person with reckless carelessness, not caring what the results of his carelessness may be. (Knowles v. The King, 46, T. L. R. 276, referred to). — CRA. 14/38 (P. V-129).
  - e. Where a person has been abducted and has, as part of the same transaction been murdered, the charge should be under S. 214 (and not under S. 256 or S. 258). — CRA. 54/41 (P. VIII-205).
  - f. Under the law of Palestine (or of England, for that matter) no special offence of political murder exists.
  - g. Where conviction was based on evidence which included that of a witness whose statements made to the Police, or whose deposition, were not among the documents forwarded to the Trans-Jordan Government on application for the extradition of the appellant prior to his trial. — held, that there was no ground to allow appeal ag. conviction. Extradition Agreement with Trans-Jordan reviewed in this judgment). — CRA. 2/41 (P. VIII-43).
  - h. Whether or no under the Common Law the accused could only be found guilty of manslaughter, where it was proved that he had caused the death of a p. in order to secure escape after the commission of an offence, — a conviction of a murder was proper; and it was quite immaterial that the appellant had no intention to kill, so long as he fired the shot which caused the death, in order to secure his escape.
  - i. If a charge of murder specifically referred to an o. of robbery, and in fact the conclusion that robbery was either committed or attempted would be a condition precedent to a possible conviction of murder, then, in virtue of paragraph 2 of S. 52, Cr. Pr. (Trial Upon Inform.) O., the Court of Crim. Assize could convict of robbery notwithstanding that murder was charged in the information.
  - j. The Court of Criminal Assize has jurisdiction to convict of non-capital offence. That power derives from S. 52, Cr. Pr. (Trial

- Upon Inform.) O., which section is not *ultra vires*, as is apparent from the consideration of Article 41 of the Palestine Order-in-Council.
- k. Recommendations for mercy in regard to the carrying out of death sentences are neither the duty of the Court of Criminal Appeal, nor is it entitled to make them. — CRA. 37/42 (P. IX-207).
  - l. It is reasonable and proper for a Court of Trial to accept as reason for delay in a witness's coming forward to give a statement the fact that the accused was still at large, provided that the witness is believed.
  - m. Before the Court of Appeal will take action upon evidence adduced after trial it must be satisfied (1) that the evidence would not have been available at the trial to the defence, even if it had exercised reasonable diligence, and (2) that the evidence is of such importance that it must have had a pronounced effect upon the mind of the Court below. — CRA. 10/42 (P. IX-49). As to (1) a similar proposition is contained in CRA. 73/39 (P. VII-8; A. 40-9).
  - n. Held, a statement made to Police by a victim of violence one hour and a half after the alleged act of violence, although there had been an opportunity to make an earlier statement to others, can be admissible in certain circumstances (under S. 8 of the Evidence O.) — CRA. 14/38 (P. V-129).
  - o. Where a witness, who had given evidence against the accused, without which evidence the Court of Appeal could not say that a conviction (of murder) could be supported, subsequent to the trial swore an affidavit that the evidence at the trial was false, and confirmed the statement in the affidavit in the Court of Appeal, conviction was quashed. — CRA. 42/42 (P. IX-222).
  - p. Certain photographs, showing the accused dressed in rebel uniform carrying a rifle, and in company with other armed uniformed rebels, were not suggested to have any relevance to the crime charged in the information; but were admitted at trial. Held, photographs were inadmissible (Archbold's Cr. Pleadings, 28th Edn., p. 366, cited as setting out the principle).
  - q. Where evidence was wrongly admitted at trial, in considering whether the mind of a judge (sitting without a jury, as is always the case in Palestine) has been influenced by a certain piece of evidence, it was permissible to look at the subsequent course of the trial.



If it is apparent from a 'careful, exhaustive and detailed judgment' that the Court directed its mind to the principal relevant issue (in this particular case, as to the credibility of witnesses as to identity), and there is no mention in the judgment of the matter of the inadmissible evidence, — the conclusion is that the Court below was not influenced by the matter, and the wrongful admission of the evidence is not fatal to conviction. — CRA. 14/42 (P. IX—63).

r. A medical officer's deposition was read out at the trial, he being then absent from Palestine. Adjournment of the trial, to enable the defence to cross-examine the witness on his return, was refused. On appeal ag. conviction (of murder), the case was remitted to the Court of Trial with a direction under S. 71(1)(b) & (2), Cr. Pr. (Trial Upon Inform). O. to hear the witness and after his cross-examination, to make fuller and additional findings of fact. — CRA. 66/41 (P. VIII—220).

s. (Following R. v. Fitt, 1919, 2, 2 Ir. R. 35) Copland, J.:— 'The law in England and in this country is that a person under the age of 18 cannot be sentenced to death. It is quite clear therefore, that the critical time... is the age at the time of trial'. (Appeal by a p. sentenced to death, who was over the age of 18 yrs. at the time of trial, dismissed). — CRA. 152/42 (A. II—643).

\* As to Legal Insanity in connection with homicide, see Summary 2.

#### Summary 23.

#### PREMEDITATION.

S. 216. a. Copland, J.:— 'The evidence in this case had been said to be entirely circumstantial, but it is for that reason none the less effective... circumstantial evidence, of course, gives rise to inferences to be drawn from the facts that are proved, and... these inferences must point in one direction only, namely to the guilt of the accused person, without any reasonable doubt, or without any other supposition being reasonably possible'. — CRA. 17/38 (P. V—249).

b. The facts of this case were briefly as follows. Two Police constables slept in a tent in an isolated place. Several shots were heard at night from the direction of the tent, followed by the blowing of a whistle. About half an hour later a Police sergeant arrived at the scene and was told by one of the two constables (subsequently charged with murder) that his comrade had been killed during some shooting on the tent from outside.

S. 216(c). The other constable was found dead in the tent. Conviction was under S. 214(b), the Court of Trial holding, inter alia, that the accused, by taking his rifle intending to kill prepared himself to do so. His Lordship (Trusted, C. J.), who sat alone as the Court of Criminal Assize, also said in the course of his judgment: 'In my opinion if a man shoots at another, while that other is asleep, with a rifle, at close range, the Court is entitled to draw the inference that he had resolved to kill...' Appeal ag. conviction was dismissed by a majority, but the dissenting member of the Court of Appeal did not hold in doubt that the appellant had formed a 'resolution to kill' (S. 216(a): the learned judge's dissention being in regard to the other ingredients of 'premeditation' (S. 216(b) & (c)).

S. 216(b). c. Copland, J.:— '...I think that the learned Chief Justice was also correct in his inference that the shooting here was in cold blood. The fact that there was no quarrel, no one else present — no provocation has been alleged by the defence — in the statement of the defendant himself no indication is given of any quarrel — the fact that the man was asleep, the fact that accident has been ruled out as a defence by reason of the number of shots fired and the holes in the tent, from all this I think that the killing was in cold blood... It is not for us to invent theories which have never been suggested or put to us as to what might have happened. We have the defendant's own tale that there was no quarrel'.

Frumkin, J. (dissentiente):— '...The following is the relevant passage of the Court below on this point.' It is clear that if a man shoots at another, while that other is asleep, particularly if no other person is present, the shooting can be in cold blood, without provocation, and in circumstances in which he is also able to think. It is noteworthy that the word used is *can*, and not *must*. I am fully in agreement with the learned Chief Justice that... in many cases, perhaps in most cases, it is so, but not necessarily so. There can also be cases where a person shoots at another while that other is asleep, and yet the shooting was not in cold blood, in circumstances in which he is able to think. Take the instance of A. and B. sharing one bed or one room. A awakens from a bad dream or from imaginary fright of being attacked. He instinctively grasps at a weapon easy at hand, uses it while still half asleep and kills B. who shares his bed or room. I don't say that that is what happened in this case although something similar might have happened. I am only bringing this



illustration to show that there can be a case of a person shooting at another while that other was asleep and the shooting was not in cold blood and in circumstances in which he is able to think. There can be no immediate provocation when a person is asleep, but immediate provocation is not an indispensable element of clause (b). I mean to say that clause (b) cannot be invoked just because there is no provocation. The other elements, cold blood, ability to think, must be proved'.

**S. 216(c). d. Copland, J.:**— '...Now, if the requirements of (a) and (b) of S. 216 are complied with, it must nearly always follow that the requirements of paragraph (c) are also present—not invariably, I agree. With all due respect to the judgment of the learned Chief Justice in the *Scheinzwitz* case (A Jm 20/37), he drew the requirements of the section too rigidly. Resolution combined with cold blood in themselves connote a certain amount of preparation, in most cases. If the other ingredients of paragraphs (a) and (b) are present then usually very little evidence indeed, or inference from evidence is necessary to prove preparation. The paragraph, to my mind, cannot on this view be said to be unnecessary or meaningless. There are cases, few in number possibly, where there may be resolution and cold blood and where there cannot be said to be preparation. I give one example which comes to my mind. 'A' has resolved to kill 'B' at the first opportunity that presents itself to him. By accident 'A' and 'B' find themselves walking along the edge of a cliff, and the opportunity of pushing 'B' over the cliff presents itself to 'A', and he proceeds to do so, and 'B' is killed... I do not think it could be said that it was committed... after preparation. In this case I think that the Trial Court was right in holding that there was preparation; that preparation consisted in taking of the weapon from underneath the mattress, loading it, standing up and pointing it at the deceased, and firing, and also in the deliberate acts of the appellant to stage the appearance of the alleged attack by persons outside. Preparation need not necessarily consist, to my way of thinking, of physical acts only — it may be composed partly of physical acts, partly of intention, and further, preparation, to my way of thinking, could also be proved by acts subsequent to the actual killing'.

**Greene, J.:**— As regards paragraph (c) of S. 216 of the Criminal Code Ordinance, I am satisfied that the trial Court having come to the conclusion that paragraphs (a) and (b) of S. 216 had been proved, and that accused by taking his rifle from under his mattress, loading it and firing it at deceased while he was

lying on his bed, prepared himself to kill the deceased, and that the three ingredients necessary under S. 216... have all been proved'.

**Frumkin, J. (dissentiente):**— '...Strictly speaking, I can hardly conceive a case where a person has resolved to kill and has actually killed in cold blood, and yet was the crime committed without the person having prepared himself... If I am right in this view, clause (c) would appear to be entirely superfluous and of no meaning whatsoever. If we have, however as we are bound to, to attach any meaning to this clause... one must come to the only possible conclusion that while (a) and (b) deal with mental requirements, clause (c) deals with purely material or physical requirements, which must be proved independently of the mental requirements of the previous clauses... If apart from any intention of the accused, there was nothing which, if taken alone, could in itself form a material or physical act of preparation, — the requirements of this clause were not met. It has been suggested that if this were the case a ... person who in the course of his duty is in lawful possession of arms could never be charged under S. 216. I don't think so. There might be many cases where such a person prepares himself for the act of killing other than by taking his arms... But even if it were so, it is a matter to be remedied by the legislature. We have to apply the law as it stands'. — CRA. 17/38 (P. V—249). **Note.** See CRA. 35/37 (L. I—448), in which carrying a rifle was held to be preparation. As to killing 'in cold blood', see AA. 2/30 (M. I—441); bearing in mind that both these cases were decided prior to the enactment of the Criminal Code O. See also CRA. 57/40 (A.—II—442) (knife in lawful possession).

**e. Where there is a quarrel, and at some stage one of the parties runs away, and the other subsequently follows him and kills him, it may be that the requirements of S. 216, Cr. Code Ordinance, are complied with. It is a question of degree, and each case must be taken on its merits.** — CRA. 16/39 (A. I—185).

**f. In dealing with items of evidence, one has to consider the evidence as a whole, and it may be that from a number of minor items in evidence, or from a combination of circumstances, there is sufficient evidence on which to find that one or more of these particular paragraphs have been proved. Note.** The judgment refers to 'these points' and the Official Law Reporter in his headnote refers to certain evidence 'which established the resolution to kill'. Paragraphs (a), (b) and (c) of S. 216 are



undoubtedly referred to in the judgment. — CRA. 98/42 (P. IX—390).

- S. 216(a). g. Seven stab wounds were found in the body of the victim, the majority of them fatal, and the Court of Crim. Assize observed that the resolution to kill was proved by the number and nature of the wounds. Held, without laying it down that such a conclusion was justifiable or otherwise, that in the particular case there were other facts to show the 'resolution to kill'. — CRA. 98/42 (P. IX—390).
- h. Where a woman was attacked in a lonely place and a number of wounds were inflicted, intention to kill her could be properly drawn.
- S. 216(b). i. 'In cold blood' must be read together with 'without immediate provocation' in S. 216(b). — CRA. 57/40 (P. 359; A. II—442).
- j. In a murder case, if the prosecution proves a *prima facie* case of murder, then the burden shifts to the defence to show or prove absence of premeditation or such degree of provocation as will reduce the crime. — CRA. 199/42 (P. X—1).
- k. Where two alternative inferences from proved facts are possible, the Court of Appeal will not draw either inference if the Court of Trial has not done so; but it is not precluded from drawing the only possible inference from the facts, although no specific finding has been made on that point by the Court below (In particular case decided, the 'irresistible inference' was that both premeditation and common design existed). (Distinguished: CRA. 9/42 (P. IX—46) — CRA. 39/43 (P. X—213).

#### Summary 24.

#### S. 218. CAUSING DEATH BY WANT OF PRECAUTION OR BY CARELESSNESS.

See also Summary 20, Homicide.

- a. In the first instance A. was charged with manslaughter (S. 212), he pleaded guilty to causing death by want of precaution contrary to S. 218 which plea was 'accepted' by the prosecution, and the information was amended accordingly. The Court of Trial acquitted on the ground that A. should not have pleaded guilty to a charge under S. 218. Held, where a person pleads guilty to a charge and the prosecution accepts that plea, that ends the matter; it is not for a Court to say that the accused should not have pleaded guilty because he is guilty of a more serious offence, more particularly so when the original charge was a

higher offence but with consent of prosecution it was reduced to a lesser o. In so acting the Court will be taking the part properly belonging to the prosecution, — not its function. — CRA. 21/43 (P. X—132).

#### Summary 25.

#### S. 222.

#### ATTEMPTED MURDER.

- a. Where the trial Court found that there was provocation and that the accused acted in 'hot blood' — conviction of attempted murder could not be upheld; the accused must be convicted of 'doing grievous bodily harm' contra S. 238, — CRA. 33/42 (P. IX—203). — Note: See CRA. 163/42 (A. II—685), in which the charge was under S. 222(a), but conviction under SS. 212 & 29(b) (attempted manslaughter).
- b. Rose, J.:— 'The accused was convicted under S. 222 of attempted murder, and there have been cases in this Court in which it has been laid down that one element of an offence under S. 222 is premeditation. There is no suggestion of premeditation in this case... and the appropriate section under which the accused should be convicted is 250, that is to say, committing an assault occasioning actual bodily harm'.
- c. Dealing with the power of the Court to prohibit convicted ps. from possessing firearms (S. 39, FIREARMS O.), the judgment proceeds:— 'we think that the reasonable interpretation of that section is that it is not limited to the case of a person being convicted of an offence against that particular Ordinance, but it gives a general discretion to the Trial Court to order such prohibition in what they regard as an appropriate case'. (Order of the Court below as to the confiscation of a pistol not interfered with). — CRA. 151/42 (A. II—710). Cf. CRA. 163/42 (A. II—685).
- d. If it is found as a fact that the accused had thrown a bomb and fired a rifle, illegally, the circumstance that the accused was a leader of rebels is a relevant consideration in deciding what sentence should be imposed. (The charge was attempted murder and possession of a firearm and ammunition, contr. to S. 36(2)(a) & (b), FIREARMS O.) — CRA. 20/42 (P. IX—163; A. I—130).

#### Summary 26.

#### S. 235. WOUNDING WITH INTENT TO DO GRIEVOUS HARM.

- a. Accused took part in a quarrel and stones were thrown; in the course of quarrel the accused armed himself with a dagger with



which he stabbed one of the disputants in the back. Held, he could be rightly convicted of wounding with intent to do grievous bodily harm. — CRA. 66/37 (L. I—470).

#### Summary 27.

S. 238.

#### CAUSING GRIEVOUS HARM

- a. It did not appear from the record of the Court below that, after the plea of guilty, evidence as to the nature of the injury to the victim (alleged to have been a permanent injury) has been called. As some doubt arose as to this matter of the injury, not necessarily to be inferred from the plea, on appeal sentence was reduced. — (The rule in *R. v. Forde*, L. T. 128, p. 798, followed). — CRA. 42/40 (P. VII—285; A. I—160).

#### Summary 28.

#### CAUSING INJURY BY NEGLIGENT AND RECKLESS DRIVING.

- S. 243(1). a. The basic charge was under S. 243(1), and a second count under the Road Transport O. (S. 18) & Rules 11(b) & 51(1). There was evidence of (a) high speed, (b) of the man who had been struck having propelled for about 50 metres, and (c) of defective brakes. Held, conviction under S. 243 (negligence) was proper; but if in convicting for negligence (c) was taken into consideration, then it would not be right that the accused should be punished again under the R. T. O. However, where the sentence, on both counts was a light one, there was no reason to suppose that the accused was punished twice for the same o. — CRA. 70/41 (P. VIII—252).
- S. 250. Assault causing actual bodily harm — see Summary 25 b.
- S. 256. Abduction with intent to murder — see Summary 22 e, & d.
- S. 258. Abduction with intent to do grievous harm — see Summary 22 e, & d.

#### Summary 29.

S. 275.

#### STEALING BY CLERKS AND SERVANTS.

- a. The qualification as to the amount stolen to exceed the sum of LP. 50 in S. 275 applies to the whole of the first limb of that section. Where the amount stolen is less than LP. 50, a clerk or servant cannot be convicted under the section (but not so 'officers of a corporation' referred to in the second limb of S. 275). — CRA. 150/37 (P. V—10).
- b. The property stolen was a cheque for the payment of LP. 100, and no evidence was adduced as to the actual value of the

cheque. Held, it could not be considered that it was proved that the value of the property stolen was in excess of LP. 50 (an ingredient of the o.).

S. 276.

- c. Trusted, C. J.:— 'In my view, subject to any further argument..., the object of S. 275... is to increase the liability of a servant. I do not think that it operates to decrease the liability of an agent who also happens to be a servant, who is charged under S. 276'. — CRA. 22/39 (P. VI—313).
- d. The description of the o. in the information merely as 'converting money', and not as 'fraudulently converting', was not a ground for quashing conviction under S. 276(b) because the definition of stealing in the Cr. Code O. imported the element of fraud. — CRA. 2/39 (P. VI—83).
- e. In order to prove a charge under S. 276, it is not necessary to establish that the accused had to hand over the actual monies received on account of the goods sold by him on commission; but it is essential to prove that he had to hand over the equivalent of the monies received. (In re *Bellencontre*, 1891, 2 Q. B., p. 122, followed). — CRA. 33 & 34/39 (P. VI—41).
- f. If a p. has been acquitted under S. 311, he cannot upon the same facts be convicted under S. 276(b). — CRA. 14/41 (P. VIII—69).

#### Summary 30.

S. 285(1).

#### THEFT OF ELECTRICITY.

- a. A co-accused (convicted as well as the appellant) gave evidence to the effect that the appellant was the p. who had tampered with the 'electric metre'. Held, corroboration could not be found in the fact that the tampering could have taken place only by the use of a certain 'seal', coupled with the fact that the appellant had the opportunity of access to the seal. A mere possibility of access is not sufficient to comply with the law regarding corroboration of an accomplice. — CRA. 56/40 (P. VII—329; A. I—241). Cf. CRA. 70/39 (P. VII—6).

#### Summary 31.

S. 287.

#### ROBBERY.

- S. 288(1). a. To secure a conviction under S. 287, violence must be proved. — CRA. 53/38 (A. I—333).
- b. Appellants were convicted mainly, and possibly solely, on extra-judicial confessions (to the Police) subsequently



retracted at trial. Held, convictions were justified. — CRA. 19/38 (P.V—210). (R. v. Sykes, 8 Cr. App. Rep. pp. 236, 237, followed).

- c. Appellant had been seen, immediately after the robbery, 'running away', and was subsequently found with a loaded revolver and a bullet in his pocket. Held, these items of evidence were sufficient to connect him with the crime (and it was unnecessary to enter into the grounds on which the Court below accepted certain evidence of identification). — CRA. 24/41 (P. VIII—125).
- d. Where the Trial Court found it as a fact that robbery was committed on a particular date, shown on the information, of which there was in fact no evidence, but the date was not of the essence of the offence, — no miscarriage of justice has occurred and appeal against conviction was dismissed. — CRA. 35/41 (P. VIII—143) — Cf. CRA. 118/42 (A.II—472). See Summary 17 a.

#### Summary 32.

#### S. 290. DEMANDING PROPERTY BY WRITTEN THREATS.

- a. It is essential that a p., to be convicted, be aware of the contents of the writing, that the letter demand something, and also contain threats in case of non-compliance with the demands.
- b. The writing of the letter by A. at the dictation of B., and its delivery by A. and C. to the addressee is a conspiracy of all the three; the writer is therefore equally guilty with the other two ps. — CRA. 158/37 (P. V—26).
- c. The only evidence ag. the appellant was that of two witnesses to the effect that the letter was in his handwriting. One witness based his opinion on a high degree of probability, and the other was unable to write the language in which the letter was written. The Court below have inspected the letter (and apparently compared it with the appellant's handwriting). Held, it would be dangerous to convict on such evidence, and with such a slender basis before it, no Court should convict on its own conclusions drawn from the perusal of the exhibits. (Conviction quashed.) — CRA. 42/37 (L. I—454).

#### Summary 33.

#### S. 295(a). HOUSEBREAKING AND BURGLARY.

- a. Nobody identified the appellant as the p. who was seen entering (or leaving) the complainant's house, but there was evidence

that he resembled the appellant. Held, the evidence was insufficient to support conviction; even bearing in mind that stolen property was found in appellant's garden (accessible to others as well).

- b. Cross-examination as to the complainant's character is material in such a case (housebreaking), and should have been allowed at trial; indeed, such cross-examination is material in most cases. — CRA. 70/39 (P. VII—6).
- c. Though it is settled by CRA. 19/38 that a conviction may be based on an uncorroborated confession (to a Police constable), certain 'common sense' tests must be applied to such a confession. Where there was nothing to show that the Court below applied their minds to the correct considerations in convicting, and it was difficult on the facts as known to the Court of Appeal to apply the tests, the conviction (under S. 295) could not stand. — CRA. 132/41 (P. VIII—506). — (R. v. Sykes, 1913, 8 Cr. AR., 236—7, followed).

#### Summary 34.

S. 301.

#### FALSE PRETENCES.

- a. The ingredients of the offence are:— (1) There must be a false pretence made by the accused; (2) He must know it to be false; (3) There must be an obtaining of money's worth by means of such false pretence; (4) There must be an intent to defraud. If the prosecution fail to prove each and every one of these, then the accused is entitled to be acquitted. CRA. 15/42 (P. IX—164).

See Summary 38.

#### Summary 35.

S. 309.

#### RECEIVING STOLEN GOODS.

- a. The prosecution must prove (a) that the goods were stolen, (b) that the accused received them, & (c) that he knew that they were stolen. — Where the goods were recently stolen, the accused may be in some circumstances convicted without proof of (b), the principle applying being that enunciated by Reading, L. C. J., in *Isaac Achama v. Jacob Abramovitch*, 11, Cr. App. Rep. p. 49 (quoted in this judgment). The length of time between the theft and the finding of goods, the nature of the property stolen, and whether or not it is likely to pass readily from hand to hand, are relevant matters in such a case. — CRA. 9/39 (P. VI—129).



## Summary 36.

## S. 310. POSSESSION OF STOLEN PROPERTY.

- a. Where a small part of the property alleged to have been stolen was actually found in the possession of the accused (in his shop), and he had denied possession of any such property, the finding of the small part thereof was in law sufficient corroboration of an accomplice's evidence ag. the accused. — CRA. 77/41 (A. I—317).
- b. Under S. 310 the prosecution must prove guilty knowledge. — CRA. 57/43 (P. X—291).  
See Summary 63 c.

## Summary 37.

## S. 311. POSSESSION OF SUSPECTED STOLEN PROPERTY.

- a. There was evidence that the appellant had been suspected by a witness, a Police officer, of selling stolen tea; another witness stated that the kind of tea found in appellant's possession was not available in the open market; and a third witness gave evidence that such tea was used in Army canteens and stored in Army stores. Held, there was sufficient evidence to have reasonable ground for suspecting that the tea was stolen; as possession has been established by evidence, all the necessary elements of the o. were proved. (It would have been open to the appellant to displace by evidence the presumption that the prosecution had raised ag. him, which the appellant failed to do. Conviction upheld). — CRA. 55/42 (A. II—954). — See Summary 29f. — As to defective information under SS. 309, 310 & 311, see CRA. 125/40 (P. VII—567); as to a defective judgment, CRA. 107/40 (P. VII—605).
- b. The fact that goods are proved to be stolen goods does not preclude a conviction for their possession under S. 311. — CRA. 20/43 (not reported).

## Summary 38.

## S. 317. ARSON (and defrauding Insurance Company).

- a. Appellants were charged with arson, and acquitted; then charged with conspiracy to defraud (S. 34) and with obtaining money by false pretences (S. 301) on insurance policies in respect of the premises affected by the fire, and were convicted. On appeal ag. the conviction it was argued that an

acquittal of the former charge was a bar to the subsequent ones. Held, the acquittal did not operate as a bar to the subsequent accusation, — the maximum penalties for the two offences were very different, their natures distinct, as was also the evidence required to support them.

- b. At the second trial a witness said that he deliberately set fire to the premises of the accused, with their knowledge and consent and at their instigation. Held, this evidence was admissible on the ground that it went to show guilty knowledge on the part of the accused (i. e. that they knew that the fire was not accidental). (The weight to be attached to that evidence was a different matter; and the result might have been different had the witness given evidence at the first trial).
- c. Where the claim for money was signed with the knowledge and approval of the accused, and he was conversant with what took place in regard to the claim, it was an invalid defence to argue that he did not sign the claim. Nor was it a valid defence to say that the insurance company (defrauded) was aware of the non-accidental origin of the fire. — CRA. 146/41 (P. IX—33).

## Summary 39.

## S. 333.

## FORGERY.

- a. The mere circumstance that a document, which in other respects is what it purports to be, contains untrue statements of facts does not of itself make the document a forgery. — CRA. 17/42 (P. IX—241).

## S. 337.

Forgery punishable with imprisonment for life — see Summary 41.

## Summary 40.

## S. 340.

## UTTERING FALSE DOCUMENTS.

- a. An accomplice gave evidence which went to show that the appellant had forged the name of another p. as an endorsement on a cheque, and had then given the cheque to the accomplice to dispose of. Held, corroboration of the accomplice's evidence could be found in evidence of witnesses who testified that the endorsement was in the handwriting of the appellant. — CRA. 6/39 (P. VI—117).
- b. Where there is prima facie evidence of the signature on the promissory note not being that of the accused, there is a 'case to answer'; and the Court below should have heard the defence



before forming an opinion as to the intention of the accused. — (This was an appeal ag. acquittal). — CRA. 36/39 (P. VII—267; A. I—155).

#### Summary 41.

S. 344.

#### FORGERY OF A CHEQUE.

- a. Where the appellant was charged with forging the name of another p., with intent to defraud, on a cheque, and was acquitted under S. 337 but the Court below convicted him, in lieu of that charge under S. 344, which latter charge did not appear on the information, — held, the conviction could not be sustained. — CRA. 6/39 (P. VI—116).

#### DIVISION II.

Marginal references are to Sections of Ordinances forming the title of relevant Summaries.

#### Summary 42.

S. 22.

#### ANIMAL DISEASES O.

- a. Held, 'animals or things' occurring in S. 22(2) of the O. includes meat; the proviso in S. 22(3) is limited to subsection 3. — CRA. 17/43 (P. X—119).

#### Summary 43.

#### COMPANIES O.

- S. 36(1) & (8). a. Where the sentence for an o. was a fine 'and LP. 1 per day until the returns are sent in', — the judgment was amended on appeal by striking out the words shown above in inverted commas, as penalty could not be imposed in respect of the future. — CRA. 6/41 (P. VIII—61).  
(Note. The charge was 'failure to submit annual return').

#### Summary 44.

#### CRIMINAL PROCEDURE (EVIDENCE) O.

- S. 4. a. Committal proceedings are 'criminal proceedings before a Magistrate's Court' within the meaning of S. 4 of the O.  
b. A witness who has given false evidence at trial (of another p.) may be committed for trial under S. 4 either before or after the committal of the p. at whose trial he had given evidence. — CRA. 144-5/41 (P. IX—20).

#### Summary 45.

#### CUSTOMS O.

- S. 210(1)(b); S. 227. a. In a prosecution under S. 210(1)(b) when possession of the goods by the accused has been proved, the question arises as to whether they are smuggled goods. S. 227 makes it quite clear that the onus is upon the accused to show that duty has been paid. — CRA. 110/41 (P. VIII—387).

#### Summary 46.

#### DANGEROUS DRUGS O.

- S. 4; S. 7. a. Whether or not a witness is an accomplice is primarily a matter for the Trial Court, so long as a proper test has been applied by it.  
b. Where witnesses had an opportunity to report an o. late at night but actually did so 'first thing next morning', and nothing would have been gained by their doing so at night, and at no time had they a 'guilty mind', — held, the Trial Court was entitled not to consider them as accomplices. — CRA. 124/41 (P. VIII—473).  
(Note. Prosecution was under SS. 4 & 7 of the O.)  
S. 7. S. 17. c. The burden of proving authorised possession of drugs is on the p. seeking to avail himself of this fact, i. e. on the accused, as laid down in S. 17. (CRA. 168/42 (A. II—892), followed).  
d. (Also) held, that the evidence of an alleged accomplice did not require corroboration when he was not a witness for the prosecution. (Followed: R. v. Barnes, 1940, A. E. R., v. 2, p. 229).  
e. The charge of 'possession' may refer either to actual and physical or to constructive possession, which need not be specified in the charge; but particulars of the facts charged must transpire at the trial. — CRA. 85/42 (A. I—391), and see CRA. 11/42 (A. I—81).  
S. 16. f. The provisions as to the right of appeal were not in any way altered on the amendment of S. 16 (by the substitution of 'by a District Court' for 'on information'). — CRA. 168/42 (A. II—892).  
S. 14(b) & (c). g. The fact that a p. is found in possession of hashish in a café is not sufficient corroboration of other evidence that he is concerned in the management of the premises. — CRA. 62/41 (A. I—189).



- h. Held (by a majority) (Gordon-Smith, C. J., dissenting): An offence ag. S. 16(1)(b) is a misdemeanour, whereas an o. contrary to S. 16(1)(a) is a felony; the exercise of the right to select trial by District Court did not alter the nature of the charge, and if the charge was laid under S. 16(1)(b), then the District Court could not pass a sentence exceeding imprisonment for 1 year.
- i. His Lordship's separate judgment expresses a doubt 'as to whether one can apply the terms 'felony' and 'misdemeanour' defined in the Cr. Code and which are not mentioned in the Dangerous Drugs O., which only speaks of offences under this O. (The provision in S. 3(a) of Crim. Code O., 1936, is so worded as to render the matter doubtful). — CRA. 108/42 (A. II—534).
- j. Refer to CRA. 112/42 (A. II—510), CRA. 119/42 (A. II—498), and CRA. 83/42 (A. I—327) as to the tendency of the Court of Appeal to incline to approve of heavy sentences for offences ag. the O. (See Note, p. 229).

## Summary 47.

## EVIDENCE O.

- a. Held, the O. has replaced the provisions of the Mejele regarding evidence; where the O. is defective, Common Law is to be applied. Article 1685 of the Mejele was not revived by the Law of Evidence (Amendment) O., 1936. (English authorities referred to: *Queen v. Griffiths*, 1891, 2 Q. B. D. 145; *The Ydun*, 1899, Probate; *R. v. Beebe*, 41 T. L. R., 635; *Mahadeo v. King*, P. C. A. 79/35; *R. v. Baskerville*, 1916, 2 K. B. 658 — followed). — CRA. 160/37 (P. V—111; L. III—97).
- b. Common Law is applicable with regard to the necessity of corroboration of an accomplice.  
On this subject, and on accomplices generally, see Summaries 4b, 13a, 17b, 17e, 17f, 18a, 22a, 30a, 36a, 40a, 46a, 46c, 46g.
- S. 5(2). c. The evidence of a child given at the trial of her mother for the murder of her (the witness's) father was held to be inadmissible. It would have been admissible only if the charge had been of violence ag. the witness herself. — CRA. 1/34 (M. II—77).
- S. 7. d. Any complaint made to the Police not in the presence of the accused is not evidence unless it falls within the provisions of S.

7 of the O. as being a statement by a p. who is himself a witness. — CRA. 29/40 (P. VII—218).  
See Summaries 22 n, 23 f, 23 a.

## Summary 48.

## S. 9.

## EVIDENCE O. — (S. 9 — Confessions).

- a. Held, (following *R. v. Ibrahim*, A. C. 599. & *Reg. v. Cowell*, All Eng. Rep., 1940, v. 2, p. 599) that admissibility of a confession is eminently a matter with which the Court of Appeal should interfere where the wrong tests have been applied; but not so with regard to the weight to be attached to a confession. (Following CRA. 19/38 & *Reg. v. Thompson*, 1893, 2 Q. B. D., p. 12) if a confession proceeds from remorse and a desire to make reparation, it is admissible; not so, if prompted by hope or fear excited by a 'person in authority'; and the prosecution must show affirmatively that the c. was not made under the influence of an improper inducement. (Following CRA. 91/42) Regard is to be had to the Judges' Rules (Archbold, Cr. Pleadings, p. 406, 28th Ed.) in relation to confessions made to the Police.
- b. Held also, (following *R. v. Van Blerck*, 1919, Digest V. 14, p. 411, No. 4303(m)) that a confession made after a caution by a Police officer, which included the sentence 'you are entitled to give evidence before me or in Court', was inadmissible; as was also a confession made after a Police Inspector said 'you had better tell all about the theft, and it would be better for you'.
- c. Held also, that a confession was inadmissible where it was made after a Police officer had told the prisoner's wife that he was anxious to help the prisoner if he could, but the prisoner had to assist the officer as 'otherwise may be he would go to prison', and the officer's words were communicated to the prisoner. — CRA. 155/42 (A. II — 689).
- d. Statements made to a Police officer before there was time to caution the p. making the statement may be admissible evidence. — Statements made by ps. in custody without the caution having been administered are inadmissible. — Statement to a 'person in authority' as as result of inducement by a person 'not in authority' is admissible. — AA. 13/33 (M. II—17).
- e. Where the accused was confronted with the p. previously accused by him (of murder), and the confrontation was



accompanied by words (spoken by a Police officer) which might imply an invitation to reply, and a confession followed, — held, the confession was inadmissible, — CRA. 91/42 (A. I—376). (CRA. 14/42 (A. I—109) distinguished).

- f. A document containing statements in the nature of confession is not inadmissible by reason of it having come into the possession of Police ag. the writer's will; provided that there is no reason to believe that any improper influence was operating on the mind of the writer at the time of writing the document. But (following *Bullivant v. A. G. for Victoria*, 1901, AC. 196, 70), where the incriminating document had been written for transmission to the writer's advocate, it was inadmissible on the ground of it being a privileged communication. (In this case a document was held wrongly admitted, and as it has influenced the mind of the Court below, conviction was quashed). — CRA. 144/42 (A. II—659).
- g. Even in respect of confession which is unretracted, the Court will consider whether there is sufficient evidence apart from the confession to make it reasonably probable that the confession is in fact true. — CRA. 87/42 (P. IX—388).  
See also Summaries 31c, 33c & 60b.

## Summary 49.

## S. 36(2)(a).

## FIREARMS O.

- a. In a case of possession of unlicensed firearm the prosecution must prove that the accused had no licence, or some admission by him making other proof unnecessary. — CRA. 76/40 (P. VII—437).
- S. 39. Power of Court to prohibit possession of a firearm — see Summary 25c.

## Summary 50.

## S. 4(VI); FOOD AND ESSENTIAL COMMODITIES O.

- S. 5. a. Where appellant admitted ownership of the store where goods were concealed, and the store was a building separate from the appellant's business premises, the guilt was patently clear in a prosecution for concealment of commodities (controlled articles). — CRA. 116/42 (A. II—653). Cf. CRA. 34/42 (L. XI—187).

## Summary 51.

## FORESTS O.

## S. 5(f).

## S. 17(1).

a. The burden of proving that land in a forest reserve is private land lies on the accused. Where he failed to discharge the onus of proof he failed in his appeal (based on the allegation that the land in question was private property; conviction being for digging and turning soil in a forest reserve). — CRA. 182/42 (A. II—935).

## S. 17(9).

b. Where appellants had the right to graze animals on land, that right did not include a right to damage the trees, not a necessary part of the right of grazing. Failure to take proper steps to prevent animals from causing damage to trees amounted to negligently allowing animals to cause damage to trees. It is an o. negligently to allow animals to cause damage to trees, wherever situated, Nobody is entitled to commit an o. in the exercise of a right vested in him. — CRA. 2/43 (P. X—90).

## S. 5(e), (i)

## S. 13.

## S. 17(6).

- c. The use of unassigned pasturage does not create a right under Art. 105 of the Ottoman Land Code. — CRA. 65/40 (P. VII—421).
- d. Certain land has been declared a Forest Reserve under S. 3; the respondents ploughed it, claiming the right to do so as owners thereof. Held, the powers under S. 3 not applying to private property, the onus was on the prosecution to show that the land was properly included in the proclamation declaring it to be a Forest Reserve. — CRA. 136/40 (P. VII—607). (But refer to S. 27 of the O. added by S. 2 of AO. No. 7/1942).

## Summary 52.

## IMMIGRATION O.

- S. 12(3). a. The particulars of the o. were described in the charge sheet: '...at a place off Tel-Aviv coast aided and abetted...' illegal immigration. As to whether, in order to establish that a p. is guilty of 'aiding and abetting' within the meaning of S. 12(3) of the O., it is necessary to show that such aid was actually given within the three mile limit, the judgment reads:— 'Crown Counsel referred in his argument to *R. v. Oliphant*, 1905, 2 K. B. 67 & *R. v. De Marny*, 1907, 1 K. B. 388. These cases are the accepted authorities for the proposition of English Law, which would seem, *mutatis mutandi*, to be applicable, that if a person from a foreign country initiates acts which take effect



in England and are criminal by the Law of England, he is liable to indictment in places in England in which the acts take place... The proposition, however, in our view, does not avail the Attorney-General in the present matter, as under S.12(3) of the Immigration Ordinance, the act of aiding and abetting is specifically prescribed as an offence *per se*, and is therefore only punishable if committed within the territorial limits of Palestine... We would add that, having regard to the language of Lord Halsbury in *Macleod v. A. G. for New South Wales*, 1891 (A. C., p. 458), we are of opinion that if, which we do not suppose to be the case, the legislature had intended the wider construction to be given to the section, it would have been beyond its jurisdiction to have enacted such a law'. — CRA. 63/39 (L. VII—4).

- b. See also CRA. 86/41 (A. II—338); Mdr. 2/40 (A. II—563; A. 41—II—503); CRA. 47/39 (A. II—525); CRA. 24/39 (A. I—324) (forfeiture of a ship); CRA. 51/38 (A. I—367) (being found in Palestine); & CRA. 62/38 (A. I—422) (remaining in Palestine).

**JUVENILE OFFENDERS O.** ('death sentence') — see Summary 22s.  
(‘appeals’ — S. 13) — see Summary 61d.

#### Summary 53.

#### MERCHANDISE MARKS O.; TRADE MARKS O.

- a. Where proceedings under these Os. were brought by private complaint in Magistrate's Court but the defendants elected trial by District Court, held that the private prosecutor could prosecute in the District Court.
- b. Rule 15, District Court (Summary Trials) Rules, is not *ultra vires*.
- c. Attorney-General could appeal ag. a judgment of District Court (exercising summary jurisdiction) notwithstanding the fact that the prosecution had been on ‘private complaint’. — CRA. 9/40 (P. VII—67).

#### Summary 54.

#### POST OFFICE O.

- S. 83. a. Criminal liability arises irrespective of the purpose for which letters have been secreted. Intention ‘to deprive the owner permanently’ need not be present. — CRA. 4/40 (P. VII—29).

#### Summary 55.

#### ROAD TRANSPORT O.

- a. A rule (made under an Ordinance) will be held to be unreasonable, if at all, only in a very extreme case. — CRA. 69/38 (A. II—43).
- S. 18. b. It was held by a District Court that because no penalty has been imposed by a rule made under the O., no offence was committed by infringing the rule (Cr. DC. JM. 61/38). The Court of Appeal upheld that view, as S. 18 did not extend to Rules made under the O. — CRA. 89/38 (P. VI—22).
- S. 3. c. During the currency of a licence to keep a vehicle, fees for that particular class of vehicle were increased, but there was no legislation as to the cancellation of licences already issued. Held, that when a new licence would be required more would have to be paid for it, but it could not be said that the vehicle was at the material time unlicensed. (Rule 77, Road Transport Rules, held inapplicable). — CRA. 141/40 (P. VIII—11).

#### Summary 56.

#### TOBACCO O.

- S. 39(1)(g). a. Where there was no evidence of illegal issue or importation into Palestine of cigarette paper, held, there being no onus on the accused to prove legal issue or importation, a conviction of possession of (contraband tobacco or) cigarette paper could not be supported.
- S. 38. b. SS. 38 & 39 do not imply an offence contrary to S. 39(1)(f)
- S. 39. (dealing in tobacco without a licence). — CRA. 119/40 (A. II—467).

#### Summary 57.

#### TOWN PLANNING O.

- S. 35. a. In order to obtain a conviction under S. 35, it was necessary to prove: (i) that the property in question was within the town planning area, (ii) that there was a town planning scheme lawfully made, (iii) that the provision of the scheme upon which reliance was placed, if challenged, was *intra vires* the O., and (iv) that work had been done for which a permit was required, and that such work had been done otherwise than in accordance with the material provision of the scheme. — CRA. 10/39 (A. I—155; P. VI—180).



- S. 35(2). b. A temporary building permit was granted by a local Town Planning Commission whereupon the holder of the permit erected a building not covered by the Town Planning (Temporary Buildings) Rules. Held, as the fault for issuing the permit not in accordance with by-laws lay with the local T. P. Commission; the holder of the permit had a right to erect a different kind of building but was unable for the present to do so on account of the war restrictions; and as the building erected actually improved the site from the sanitary point of view, and no evidence has been adduced that the private prosecutor was unduly suffering from the breach, — in all these circumstances, the defendant has shown good cause why the building should not be demolished (under S. 35). — CRA. 11/43 (P. X—93). See also CRA. 20/40 (A. I—145) as to demolitions.
- c. Only the person convicted under a provision of this O., or the Attorney-General or his representative, may appeal ag. judgment; none other. — CRA. 128/37 (L. II—157).
- d. In an acquittal under the O. the State is the aggrieved party, and the Attorney-General has the right to appeal. — CRA. 127/41 (P. VIII—488).
- S. 35(8). e. (S. 35(8) interpreted by the Court of Appeal). The meaning and intention of the O. is to include in the word 'order' any penalty imposed by a Magistrate or Municipal Court. — CRA. 76/37 (L. II—39).
- S. 35. f. The charge was 'ploughing and fencing public road' contr. to S. 35. At the trial (in Magistrate's Court) the prosecution relied on a single witness who said that he had visited the land where work was in progress. After closing its case the prosecution was allowed to produce a map to prove points raised by the defence, but no one gave evidence on oath regarding the map. The defence was that the four requirements laid down in CRA. 10/39 (see this summary, a, *supra*) were not proved. On appeal ag. conviction by the Magistrate, the District Court held that there was no evidence to support the conviction and remitted the case for re-trial to the Magistrate. On appeal (by leave) the Court of Cr. Appeal held that where there is no evidence to support the charge the Court should not remit the case for re-trial, but should acquit. — CRA. 44/42 (P. IX—224).

## Summary 58.

## TRADES AND INDUSTRIES (REGULATION) O.

- S. 10. a. Where a Magistrate made an order to close a well and a motor

pump of the accused charged under S. 10, to which charge he had pleaded guilty, without recording either the plea or conviction, — held, that there was an irregularity of procedure necessitating a new trial. — CRA. 12/43 (P. X—77).

- b. The charge was 'carrying on the classified trade of a garage without a licence. Held, if a person uses a workshop for the purpose of repairing his own buses, which he uses for providing means of conveyance to the public, he cannot be held to be carrying on the business or trade of a garage. — CRA. 5/43 (P. X—49).

TRADE MARKS O. — see Summary 53.

## Summary 59.

## TRADING WITH THE ENEMY O.

- S. 4. a. If a person resides in enemy territory, which fact is important and decisive, his political views are immaterial for the purpose of considering him an 'enemy' (S. 4); nor are his motives in doing any act amounting to 'trading' if in fact he attempted to trade with the enemy within the meaning of S. 3(2) (a) (ii).
- S. 3(2) (a) (ii). b. Prior to the promulgation of Defence (Trading With The Enemy) Regulations, 1940, attempt to trade with the enemy was an offence in view of S. 5, Cr. Code O. (definition of 'offence'), and of SS. 28 & 29 of the said O. The specific addition of offence of 'attempting to trade' by the Defence Regulations does not imply that such acts were not punishable, but one effect of the Regulations was to increase the penalty for 'attempts to trade'. — CRA. 1/41 (P. VIII—39).

## Summary 60.

## WAR RISKS INSURANCE O.

- S. 9. a. In interpreting S. 9, so held by the Court of Appeal, one must look at the whole intention of the O.; it does not necessarily follow that, because a word used in the O. has a particular and restricted meaning in regard to real property, such meaning should be attributed to the words 'vested in a person' occurring in S. 9(i) (a).
- b. Where a person voluntarily signed a statement that 'he owned no other goods in any other place', and also stated that he was the owner of the goods on the premises (visited by an inspector)



and in another shop, — held, such a statement was not in any sense a confession, and was admissible. — CRA. 198/42 (P. X-41).

- c. The charge (under the O.) was against X. His grandson appeared and pleaded guilty; he admitted being a member of the firm 'X. and Sons', but the firm was not charged; and X had been dead for years. **Held, proceedings at the Court below were a nullity, and appeal ag. conviction was allowed.** — CRA. 181/42 (A. II-848).

**WIRELESS TELEGRAPHY O.** — see Summary 1.

### DIVISION III. MISCELLANEOUS.

(Procedure; Evidence, etc.)

Summary 61.

### APPEALS.

- a. An appeal by the Attorney-General on the ground that the law was wrongly applied to the facts (S. 67(1), Cr. Pr. (Trial Upon Inform. O.)). **Held, where the judges of the Trial Court could not agree upon the facts, there were no findings of fact made by the Court, and appeal would not lie. If, however, the judges agreed upon the findings of fact but disagreed upon the law as applied to those facts, then an appeal by the A. G. might lie.** — CRA. 57/42 (P. IX-287).
- b. Municipal Tribunals established under Defence (Municipal Tribunals) Regulations, 1941, are not 'Magistrates' Courts' within the meaning of Article 39 of the Palestine Order-in-Council, and no appeal lies from their decisions. — CRA. 147/42 (A. II-647).
- c. The powers of the Court of Criminal Appeal hearing appeals from District Courts in appellate capacity (where points of law of novelty, complexity or general importance arise) are not specifically set out, and therefore extend to a power to remit the case. — CRA. 109/40 (L. IX-31).  
(Note. Such appeals lie under the provisions of S. 12, Magistrates' Courts Jurisdiction O., 1939).
- d. Appeals against a sentence of detention during the High Commissioner's pleasure under S. 13, Juvenile Offenders O., 1937, are not as of right. Application for leave to appeal should be made to the Court of Trial, and if refused, or if not made there, to the Court of Crim. Appeal. — CRA. 90/40 (L. VIII-97).

Summary 62.

### CHARGES; INFORMATION.

#### Alternative Charges.

- a. It is not correct to lay charges in an information or charge sheet alternatively. — CRA. 57/43 (P. X-291). **Note.** But refer to Rule 5 of the Schedule to the Cr. Pr. (Trial Upon Inform.) O.  
**Amendment of Charge by District Court (in Appellate Capacity).**
- b. On appeal ag. conviction by a Magistrate (under S. 273(c), theft from a vessel, etc.) District Court amended the charge (to one under S. 26(1), Cr. Code O.) and convicted. **The main ground of appeal to the Court of Crim. Appeal was that the District Court had no power to amend the charge. Held, as the Magistrate had powers to amend the charge, the District Court, on appeal, had the same powers.** — CRA. 16/43 (P. X-131).  
See Summaries 21b, 22a.

Summary 63.

### EVIDENCE.

- a. Failure to give evidence of arrest of the accused is unsatisfactory practice, but would not preclude the Court of Appeal to confirm a conviction. — CRA. 53/42 (P. IX-219).
- b. Evidence of arrest should include evidence of any statement made by the accused upon arrest. — AA. 14/35 (M. II-461).
- c. Evidence of a 'Subsequent Act' (to show Guilty Mind). Evidence of a criminal act committed by the accused some six weeks after the offence charged (possession of stolen property, S. 310, Cr. C. O., and dealing in military property, Reg. 24A(1), Defence Regulations, 1939) is inadmissible to show guilty mind if the subsequent act is not relevant to the issues tried. (This decision might be different in respect of an act committed prior to the alleged offence). (*Makin v. The A. G. for New South Wales* 1894, A. C. 65, followed). — CRA. 57/43 (P. X-291).  
See Summaries 47 & 48.

Summary 64.

### PERSONS IN CUSTODY.

- a. 'We would like to say... that it is not right and it is not desirable that statements should be taken from persons in custody at late hours of the night'. — CRA. 146/40 (L. IX-69).



## Summary 65.

## POLICE FILES.

- a. The defence are not entitled to inspect the Police file relating to the charge. If, however, a complainant or a witness for the prosecution has made a statement to the Police which is inconsistent with his deposition or evidence, or which goes to support the case for the defence, it would clearly be a denial of justice that the existence or nature of such statement should be withheld from the defence. They are entitled, if they so desire, to have such statement put in evidence and to use it as a ground for cross-examination of the person by whom it was made. "The practice of the Court of Criminal Assize is to allow the defence to see such statements upon application in writing specifying the witnesses whose statements the defence desires to see. We hold that this practice should be observed in District Court also." — CRA. 162/28 (M. I—348).
- b. Where, at a trial for manslaughter, a Police file was handed to a member of the Court, not having been properly produced as evidence, conviction was quashed and the case remitted for retrial (under S.72(1)(c), Cr. Pr. (Trial Upon Inform.) O. — CRA. 66/41 (P. VIII—330).
- c. See also CRA. 172/42 (A. II—846) in which conviction of manslaughter was quashed on the ground that a witness's statement to the Police had not been brought to the knowledge of the Court of Trial.

## Summary 66.

## PLEA TO THE CHARGE.

- a. Where two persons were charged and one pleaded guilty, but after an adjournment withdrew that plea and was allowed by the Court to plead not guilty, on appeal ag. conviction by the other accused his counsel argued that the appellant had been prejudiced by the withdrawal of the original plea to the charge, and that the whole trial was vitiated. Held, the withdrawing of plea is within the discretion of the Court and nothing to do with any other co-accused. — CRA. 44/43 (P. X—283). See Summaries 58a, 60c, 24a.

## Summary 67.

## PLEAS.

## Plea of Demurrer.

- a. Assuming that the English plea of demurrer can be pleaded,

it can only be so upon an admission that the facts stated in the information are true. (Per Trusted, C. J.) — CRA. 22/39 (P. VI—313).

## Summary 68.

## PRELIMINARY ENQUIRY AND DEPOSITIONS.

- a. A preliminary enquiry was held partly in one place, and partly in another. Inasmuch as both places are within the same judicial district (i. e. within the jurisdiction of the same District Court), there is no ground for upsetting the judgment of the Court of Trial. — CRA. 13/41 (P. VIII—68); CRA. 6/39 (P. VI—118).
- b. Depositions are not part of the case unless properly put in evidence. If there is a discrepancy between a deposition and evidence at trial, the discrepancy should be put to the witness in cross-examination, and if the earlier statement is denied, the deposition may be put in evidence. — CRA. 23/40 (P. VII—217).
- c. Where a District Court acquitted a p. committed for trial (for perjury) after hearing the submission that there was no offence disclosed on the depositions, held, that no Court was entitled to try a case on the depositions alone; there was no trial at all in this case. — CRA. 7/40 (P. VII—44).
- d. There is no authority for admitting in evidence on behalf of the prosecution, in proof of facts therein stated, a deposition made by a witness who in Court denies such facts'. — CRA. 101/30 (M. I—509).
- e. Where the warning given by the Magistrate at the Prelim. Enquiry did not inform the accused that he had nothing to hope from any promise, and nothing to fear from any threat, his deposition was held to be inadmissible. — AA.1/34 (M. II—77).  
See Summary 22r.

## Summary 69.

## PREVIOUS CONVICTIONS.

- a. (Appeal ag. conviction of robbery). Held, the Court below was probably influenced by the fact that the appellant had five or six convictions already, for robbery; as it did not appear from the record that these convictions were proved, and no details regarding them were given, the case should go back to the Court below, with direction to hear evidence as to the nature of



these previous convictions, and their dates. (S. 71, Cr. Pr. (Trial Upon Information) O.) — CRA. 52/40 (L. VIII—5).

#### Summary 70.

##### RULES AND REGULATIONS.

- a. It is laid down as a rule of practice that, when a Rule or Regulation forms the basis of a criminal charge, it should be brought to the notice of the Court at some stage of the proceedings (by actual visual production, though it need not be put in as part of evidence). — CRA. 39/43 (P. X—213).  
See Summary 55a & b.

#### Summary 71.

##### SCENES OF CRIME; PLANS.

- a. Such plans should not contain descriptive notes relating to the case, such as 'this is the spot where the murder was committed'. — CRA. 53/38 (A. I—333).

#### Summary 72.

##### SENTENCES.

- a. The question of telling a deliberate lie by the accused is undoubtedly a matter which could not properly be taken into account by the Court when deciding what sentence should be passed. — CRA. 19/43 (P. X—120).
- b. Sentence should not be increased or varied to the prejudice of the accused without his being present and having an opportunity to be heard. — CRA. 80/42 (P. IX—400); CRA. 65/42 (P. IX—316).
- c. Separate sentences should be passed on distinct counts, but may be ordered to run concurrently. — CRA. 132/42 (A. II—982).  
See also Summary 10.

#### Summary 73.

##### STAY OF PROCEEDINGS.

- a. Stay of proceedings is no bar to the filing of a new charge in respect of the same matter. — CRA. 82/42 (P. IX—357).

#### Summary 74.

##### WITNESSES.

Prosecution Witnesses not called to give Evidence.

- a. When witnesses for the prosecution whose names appear on

the back of the information are not called to give evidence for the prosecution, the prosecutor should tender such witnesses at the close of his case, so that the defence may cross-examine them if they so wish. — CRA. 39/43 (P. X—213).

##### Witnesses called by Court.

- b. When a witness is called by the Court, the defence should be given an opportunity to call rebutting evidence. (This proposition appears in the headnote to the judgment and is a necessary inference therefrom, but is not stated in terms in the judgment). — CRA. 68/29 (M. I—418).

##### Witness called at Two Trials.

- c. Several persons were suspected of having committed an offence: some were tried and acquitted, and the rest, who had been at large, surrendered and were tried and convicted after the acquittal of the others. Certain witnesses for the prosecution were disbelieved by the Trial Court at the first trial, but they were called by the prosecution at the second trial. Held, in such a case the Court of Appeal was only concerned with the question whether there was sufficient evidence on the record upon which the Trial Court could reasonably come to the conclusions to which it came. Also held, that the Court below was correct in refusing to allow the putting in of the file of the record of the proceedings and the judgment in the earlier case. (The charge in this case was manslaughter). — CRA. 174/42 (AL. 43—276).  
See Summaries 21c, 22i, 22n, 22o.

#### Summary 75.

##### 'REASONABLE EXCUSE';

##### POSSESSION AND DEALING IN W. D. PROPERTY.

- a. The charge was 'possession of property of the War Department without lawful authority or reasonable excuse' (contr. to Reg. 24 A(I)(d) of Defence Regulations, 1939, as amended). Held, where the defence of reasonable excuse, advanced on behalf of the accused at the trial, has not been dealt with at all by the Trial Court, conviction in a case of this nature could not stand. — CRA. 185/42 (A. II—834).
- b. It is a defence to a charge under Reg. 24A(1) ('dealing in W. D. property') to show that the accused did not know that it was military property. — CRA. 57/43 (P. IX—291).



The first of the two is the fact that the evidence is not sufficient to establish the guilt of the accused. The second is the fact that the evidence is not sufficient to establish the guilt of the accused.

The third of the two is the fact that the evidence is not sufficient to establish the guilt of the accused. The fourth is the fact that the evidence is not sufficient to establish the guilt of the accused.

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## APPENDICES

- APPENDIX I. — NOTES
- APPENDIX II. — EVIDENCE ORDINANCES
- APPENDIX III. — FORMS OF INFORMATION



## APPENDIX I. NOTES.

### A

#### PUNISHMENT AS THE GOAL OF CRIMINAL PROCEEDINGS.

Punishment is the means by which Criminal Courts, and no other Courts, deal with those guilty of violating the law. Proceedings other than those which may culminate in the award of punishment are not criminal proceedings, and it is therefore often said that criminal proceedings are punitive in character, the Criminal Code is styled as a Penal Code, and Criminal Law itself sometimes not inaptly takes the name of Penal Law.

The theory of punishment as a social institution, closely connected with the highly controversial subject as to its nature and purpose, is clearly beyond the scope of this work; but as the subject is of fundamental importance in Criminal Law, it is perhaps not out of place to indicate in the merest outline the most important conceptions involved.

Professor Vinogradoff, dealing with punishment in his 'Commonsense in Law' (pp. 243—4), details the theories put forth in these words: 'Is it a measure of amputation (Plato)? Is it a measure of educational discipline (Aristotle)? Is it principally a deterrent (Bentham)? Is it a necessary moral atonement (Kant)? Is it a measure of medical treatment (Lombroso)?'

And that distinguished exponent of the science of Jurisprudence, Professor A. L. Goodhart, comments on this survey: '... We cannot... accept any one of these doctrines and reject the others because, as Liszt, the famous German criminologist, has pointed out, **punishment is a means towards an end, that end being to counteract criminality.** As that end can be achieved by a number of different methods the problem is to choose the particular method which will best fit each particular case... The criminal's reformation is one element, but not the only one, in fixing the punishment. We must also consider the feelings of the victim of the crime... Nor must we forget the interests of the state itself'. (Essays in Jurisprudence and the Common Law, pp. 44—5).

It remains, to remove any possible ambiguity, to comment, with even greater brevity, on the word 'criminality'. It must be taken to mean 'a tendency to commit crimes', — and 'crimes' are 'those wrongful acts which the State punishes in the interests of the community at large' (Odgers, *The Common Law of England*, vol. i, p. 102). 'All crime is a falling-off from a social ideal, and the State, in formulating and imposing a Criminal Law, creates and enforces, as it were, a list of social judgments upon the gravity of the failure to reach the ideal' (F. M. Goadby, *Commentary on Egyptian Criminal Law*, p. 21).

### B

#### REMISSION OF PUNISHMENTS AND THE POWER OF PARDON.

Punishments for criminal offences can be remitted only by the State, and herein lies the 'real and salient difference between civil and criminal proceedings' (Prof. Kenny, *Outlines of Criminal Law*, XII Ed., p. 14).

The matter is governed in Palestine by **Article 16 of the Palestine Order in Council, 1922**, which reads:—

'When any crime or offence has been committed within Palestine, or for which the offender may be tried therein, the High Commissioner may, as he shall see occasion, grant a pardon to any accomplice in such crime or offence who shall give such information and evidence as shall lead to the conviction of the principal offender or of any such offenders if more than one; and further may grant to any offender convicted of any crime or offence in any court or before any Judge, or Magistrate, within Palestine a pardon, either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution of such sentence, for such period as the High Commissioner thinks fit, and may, as he shall see occasion, remit any fines, penalties or forfeitures which may accrue or become payable in virtue of the judgment of any Court or Magistrate in Palestine'.

With regard to the power of the High Commissioner to grant pardon in capital cases, it is laid down in Paragraph XXVIII of the Royal Instructions (dated 1st January, 1932; *Laws of Palestine*, vol. III, p. 1668), that a written report on the case by the Judge who presided at the trial at the conclusion of which a death sentence has been passed shall be called for by His Excellency, which report shall be taken into consideration at the first meeting thereafter which may be conveniently held of the Executive Council; and —

'The High Commissioner shall not pardon or reprieve any such offender unless it shall appear to him expedient to do so, upon receiving the advice of the Executive Council thereon; but in all such cases he is to decide either to extend or to withhold a pardon or reprieve, according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering, nevertheless on the Minutes of the Executive Council a minute of his reasons at length in case he should decide any such question in opposition to the judgment of the majority of the Members thereof. (Royal Instruction XXVIII).

### C

#### THE MENTAL ELEMENT IN OFFENCES.

It will be observed from the definition of offences in the Palestine Criminal Code, and other legislation, that in many cases some particular state



of mind forms a part of the definition — 'knowingly and advisedly' (S. 57(1)), 'negligently' (S. 57(2)), 'knowing and having reason to believe...' (S. 62), 'with intent to...' (S. 68), 'wilfully and by fraud' (S. 180), 'with premeditation' (S. 214(b)), 'in a manner so rash or negligent...' (S. 243), etc.; whereas in numerous other instances there is no mention of such mental element of the offence.

With regard to the latter class of offences, it must not be assumed that a 'guilty mind' is not a prerequisite of criminal responsibility; and, on the other hand, at the present stage of development of Criminal Law it would be rash to assert that an act or omission can never constitute a criminal offence unless it is accompanied by some 'mens rea', i.e. some guilty condition of mind ('Actus non facit reum, nisi mens sit rea' — *Chisholm v. Doulton*, 22 Q. B. D., p. 739, a maxim some eight hundred years old). In deciding whether, and to what extent, a mental element enters as a constituent into any offence, recourse must be often had to a long string of English judicial decisions. This, incidentally, is in itself sufficient to demonstrate to the student of the Criminal Law of Palestine how important for him is a knowledge of English Law.

Without digressing into a survey of the gradual change in the law regarding 'mens rea', and urging a careful consideration of this aspect in each type of crime, one may without impropriety sum up the whole matter in the words of Sir John Salmond (*Jurisprudence*, p. 391):— '... in respect of the requirements of mens rea wrongs are of three kinds: (1) Intentional or Wilful Wrongs, in which the 'mens rea' amounts to intention, purpose or design. (2) Wrongs of Negligence, in which the mens rea assumes the less serious form of mere carelessness, as opposed to wrongful intent. (3) Wrongs of Absolute Liability, in which the mens rea is not required, neither wrongful intent nor culpable negligence being recognised as a necessary condition of responsibility'.

It is the last mentioned class which requires some further comment. 'There is a presumption that mens rea, an evil intention, or a knowledge of the wrongfulness of the act, is an ingredient in every offence; but that presumption is liable to be displaced either by the words of the statute creating the offence, or by the subject-matter with which it deals, and both must be considered: *Nichols v. Hall* (Law Rep. 8 C. P. 322) ... Apart from the isolated and extreme cases..., the principal classes of exceptions may perhaps be reduced to three. One is a class of acts which, in the language of Lush, J., in *Davies v. Harvey* (Law Rep. 9 Q. B. 433) are not criminal in any real sense, but are acts which in public interest are prohibited under a penalty ... Another class comprehends some, and perhaps all, public nuisance: *Reg. v. Stevens* (Law Rep. 1, Q. B. 702) ... Lastly, there may be cases in which, although the proceeding is criminal in form, it is really only a summary mode of enforcing a civil right...' (*Wright, J. in Sherras v. De Rutzen*, L. R. 1 Q. B. D. 918; *Kenny's Cases on Criminal Law*, pp. 34–5).

It is perhaps helpful to suggest as a general rule (to which there may be exceptions), that wrongs which, independently of the law, are condemned by the moral sense of the community, or 'wrongs in themselves' (*mala in se*), such as murder, theft, forgery, arson, always imply a mens rea. Whereas those which derive their wrongful character from the law only, 'wrongs prohibited' (*mala prohibita*), such as driving a motor-car on the left hand side of the road in Palestine, or on the right in England, — are the only ones which may, and usually do, give rise to 'absolute liability'.

(The definitions of *mala in se* and *mala prohibita* have been adopted from Mr. Goadby's 'Commentary' above referred to, p. 3.

As to Public Nuisances, see Note J).

## D

### TREASON.

'Levying War'. — This expression has been obviously transplanted from the Treason Act, 1351, and it may be regarded as settled that it means (a) 'insurrection, accompanied by (b) display or the use of force, and (c) aiming at some object of a general nature. (*R. v. Frost*, 9 C. & P., p. 160); *R. v. Gordon*, 2 Dougl. 519; *R. v. Dammarree*, 15 St. Tr. 54, 605).

Thus, it would not amount to treason to endeavour to liberate prisoners detained in a particular gaol, even though this be done by use of violence by a great number of armed persons. Such act would be a riot; but if the object of the rioters, not necessarily very numerous, were of a more comprehensive character, for example the demolition of all prisons in the country, or the repeal of some Ordinance, the offence would amount to 'levying war', i.e. it would be treason.

The outstanding characteristic of treason is breach of allegiance to the King, — and in Palestine, to the Government of Palestine, which functions in the name of His Majesty.

## E

### PIRACY.

The offence is not defined in the Palestine Code. It has been described as 'robbery committed on the high seas' (Odgers) and is treated by some authors, in common with robbery, as an offence against the person (Odgers), and by others as an offence ag. property (Harris). The Palestine Code, however, regards it as one of the few 'offences affecting relations with foreign states and external tranquillity'.

Piracy can be committed either by sailors of a ship's crew or by marauders from outside it; and it must be perpetrated for private gain or other private purpose. Violence is, as in robbery, of the essence of the offence.



Section 78 of the Crim. Code O. also includes 'any crimes connected with or relating or akin to piracy'. Rendering assistance to a pirate may be mentioned as an offence connected with piracy, and 'boarding a merchant ship and destroying her goods' is as good an example of a crime akin to piracy as can be suggested.

## F

### RIOT; UNLAWFUL ASSEMBLY.

It is an ingredient of 'Riot' in English Law that rioters should intend to help one another, by force if necessary, against any person who may oppose them. As this is not expressly laid down by S. 79(3) of the Criminal Code O., it is apparently not an essential element of the offence in Palestine; but this matter awaits a judicial decision. In other respects, English precedents apply.

Persons may innocently assemble for the execution of some lawful purpose although they know that other hostile persons are likely to cause a breach of the peace. Provided that their own conduct is not aggressive or unreasonably provocative, the assembly is not unlawful in such circumstances. The leading English case is *Beatty v. Gillbanks* (9 Q. B. D., 308) — a procession was held not to be unlawful although its organisers knew that in the past a hostile organisation had shown physical opposition to a similar procession.

But the provisions of Sections 34 and 35 and 35 A & B of the Police Ordinance must not be overlooked (see p. 189).

## G

### DEFAMATION.

**Qualified Privilege.** S. 207 refers to examples of publication of defamatory matter falling within the rule as to qualified privilege; but there are a good many other cases within the protection of this rule.

**Publication without knowledge, or authority, or accidentally.**

Every person who publishes a libel is guilty notwithstanding the fact that he is not the originator of the publication. Thus, a newsboy who sells a paper containing libellous matter (to at least two persons) can be charged with publishing a libel. But if he can prove ignorance of there being any such matter in the newspaper and, further, that his ignorance was not due to negligence, he has a good defence to the charge.

Defamation is one of the offences in which the mental element (*mens rea*) plays an important part. 'Intent to defame' is a constituent of both libel and slander. Although it is true that an improper motive in publication is presumed to exist, it is nevertheless open to a defendant to disprove its existence, — and one obvious way of doing it is to show ignorance of publishing a libel,

provided of course, that in the particular circumstances of the case such ignorance is reasonable, as it might well be in the case of the newsboy alluded to.

Similarly, definite proof that the person in whose name a libel is published, such as a proprietor of newspaper, had not authorised its publication by his servants, will also provide a defence.

It is less safe to rely on the defence of accidental publication; for improper motive (*malice*) is presumed.

**Publication.** Each publication constitutes a fresh offence. Thus, it was held that the sale of a newspaper printed seventeen years prior to the sale was a new publication of the libel contained in the paper (*Duke of Brunswick v. Harmer*, 14, Q. B. 183).

Apparently, in view of the language of section 202(2) of the Crim. Code O., a person who repeats the same slander to groups of two or more persons commits as many offences as the number of times the slander has been repeated; but the person who communicates the same calumnious matter to two persons not assembled together, commits only one offence; and, finally, if he tells different defamatory 'stories' regarding the same person he apparently commits no offence if each story has been related to a single person, irrespective of the number of 'stories' so told. Yet this latter proposition is by no means certain and its validity would depend on the judicial interpretation of the words 'any defamatory matter' in SS. 201 & 202.

## H

### EVIDENCE IN PERJURY.

It is a rule of Common Law (embodied in Section 13 of the *Perjury Act, 1913*) no doubt applicable in Palestine, that no person can be convicted of perjury (or of subornation of perjury) solely upon the evidence of the witness as to the falsity of any statement alleged to be false. That means that either at least two witnesses must be produced as to the falsity of the material statement, or a single witness on that point must be substantially corroborated by proof of other material and relevant facts. Thus, it may be possible to obtain a conviction by proving (a) that an accused has on another occasion made a statement contradicting his testimony, and (b) facts tending to show that such other statement was in fact true (*R. v. Hook*, D. & B. 606), but proof of (a) alone would not suffice.

## I

### JUDICIAL IMMUNITY.

It is a moot question not devoid of certain importance, whether section 16 of the Crim. Code O. affords the same protection to all judicial officers without any qualification. If the English rule applies, as it may be argued to, a distinction is to be drawn between judges of superior courts (i. e. those 'above'



a magistrate's court) and magistrates. The latter would be protected only in respect of acts committed within their jurisdiction; this qualification does not apply to judges of the superior courts.

## J

## NUISANCES.

The definition of Common Nuisance bears undisguisable signs of its adoption from the Common Law.

It is probable that section 189 of the Criminal Code O. should be regarded as being of 'residuary' nature, many forms of 'nuisance' having been declared offences against various other sections (e. g. SS. 163, 191, etc.). In this respect S. 189 is comparable to section 142 (disobedience to a statutory duty). Yet, it is nevertheless desirable to indicate what would appear to be the legitimate scope of its application.

Common (or public) Nuisance has been described as 'any unlawful act or omission to discharge a legal duty which **without any direct physical contact or interference** endangers the lives, safety, health, comfort or property of any portion of the public, outrages public decency, or obstructs the public exercise or enjoyment of any common right' (Odgers, vol. I, p. 239).

In prosecutions for common nuisance it is necessary to prove (i) its existence, and (ii) that it arose or was tolerated by the defendant's act or omission. It is not necessary to prove any intent or negligence on his part.

**Defences.** (a) Proof that a given state of things alleged to constitute a nuisance has existed for a very long time may be some evidence that it is not a nuisance.

(b) It is a complete defence to prove that an alleged nuisance is committed in the reasonable exercise of defendant's right.

(c) It is also good defence that every person adversely affected by the alleged nuisance could avoid all harm by practising moderate and reasonable caution (but not a higher degree of care).

To the student of Criminal Law, public nuisance is of interest in that by the Common Law it cannot be pardoned by the Crown (the State) whilst unabated.

## K

## JUSTIFIABLE HOMICIDE.

Homicide is **justifiable** in the following cases:—

(1) When it is inflicted in the execution of a lawful sentence by a person lawfully appointed to perform this duty, and in the manner prescribed by law.

(2) In the course of suppressing a riot, if that be indispensable for that purpose and the person committing homicide is either a public officer authorised to disperse rioters or lawfully acts in aid of such public servant (SS. 82 & 83, Crim. Code O., see pp. 15—16).

(3) Probably also, where death is inflicted by a Police officer on a person whom he lawfully attempts to arrest for treason or a felony, and no more force is used in effecting the arrest than is necessary.

(4) Where death is inflicted in **self-defence**, or in the defence of another person, against a dangerous assault which is likely to result in the death of the person attacked.

There is no explicit provision in Palestine law as regards cases (3) and (4), but it would appear that the well-established English rules would be followed in Palestine in this regard. The subject must be treated with the greatest caution, — until a comprehensive and authoritative judicial decision will render the matter abundantly clear and certain. For that reason certain other cases of homicide by persons other than Police officers, justifiable in England, have not been included in the list given above as some doubt exists as to their applicability in Palestine.

(5) In view of the language of S. 19(b) of the Crim. Code O. (see p. 15) it is perhaps proper to consider under the head of justifiable homicide the killing of an enemy in war. The English definition of a person the causing of whose death amounts to homicide as 'a reasonable creature in being under the King's peace' places such slaying of an enemy outside the law of criminal homicide; but in Palestine criminal homicide is simply 'causing the death of a human being'.

## L

## EXCUSABLE HOMICIDE.

Homicide is said to be 'excusable' when caused quite unintentionally by a lawful act done with proper care. An example of such homicide is an operation, performed with due care by a qualified and skilled surgeon, which results in the death of the person operated upon. Or a pilot, or driver of a motor car, may be said to commit innocent (excusable) homicide of his passengers if, in spite of care taken by him, a fatal accident occurs on account of some undetected defect in the engine or due to some other cause which cannot be properly viewed as being entirely outside the pilot's, or the driver's, control and which with the exercise of a still greater degree of care might have been removed. Cases of excusable homicide are often near the border line separating innocent homicide from misdemeanour under S. 218 of the Crim. Code Ordinance.

In English Law one particular case of killing in self-defence, on a suddenly arising quarrel (chance medley) is also regarded as excusable. The kind of



self-defence that will deprive homicide of its criminal character is, however, very strictly limited to employment of force absolutely necessary to repel the attack. Here the causing of death is near the border line with manslaughter.

The practical consequences are the same in excusable and in justifiable homicide, but it is nevertheless desirable to stress the distinction between the two kinds as tending to indicate that justifiable homicide is commendable in the interests of the community and in advancement of public justice, whereas excusable homicide is not punishable only in view of circumstances which render the imposition of a penalty inequitable.

It is to be observed, in passing, that no degree of necessity, even for the preservation of one's life, will justify or excuse the taking of the life of another if that other person does not commit any unlawful and dangerous act calling for self-defence. This must be regarded as settled since the famous decision in *Reg. v. Dudley & Stephens* (1884, 'The Mignonette', — 14 Q.B.D. 281) in which Lord Coleridge, C. J., observed: 'to preserve one's life is generally speaking a duty, but it may be the plainest and highest duty to sacrifice it...' Warburton's *Leading Cases in Criminal Law*, Vth Edn., p. 176).

## M

### MURDER.

With the exception of parricide (S.214(a)), and murder in connection with the commission of an offence (S.214(c) & (d)), it is an element of the felony of murder that it is committed with premeditation (S.214(b)). Premeditation can be analysed (S.216) as consisting of — (a) resolution to kill, (and) (b1) killing in cold blood, (and) (b2) in circumstances in which the accused was able to think and realise the result of his actions, (and) (b3) without immediate provocation, and after (c) a preparation to kill.

These elements of premeditation have been dealt with rather comprehensively in several judgments of the Supreme Court, vide Summary 23 p. 248, but a few observations may serve a useful purpose.

(a) A resolution to kill 'the next man I meet' may be regarded as a resolution to kill a particular person and thus within the definition of S.216(a). But it is not so certain that this is the case with regard to a resolution such as to kill any person who belongs to a certain society, or lives in a certain house, or holds certain views.

(b3) 'Without immediate provocation' should be interpreted in the light of numerous English decisions bearing on the point. Attention is particularly directed to *Mancini v. Director of Public Prosecutions*, 1941, 28 Cr. App. R., 65) in which the judgment of Lord Sankey, L. C., in *Woolmington v. Director of Public Prosecutions* (1935, 104, L. J.K.B. 433; A. C. 462) is explained. Provocation which reduces murder to manslaughter must not only

be immediate, but also 'sufficient', and by 'sufficient' must be understood provocation sufficient to deprive a reasonable man of his self-control, and not merely a particular defendant of his self-control. No general rule can be propounded, but it seems to be well established that whenever the provoked unlawful act is of unusual duration or cruelty, or the weapon used for its commission is a deadly one, only an exceptionally high degree of provocation would reduce homicide from murder to a less culpable category.

Secondly, the interval between the provocation and the subsequent unlawful act must be very brief, as an average man given a 'cooling time' is supposed to be able to regain his self-control, and failure to do so is attributable to a deliberate decision to take revenge rather than to a temporary mental aberration caused by the provocation.

(c) Preparation. Refer to the judgments set out in Summary 23d, p. 250. On the question whether 'preparation' refers to a 'mental process' or exclusively to physical acts, the observation is not out of place that 'resolution' is not exhaustive of all the mental processes that must intervene between the fixing of a person's mind on unlawful killing and the execution of such design. It is suggested that a resolution to kill may be quite independent of the consideration of the means of carrying it out. 'I hate X, I want to kill him, I will kill him' — this manner of thinking clearly amounts to a fully formed resolution to kill X, which falls within the terms of S.216(a). The would-be murderer next gives his thought to the question how he proposes to give effect to that resolution.

The further consideration of the means may be 'preparation' within the meaning of S.216(c). It could not be said, then, that sub-section (c) is meaningless if it is construed to refer to any but physical acts of preparation.

Consider the following example. A would-be murderer is a 'superstitious' man and after having resolved to kill X, he prays to be forgiven for the contemplated murder (so far only conceived in his mind). Having 'fortified' himself with prayer (which need not express itself in any physical act) he actually commits the murder. For the present purpose it is immaterial what physical act or acts are done to commit the murder. If, in a supposititious case, such person be prosecuted for the murder of X, and the prosecution would be unable to prove any acts of physical preparation, but could prove, possibly by a confession, the resolution and mental preparation ('by prayer'), and also the actual killing, then, it is submitted, the accused ought to be found guilty.

## N

### MANSLAUGHTER.

This felony under the Law of Palestine includes 'voluntary manslaughter' in English Law ('killing under provocation') and many types of killing which



are murder in English Law; and furthermore all forms of 'involuntary manslaughter' (with the exception of those cases where death is caused by want of precaution or carelessness not amounting to culpable negligence which are punishable under S. 218 of the Cr. Code Ord.)

## O

## ATTEMPTED MURDER.

There seems to be no substantial difference between Sec. 222 (Attempted murder) and Section 223 (Attempted murder by a convict). In the draft Code of 1933 section 223 prescribed flogging in addition to imprisonment for life. With the deletion of the provision as to flogging in the Criminal Code Ordinance (as promulgated) the 'raison d'être' of S. 223 has apparently disappeared.

Flogging is not one of the punishments which can be inflicted by a Court on an adult, but it is lawful under the Juvenile Offenders Ordinance.

## P

## WRITTEN THREATS TO KILL.

The wording of S. 224 of the Crim. Code Ordinance suggests that the writing containing the threat need not be received by the person whose life is threatened. Thus if A. sends a letter to B. threatening to kill C., A. would appear to be liable to punishment under S. 224, notwithstanding that C. may know nothing of the matter.

Incidentally, the maximum penalty for written threats to kill a human being is imprisonment for seven years; but for such threats to kill, or even only to injure, any cattle, S. 331 prescribes imprisonment for ten years.

## Q

## ASSAULTS.

An assault implies actual contact of the 'force applied' with the body of (or the clothes worn by) the person assaulted and 'an attempt, offer, or threat to use unlawful force to another' (i. e. an assault within the meaning of English Law) is an attempt to commit assault under the Palestine Law. 'Battery' is an offence unknown to the Palestine Law under that name, but is in effect 'common assault' under S. 249 of the Crim. Code Ordinance.

It is by no means a part of the definition of assault that either personal discomfort or injury should be occasioned.

**Defences.** (1) The act was excusable as being unintentional (accidental or unavoidable).

(2) It was done with the consent of the person assaulted.

(3) The act was 'justifiable' or excusable.

As regards (2), consent implies something more than mere non-resistance; and must be genuine, — not obtained by threats, coercion or fraud. Furthermore, consent to an illegal act is no defence.

As regards (3), assault may be justifiable if committed in self-defence, or in defence of others to whom the person committing it is expected to extend his protection (wife, child, parent, servant). But the assault must not be in excess of what is strictly necessary for self-defence.

Similarly, acts otherwise amounting to assault are justifiable if committed in defence of one's property, and are not unreasonable 'in the circumstances'.

Acts done in the execution of legal duty (e. g. in effecting a lawful arrest), and moderate and lawful correction of a child, are not assaults. Excessive punishment with dangerous instruments, or by an unauthorised person, is an assault.

## R

## FALSE IMPRISONMENT.

This offence is committed if total restraint of the victim's liberty is effected, though it is only of a very brief duration.

A person may be guilty of this offence if he invokes the services of a third person (e. g. of a police constable) in such a way that the responsibility for the act of restraining the victim's liberty remains entirely his. If, for instance, X. tells a constable 'arrest Y., I saw him commit a murder', the responsibility for Y's arrest by the constable, pending an enquiry, is entirely X's.

## S

## STEALING.

'Carrying Away'. The removal of a thing is sufficient to constitute the 'carrying away' ('asportation' of the Common Law) if it is moved ever so slightly, provided that every part of the thing moved has changed its original position.

It has been held (in England) that there had been sufficient asportation to support a charge of stealing when a letter carrier transferred a letter from his pouch to his pocket (*R. v. Poynton*, L. & C., 247, L. J. M. C. 29); and where a person partially drew a book out of the pocket of another person but let it fall back again on having been detected (*R. v. Thompson*, 1 Mood 78); and where the thief intending to steal a cask of wine from a waggon



moved it from one end of the waggon to another, but was detected before he could even remove it from the waggon (*R. v. Walsh*, 1 Mood, 14).

On the other hand, there is no asportation if the thief succeeds to take a watch out of another person's pocket, if the watch remains attached to that person's waistcoat by a chain; or where he merely turns over an article in the place where it originally lay.

Where there is no asportation, there may still be the liability for an attempt to steal.

#### Things capable of being stolen.

i. **The value.** This need not amount to that of the smallest coin, i. e. it may be worth less than one mil; and it need not be of any value to any person except its owner. There is no need to set out the value of the thing stolen in the charge (except in charges under SS. 273(b), 274, 275 & 277, C. C. O.).

ii. **The thing stolen** need not be the property of the person from whom it is 'taken and carried away'.

A thing intentionally abandoned by the owner is no one's property, and therefore cannot be stolen (by finding, or otherwise).

iii. **'Fraudulently and without a claim of right.'** Honest belief on the part of the person 'taking' a thing that it belongs to him, or that he has a right to take it, deprives the act of taking and carrying away of the character of stealing. This is so even if the taker's belief is based on a mistake of law (*R. v. Hall*, 3 C. & 409).

iv. **'Intent permanently to deprive the owner.'** If the intent is to deprive the owner of the thing only temporarily, the taking does not constitute stealing. So if X. takes Y's motor car 'for a ride', and then abandons it in a place where Y. is likely to find it easily, X. is not guilty of the theft.

The intent must be present at the time of taking the thing. But if the taking is in some way wrongful, though not done with intent to deprive the owner of the thing taken, and the 'taker' decided at some time subsequent to the taking to dispose of the thing, this intention by a fiction of law 'relates back' to the time of the taking, and the act of taking becomes stealing.

If, however, the taking of the thing was not in any way unlawful, then subsequent intention permanently to deprive the owner thereof does not make it stealing. The only exception to the rule is the case of bailees and part-owners.

**Theft of Gas.** 'Theft' of running water, and of electricity, fall under S. 285; but theft of gas should be dealt with under S. 270 (and S. 278(1)).

### T

#### EMBEZZLEMENT.

It is convenient to refer to the offence of unlawful appropriation by a

clerk or servant of a thing which comes into his possession on account of his employer (S. 275, first limb), as embezzlement.

Generally, a clerk or a servant is an employee under the control of his master whose orders he is bound to obey and for whom he is bound to perform certain services. Thus, it is important to distinguish between servants and agents, although a servant may often be his master's agent as well. Agents are not within the scope of S. 275; but it is to be borne in mind that no satisfactory and universal test of whether a person is or is not a servant has been evolved.

### U

#### FALSE PRETENCES.

The definition of false pretence includes representations made by conduct. Thus, if a man purchases goods and tenders a cheque for LP. 5 in payment for the goods, this act amounts to a representation that the cheque will be honoured by his bankers (*R. v. Hazelton*, 44, L. J. N. C. 11). But it was held (in *R. v. Johns*, 1898, 1 Q. B. 11) that a person having no money who ordered a meal in a restaurant without any intention of paying for it could not be convicted of obtaining by false pretences, — because his conduct did not amount to representation that he could and intended to pay for the meal.

As to representations made by words, it should be noted that the words used by the defendant need not directly express a representation, — it will suffice if they merely implied, and were both meant by the defendant and understood by the person to whom they were addressed, as implying such a representation (*Reg. v. Cooper*, 1877, L. R. 2 Q. B. D. 510).

The representation must be one of a matter of fact, past or present. Mere expressions of opinion and other methods of influencing the mind of others, such as praising one's goods, etc., which do not amount to an assertion of a fact, are not 'representations'.

A statement promising to do some act in future is not a pretence within the meaning of S. 301, unless it definitely implies the ability to do the act promised at the time of making the statement. Thus, if a person states that he is prepared to pay LP. 100, and on the strength of this statement obtains some property from another, he may be convicted of obtaining by false pretences, because his statement implies not only a promise to pay a hundred pounds, but also the ability to do so at the time of making the statement (*R. v. Gordon*, 23, Q. B. D., 354).

The pretence, further, must be false and be known to be false or not believed to be true by the defendant. It is at once apparent that difficulties are likely to arise in connection with proving this element of the



offence. Although every detail of the representation made need not be untrue to make the representation false, the defendant's knowledge that it is false or absence of belief in its truth must be proved beyond reasonable doubt by the prosecution (*R. v. Dunleavy*, Cr. App. R. 240), (often by circumstantial evidence).

The representation, further, must be made to the person who is defrauded; and must be the cause of his parting with the property.

If X. makes a false representation to Y. in the belief that it will be repeated to Z., X. cannot be charged under S. 300 even if he succeeds in obtaining the goods from Z. (*R. v. Robinson*, 1915, 2 K.B. 342). But if a representation was made to all and every one (by an advertisement in a newspaper or in some similar manner), and Z. happens to act on such representation, and the pretence by X. was made with intent to defraud (though not necessarily Z.), — X. is guilty of obtaining, or attempting to obtain, goods by false pretences. In such a case the pretence is addressed directly to the person acting upon it, and not to a third party (*R. v. Silverlock*, 1894, 2 Q.B., 66).

The only case in which a representation made to a third party may support a charge of obtaining by false pretences is where the 'third party' is an agent of the person defrauded.

Furthermore, if the pretence is not the effective cause of obtaining goods by the defendant, the latter cannot be charged with committing the offence, although he may be guilty of an attempt. Accordingly, if the 'victim' parts with his property knowing that the representation made to him is false, or disregarding the representation, from some other motive, such as charity or independent judgment as to the facts concerning which the false representation was made, the defendant can be found guilty only of an attempt to commit the offence.

But the pretence need not be the immediate cause of obtaining goods, — so long as it is in fact the effective cause, and is not too remote (a 'continuing pretence').

**Evidence of 'guilty mind'.** The knowledge of falsity of the representation made, and of the defendant's intention to defraud, may be proved by tendering evidence of his previous acts similar to the transaction in issue.

Thus, where X was charged with attempting to obtain money from Y by falsely representing a ring to be a diamond one, evidence was admitted of X having previously attempted to obtain money from other persons by false representations concerning other articles of jewellery (*R. v. Francis*, 1874, L.R. 2 C.C.R. 128).

Generally, this sort of evidence ('similar facts' or 'conduct') is inadmissible, but by exception it is admissible where it is material to prove the state of mind of a person.

## V

## HOUSEBREAKING AND BURGLARY.

**Points of difference from English Law.** For those accustomed to English Law it is convenient to note the principal points of difference between the Palestine Code and English Law.

- i. Sacrilege is included in the definition of burglary and housebreaking under the Palestine law.
- ii. Housebreaking is confined to the same kinds of buildings as burglary.
- iii. 'Night-time' is the interval between 6.30 p.m. and 6.30 a.m.
- iv. 'Human dwelling' may include a tent or a vessel.

**Breaking.** Whether the offence is committed by 'breaking in' or by 'breaking out', breaking is its essential element. Although the Cr. Code O. does not differentiate between the various kinds of breaking, it is expedient to make use of the classification adopted in English Law, viz. to differentiate between actual and constructive breaking. All the methods of breaking enumerated in S. 294 are actual breaking, with the exception of (i) gaining entrance by means of a threat (ii) or artifice, or (iii) by collusion with any person in the building, which are 'constructive' breaking (and entering).

It is not breaking, however, to enter through an open window or door, and it makes no difference that the window (or door) is only partially open and the defendant opens it wider (*R. v. Smith*, 1 Mood C. C. 178). Nor is it breaking to enter through a hole in the roof, or in other part of the house, which has not been made for any special purpose.

Where a burglar puts a child through an open window and the child, acting on his instructions, opens a door from inside the building, the burglar has committed a breaking. This may serve as an example of constructive breaking (by an artifice).

The breaking must be of a part of the building broken into. Opening a gate admitting the defendant into a garden through which he must pass before entering the building is not breaking; nor is it breaking to break open any movable object, such as a wardrobe or safe, unless it is built into a wall in the house, after entering the building; but if an inner door is 'broken' after gaining entrance, such act is sufficient to constitute breaking.

Where housebreaking is committed by breaking out the defendant might have gained entrance into the premises in a lawful manner. Thus, a lodger in a house commits the offence if he steals something therein and then 'breaks out' of the building. But if a landlord residing in the house breaks and enters the rooms occupied by a lodger, he cannot be charged with housebreaking because the building broken into must be the dwelling of another; and where the owner resides in the house all parts thereof are considered as his dwelling, even if others live in the building.



Where constructive breaking occurs as a result of a collusion with a person in the building (e. g. a servant), the latter is guilty of the same offence as the thief.

**Entry.** This is also an ingredient of the offence of housebreaking (or burglary). The introduction of an instrument is sufficient entry.

It is safe to rely on English decisions which have established that the instrument introduced into the building must be the one used for committing theft or other felony, but there is no entry in the case of an instrument used for breaking into the building. Thus, if an 'intending burglar' pushes a stick through an open window, but his hand remains outside, he has effected entry if the stick is used for lifting a coat he intends to steal; but not so if it is merely used for opening the window wider. (*R. v. Hughes*, 1 Leach 407; *R. v. Bailey*, R. & R. 341; *R. v. Rust*, 1 Mood, C. C. 183).

Entry is complete if a burglar standing outside an open window holds a revolver for the purpose of intimidating persons in the house and only the muzzle of the gun has been introduced into the house through the window.

**Intent.** (Refer to S. 295). The consequence of the provisions as to intent in housebreaking (and burglary) is that where a person enters a dwelling house without any intent to steal or to commit a felony, but, once in the house, commits such an offence, it may make all the difference whether he 'broke in' or 'broke out' of the building. If there was breaking in, but no breaking out, he is not guilty of housebreaking, provided, of course, that entry with an innocent intent, or even with intent to commit a misdemeanour (other than theft) is not in doubt.

In this connection it should not be too hastily assumed that an intent to commit a theft or a felony when entering a dwelling house will be necessarily inferred by a Court from the fact that such an offence was actually committed by the defendant; and the intent should be alleged in the information against the accused (vide Appendix III, p. 303), — unless the felony imputed to defendant was committed by 'breaking out'.

## W

### RECEIVING & POSSESSION OF STOLEN PROPERTY.

The proof of an offence under S. 309 or S. 310 is not so simple a matter as is often assumed. The prosecution must establish the following:—

(1) That the property was originally obtained in the particular unlawful manner amounting in law to a felony, if the charge is under S. 309, or to a misdemeanour, if the charge be under S. 310. In some cases, however, the nature of the property may be in itself evidence on this point. The proof must be as strict as though the accused were tried for theft.

Evidence of the circumstances in which the property was received by the defendant may prove sufficient, — for instance, his receiving it at night, or having taken precautions that no one should witness the transaction.

(ii) Actual receiving of the property by the defendant. Proof must be tendered not of mere finding of goods on the premises of the accused person, but also of his knowledge of their presence there, and (or) of his control of the property. Assisting to dispose of stolen property without having possession or control, will not support a charge under these sections; nor will evidence of preparations for receiving the goods without completing the actual taking over by the defendant.

(iii) Knowledge on the part of the defendant of the goods having been stolen (or otherwise unlawfully obtained), at the time of receiving them.

The proof need not be, — for it can hardly be expected to be — a strict one, there being a presumption that an innocent accused should explain his possession on oath at the earliest opportunity (*R. v. Theodoros*, 3 Cr. App. R. 269). No conviction is likely if the defendant had received the goods innocently but retained possession after learning that they were stolen goods.

If goods are found in the possession of a person shortly after their theft, the fact is naturally of importance, but the onus of proof on all the essential points still rests on the prosecution. In the absence of an explanation by the defendant, the Court will probably convict solely on the evidence of such 'recent possession', but if an explanation is given the proof of 'recent possession' will not suffice by itself.

**Evidence.** As in the case of False Pretences, evidence of 'similar conduct' is admissible, by exception, in order to prove guilty knowledge in charges of receiving. It has been enacted in England (S. 43(1), Larceny Act, 1916) that evidence may be given at any stage of the proceedings of (a) the fact that other property stolen within the period of twelve months preceding the date of the offence charged was found or had been in the defendant's possession, and (b) the fact that within the five years preceding the date of the offence charged he was convicted of any offence involving fraud or dishonesty. This enactment has not so far been reproduced by any Palestine Ordinance, but the principle of admissibility of evidence of 'previous similar conduct' to prove guilty knowledge ('scienter') is of course fully recognised in Palestine. It is reasonable to assume, therefore, that the Courts in applying this principle to charges of 'receiving' will not decline to be guided by the English rule (S. 43(1), Larceny Act, 1916, quoted *supra*).

## X

### ARSON AND SIMILAR OFFENCES.

The question may occasionally assume some importance whether 'setting



fire' has been completed or only an attempt to do so has been made. It is a difficult question where the burning does not take the form of 'visible flames'. If the substance of the property set on fire has been effectively damaged, the presence of visible flames is not essential; but mere external blackening of the property will only support a charge of attempting to set on fire.

Normally setting fire to one's own property is not unlawful, but if it is calculated to defraud some person (i. e. an insurance company), or to endanger the life or property of others, the act is unlawful and is clearly within the definition of the felonies under SS. 317—322.

## Y

## COMPULSION AS A DEFENCE.

Refer to Sec. 17, Crim. Code O. (Constraint, p. 15 *supra*), and to Sec. 20, *ibid* (Compulsion by Husband, p. 16 *supra*).

A person who takes an unlawful oath to commit an offence, etc., vide SS. 63 & 64, Crim. Code O., (pp. 38, 39 *supra*) cannot set up compulsion as a defence — unless within fourteen days after taking the oath, or, if he be prevented by actual force or sickness, within fourteen days after the termination of such prevention, he declares 'by information on oath before some police officer, or if he is on actual service in the Military Forces, or in the Police Forces, either by such information or by information to his commanding officer, the whole of what he knows concerning the matter, including the person or persons by whom and in whose presence, and the place where, and the time when, the oath or engagement was administered or taken' (S. 65, Crim. Code Ord.).

Now, Police officers are not authorised by law to administer an oath, and it would appear that the proper procedure is to have the information given on oath before a person having the power to administer oaths in the presence of a Police officer.

## Z

## CAUTIONING THE ACCUSED.

Experience has shown that the question of cautioning persons charged with crimes constantly recurs, and the wording of the caution administered has been the subject of criticism by the Courts.

Palestine law does not prescribe a set formula to be used by Police officers in such cases, but the form of caution to be administered by Examining Magistrates to accused in the course of a preliminary enquiry is set out in S. 15(6) of the Cr. Pr. (Trial Upon Information) O. :—

'Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial'.

This formula is practically identical with that laid down in Rule 5 of 'Judges' Rules' (see Archbold, XXIX Ed. p. 394) for the guidance of the Police in England. The last three words ('upon your trial') do not occur in the English formula.

It is suggested that the following formula, which has withstood the test of experience, may be employed by Police officers :—

'You are at liberty to make an answer to the charge, but are not obliged to say anything unless you desire to do so.

Should you say anything, your words will be taken down in writing and may be given in evidence'.

A Police officer who employs such caution can truthfully testify that no questions were asked when the accused was cautioned, and, further, the accused is given clearly to understand that he may make a statement. The author's experience is that accused persons when confronted with a question 'Do you wish to say anything?' immediately followed by 'you are not obliged, etc.' are actually influenced to delay or withhold their statement — a course not infrequently neither conducive to the ends of justice nor in the best interests of the accused.



## APPENDIX II.

Cap. 34, L.P.

## CRIMINAL PROCEDURE (EVIDENCE) ORDINANCE.

An Ordinance to make provision for the Preliminary Examination of Witnesses, the Identification of Prisoners and the Admission in Evidence of certificates relating to Chemical Tests in connection with the Administration of Criminal Justice.

Short title.

1. This Ordinance may be cited as the Criminal Procedure (Evidence) Ordinance.

## PRELIMINARY EXAMINATION OF WITNESSES.

Examination of witnesses by police officer, etc.

2. (1) An officer of police of or above the rank of inspector, a junior government advocate, or any other person whom the High Commissioner has by writing under his hand authorised to hold enquiries into the commission of offences, may examine orally any person supposed to be acquainted with the facts and circumstances of any offence in respect whereof such officer of police, junior government advocate or other authorised person is enquiring, and may reduce into writing any statement by a person so examined.

(2) The person so examined shall be bound to answer truly all questions put to him by such officer of police, junior government advocate or other authorised person, at the examination, other than questions the answer to which would have a tendency to expose him to a criminal charge.

Statement of witnesses to be reduced to writing.

3. (1) Any such statement when reduced into writing shall be read over to the person examined, who shall be requested to sign it or, if he is illiterate, to affix his mark to it.

(2) If he refuses to sign the statement or affix his mark to it, the officer of police, junior government advocate or other authorised person shall note in writing at the foot of the written statement that the person making the statement has refused to sign it or affix his mark to it and the reason, if ascertained, of the refusal.

(3) The written statement shall then be signed by the officer of police, junior government advocate or other authorised person, and, in any proceedings against the person making it for not truly answering any question put to him, the written statement shall be evidence of the statements made by him unless it is proved that he did not make the statements or any of them.

False evidence.

4. (1) If it shall appear during criminal proceedings before a magistrate's court that a witness has given evidence on oath of some fact relevant to the case contradicting in some material detail a statement made by him in accordance with the last preceding section, it shall be competent for the magistrate at the conclusion of the proceedings to commit such witness to be tried summarily by the district court.

(2) On proof of his having made such contradictory statements as aforesaid, and on the court being satisfied that there was an intention to deceive either the officer of police, junior government advocate or other authorised person to whom the statement was made or the magistrate before whom the

evidence was given, such person is guilty of the offence of giving false evidence and is liable to imprisonment for six months or a fine of fifty pounds.

(3) At the trial of a person accused of giving false evidence the production of the statement taken in accordance with the last preceding section and of the record of the magistrate's court shall be *prima facie* evidence of the statements purporting therein to have been made.

## IDENTIFICATION OF PRISONERS.

6. (3) Notwithstanding any provision of the law of evidence, any finger print records or photographs purporting to be certified under the hand of any superintendent of a prison or superintendent of police shall, if produced before a magistrate or at the trial of any person accused of an offence, be admissible in evidence against such accused person.

Admission in evidence of certificates relating to chemical tests.

## CERTIFICATES OF LABORATORY TESTS AND ANALYSES.

7. (1) A certificate purporting to be issued by, and under the hand of, the officer for the time being in charge of the Government Laboratory or by the Government Analyst, certifying the result of a laboratory or other test or analysis personally made by such officer or analyst and relevant to any matter in issue, shall be admissible in evidence in criminal proceedings, notwithstanding that such officer or analyst is not called as a witness.

Provided that such certificate shall not be received in evidence by a district court or Court of Criminal Assize unless ten days' notice has been given on behalf of the prosecution to the person accused or to his advocate of the intention to tender the certificate in evidence and a copy of the certificate has been served upon the accused.

(2) Notwithstanding the provisions of subsection (1), the officer or analyst aforesaid shall attend as a witness at the trial by a district court or Court of Criminal Assize if five days' notice has been given to the court on behalf of the accused that his attendance will be required and such notice has been accompanied by payment of a fee of one pound.

(3) Notwithstanding the provisions of subsection (1), the officer or analyst aforesaid shall attend as a witness in criminal proceedings in any court, including a magistrate's court, if the court or magistrate is of opinion that his attendance is required in the interests of justice.

Cap. 54, L.P. and Ordinance No. 38 of 1940.

## EVIDENCE.

An Ordinance to declare the Law of Evidence on certain points and to amend the Law on other points and to make provision for the Taking of Evidence on Commission and for the Admission in criminal proceedings of Evidence Taken Abroad.

Short title.

1. This Ordinance may be cited as the Evidence Ordinance.

## PART I.—GENERAL PROVISIONS.

Scope of Part I.

2. The provisions of Part I shall be applied in all proceedings before the civil courts in Palestine notwithstanding anything to the contrary in the Ottoman Civil Code or the Ottoman Codes of Procedure.



## Competence of witnesses.

3. All persons are competent to give evidence in all cases, and no person shall be considered incompetent to give evidence in any case by reason of his being a party to a civil action or a complainant or accused in a criminal case or by reason of his being a master or servant, husband, wife or relative, of the plaintiff or complainant or of the defendant or accused, or by reason of his having been convicted of, or being under sentence for, any crime:

Provided that in all criminal cases, except as provided in section 5, a wife shall not be competent to give evidence against her husband, nor compellable to give evidence against any person jointly accused with him in the same information, nor shall a husband be competent to give evidence against his wife, nor compellable to give evidence against any person accused jointly with her in the same information and that a parent shall not be competent to give evidence against a child, nor compellable to give evidence against any person jointly accused with the child in the same information, nor a child competent to give evidence against a parent, nor compellable to give evidence against any person jointly accused with the parent in the same information.

## Husband and wife, and parent and child.

4. If a husband shall be called to give evidence in defence of his wife or a wife shall be called to give evidence in defence of her husband, or if a parent or child is called to give evidence in defence of the other, the evidence so given, whether in examination in chief or obtained by cross-examination on behalf of the prosecution, may be used in proof of the guilt of the accused person, whether husband or wife or parent or child.

## Spouse, parent or child competent witness against spouse, etc. in certain cases.

5. (1) In criminal proceedings against a husband or wife for any bodily injury or violence inflicted upon his or her wife or husband or child, and in proceedings in respect of adultery, the wife is competent to give evidence against her husband and the husband against his wife.

(2) In criminal proceedings against a parent or child for any bodily injury or violence inflicted upon his or her child or parent, as the case may be, the parent is competent to give evidence against the child and the child against the parent.

## Corroboration needed. (Suspended by Ordinance No. 68 of 1936 as from 11.10.1937.)

6. No judgment shall be given in any case on the evidence of a single witness unless such evidence is, in a civil case, uncontradicted or, in a criminal case, is admitted by the accused person or, whether in a civil or criminal case, is corroborated by some other material evidence which, in the opinion of the court, is sufficient to establish the truth of it.

## Statement by a witness when offence is committed.

7. Evidence of a statement made at the time when, or shortly before, or after, an offence is alleged to have been committed and directly relating to a fact or facts relevant in the case is admissible if made by a person who is himself also a witness.

## Statements by victim of violence.

8. Evidence of a statement made by a person on whom an act of violence is alleged to have been committed and relating to such act of violence or attendant circumstances is admissible if made at the time, or shortly after,

the act of violence was committed, or so soon after, as he had an opportunity of complaining of it, or so related to it in the sequence of events as to be part of the train of circumstances directly connected with the commission of the offence, or made when the person was, or believed himself to be, dying as a direct consequence of the act of violence, is admissible although the person who made the statement is not present as a witness and cannot be produced at the trial because of his death, infirmity or sickness, or absence from Palestine.

## Confessions.

9. Evidence of confession by the accused that he has committed an offence is admissible only when the prosecution has given evidence of the circumstances in which it was made and the court is satisfied that it was free and voluntary.

## Evidence wrongly admitted.

10. When evidence which is not admissible in proof of a criminal charge has been admitted by error or inadvertence, such evidence shall not be used in proof of the charge nor shall any judgment be based thereon; nevertheless, the fact that such evidence has been heard by the court shall not be held to invalidate the judgment unless, in the opinion of the court, the accused would not have been convicted if such evidence had not been given or there was no other sufficient evidence to support the conviction apart from that evidence.

## Contradictions.

11. Contradictions in the evidence of witnesses shall not, in themselves, prevent the court from finding facts in respect of which the contradictions occur.

## Weight of evidence.

12. The value of oral evidence and the credibility of witnesses are questions for the court to decide according to the demeanour of the witnesses, the circumstances of the case and such indication of the truth as may appear during the trial: it shall not be the duty of the court to make enquiry as to their credibility either through verbal testimony or by private inquiry.

## Summons to witnesses.

13. Subject to the provisions of this Ordinance, any person may be summoned to give evidence which is admissible and relevant to the case, subject to the discretion of the court to refuse to issue a summons which may be unnecessary or which may appear to be demanded for some other purpose than the elucidation of the truth.

## PART IA. — PROVISIONS WITH REGARD TO BANKERS' BOOKS

added by Evidence (Amendment) Ordinance No. 38 of 1940.

## Interpretation.

14A. In this Part, unless the context otherwise requires—

"bank" shall have the meaning ascribed to it in the Banking Ordinance;

"bankers' books" include ledgers, day books, cash books, account books, and all other books used in the ordinary business of a bank;

"court" means a court, judge or magistrate;

"legal proceeding" means any civil or criminal proceeding in any court in which evidence is or may be given.

## Mode of proof of entries in banker's book.

14B. Subject to the provisions of this Part, a copy of an entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of such entry, and of the matters, transactions, or accounts therein recorded.



*Proof that book is a banker's book.*

14C. A copy of an entry in a banker's book shall not be received in evidence under this Part unless it be first proved that the book was at the time of the making of the entry one of the ordinary books of the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the bank.

Such proof may be given by an officer of the bank and may be given orally or by affidavit.

*Verification of copy.*

14D. A copy of an entry in a banker's book shall not be received in evidence under this Part unless it be further proved that the copy has been examined with the original entry and is correct.

Such proof shall be given by some person who has examined the copy with the original entry and may be given orally or by affidavit.

*Cases in which banker, etc. not compellable to produce book, etc.*

14E. A banker or officer of a bank shall not, in any legal proceeding to which the bank is not a party, be compellable to produce any banker's book the contents of which can be proved under this Part, or to appear as a witness to prove matters, transactions, or accounts therein recorded, unless by order of a court made for special cause.

*Court may order inspection, etc.*

14F. On the application of any party to a legal proceeding a court may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings. Any order under this section may be made either with or without summoning the Bank or any other party, and shall be served on the Bank three clear days before the same is to be obeyed, unless the court otherwise directs.

## PART III.—ADMISSIBILITY OF EVIDENCE TAKEN ABROAD.

Admissibility in criminal proceedings of evidence taken abroad. No. 17 of 1928. Cap. 36.

16. Notwithstanding anything in the Criminal Procedure (Trial Upon Information) Ordinance, where depositions have been taken outside the jurisdiction of the courts of Palestine in virtue of any treaty, agreement or law, for the purpose of any criminal proceedings in Palestine, the court may admit a deposition so taken to be given in evidence;

Provided that the court is satisfied that there is sufficient reason for the absence of the witness who made the deposition and that the accused or his advocate had an opportunity of cross-examining the witness when the deposition was taken.

## APPENDIX III.

## APPENDIX TO SCHEDULE TO THE CRIMINAL PROCEDURE (TRIAL UPON INFORMATION) O.

## FORMS OF INFORMATION.

*Murder.*

## Statement of Offence.

Murder, contrary to section 214 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at with premeditation caused the death of C.D. (or wilfully caused the death of C.D. in preparing for or to facilitate the commission of an offence to wit ; or as the case may be).

*Accessory after the fact to murder.*

## Statement of Offence.

Accessory after the fact to murder, contrary to section 26 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., knowing that one C.D. did on the day of at murder E.F. did on the day of at and on other days thereafter receive or assist the said C.D. in order to enable him to escape punishment.

*Manslaughter.*

## Statement of Offence.

Manslaughter, contrary to section 212 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at unlawfully killed C.D.

*Rape.*

## Statement of Offence.

Rape, contrary to section 152 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at had unlawful sexual intercourse with C.D. against her will.

*Wounding with intent.*

## Statement of Offence.

Wounding with intent, contrary to section 235 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at wounded C.D. with intent to disfigure or disable him or to do him grievous harm or to resist the lawful apprehension of him, the said A.B.

*Stealing by clerk or servant.*

## Statement of Offence.

Stealing, contrary to section 275 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at being a clerk or servant of C.D. stole from the said C.D. one motor car exceeding in value fifty pounds.

*Robbery.*

Robbery, contrary to section 287 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at stole from C.D. a watch and at the time or immediately before or immediately after such stealing did use or threaten violence to the said C.D.

*Stealing after previous conviction.*

## Statement of Offence.—First Count.

Stealing after previous conviction, contrary to section 278 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at stole a horse, the property of C.B.  
A.B., has been previously convicted of stealing under section 272 of the Criminal Code Ordinance, 1936, on the day of at the Court.

*Receiving stolen property.*

## Statement of Offence.—Second Count.

Receiving stolen property, contrary to section 309 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at did receive a horse, the property of C.D. knowing the same to have been stolen.

*Burglary.*

## Statement of Offence.—First Count.

Burglary, contrary to section 295 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., in the night of the day of at did break and enter the dwelling house of C.D. (or as the case may be) with the intent to steal therein.

## Statement of Offence.—Second Count.

Stealing a testamentary instrument, contrary to section 271 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., in the night of the day of at stole a testamentary instrument, the property of C.D.



*Obtaining goods by false pretences.*

## Statement of Offence.

Obtaining goods by false pretences, contrary to section 301 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at with intent to defraud, obtained from C.D. five yards of cloth by falsely pretending that he, the said A.B., was the servant of E.F. and that he, the said A.B., had been sent by the said E.F. to C.D., for the said cloth and that the said A.B. was then authorised by the said E.F. to receive the said cloth on behalf of the said E.F.

*Conspiracy to commit a felony.*

## Statement of Offence.

Conspiracy to commit a felony, contrary to section 34 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B. and C.D., on the day of at and on divers days between that day and the day of at conspired together with intent to break and enter the dwelling house of E.F. with intent to steal therein.

*Arson.*

## Statement of Offence.

Arson, contrary to section 317 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at wilfully and unlawfully set fire to a dwelling house (or as the case may be).

*Obstructing railway.*

## Statement of Offence.

Offence under section 237 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at displaced a sleeper belonging to the Government of Palestine with intent to injure or endanger the safety of persons using the Palestine railway.

*Forgery.*

## Statement of Offence.—First Count.

Forgery, contrary to section 337 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at forged a will purporting to be the will of C.D.

## Statement of Offence.—Second Count.

Uttering a forged document, contrary to section 340 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at uttered a certain forged will purporting to be the will of C.D. knowing the same to be forged and with intent to defraud.

*Perjury.*

## Statement of Offence.

Perjury, contrary to section 117, of the Criminal Code Ordinance.

## Particulars of Offence.

A.B., on the day of at being the witness upon the trial of an action in the Court in which one was plaintiff and one was defendant, knowingly falsely swore that he saw one C.D. at on the day of

*Bankrupt failing to deliver up property.*

## Statement of Offence.

A.B., a bankrupt, failing to deliver up property, contrary to section 127 (2) of the Bankruptcy Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at being a bankrupt, did not deliver to C.D., the Trustee, being part of his property which he was required by law to deliver up.

*Fraudulent false accounting.*

## Statement of Offence.—First Count.

Fraudulent false accounting, contrary to section 315 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at being a clerk or servant of C.D., with intent to defraud, made or concurred in making, a false entry in a cash book belonging to the said C.D., his employer, purporting to show that on the said day one hundred pounds had been paid to E.F.

## Statement of Offence.—Second Count.

Fraudulent false accounting, contrary to section 315 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at being a clerk or servant of C.D., with intent to defraud, omitted or concurred in omitting from or in a cash book belonging to the said C.D., his employer, a material particular, that is to say, the receipt on the said day of fifty pounds from G.H.

*Stealing by agents, etc.*

## Statement of Offence.—First Count.

Offence under section 276 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at stole the sum of one hundred pounds, the property of C.D., which had been entrusted to the said C.D. to pay to E.F.

## Statement of Offence.—Second Count.

Offence under section 276 of the Criminal Code Ordinance, 1936.

## Particulars of Offence.

A.B., on the day of at stole the sum of one hundred pounds which had been received by him for or on account of C.D.



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# CORRIGENDA.

(Corrections applying to all copies).

Page 11. (Prescription). (2nd line in 3rd Column — Contraventions—)  
Instead of 'As in misdemeanours' should be: '2 years'.

Page 21. (Imprisonment)  
Instead of 'S. 39, *ibid*' should be: S. 39, Cr. C. O., 1936'.

Page 34. 8th line from the bottom of the page.  
Instead of 'deprecate' should be: 'depreciate'.

Page 122.  
Insert after 'Companies O.': See Summary 43, Part IV.

Page 186. (At the end of 'Note').  
Instead of 'S. 55(b)' should be: 'S. 55(6)'.

Page 238. (Summary 12). (3rd line).  
Instead of 'by' should be: 'be'.

Page 264. (Section 'g', 5th line).  
Instead of '31c' should be: '31 b'.

Page 269. (Summary 59, 3rd line).  
Instead of 'nor' should be: 'as also'.

Page 278. (2nd paragraph, 2nd line).  
Instead of 'subject' read: 'question'.

Corrections to be made in some copies.

Page 6. (2nd line from the bottom of the page, after '—')  
Instead 'SS. 3(3) & (4) & 4' etc. should be: 'SS. 3(3) & 4' etc.

Page 7. (4th line from the bottom of the page).  
Delete (a) before the word *ibid*.

Page 11. (7th line from the top of the page).  
Instead of 'if' should be 'of'.

Page 19. (4th line from the bottom of the page).  
Instead of 'of' read: 'or' (between the words *question* — *matter*).

Page 22. (1st line from the bottom of the page).  
Instead of 'if' read: 'of'.

Page 26. ('Life & Long Term Sentences', 1st line).  
Instead of 'if' read: 'of'.











