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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT

G.O. No. 1424 Press ~~Mis.~~

13-14

Dated 2 11 19 1840

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Not to be folded or roughly handled

No. 13. Read the following letter from A. G. ROUSSAC, Esq., Secretary to the Bengal Printing Company Limited, to the Chief Secretary to the Government of Madras, dated Calcutta, 15th October 1860, No. 2,440.

I have the honor to wait on you with Advertisement (annexed) and a specimen (under separate cover) of Theobald's Edition of the New Indian Penal Code.

I am informed that Government will require a very large number of this Code for all the Judicial and Civil Officers throughout the country. Permit me to tender this Edition, which with the Indexes and the Abstracts will be found extremely useful and handy.

Should you favor me with large orders, I will be prepared to make reductions in the prices according to the number.

No. 14. ORDER THEREON, 2nd November 1860, No. 1,424.

The Judges of the Sudder Court will state whether they require any, and if so, how many copies of this work.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

THE INDIAN PENAL CODE.

ACT No. XLV. OF 1860.

[*Received the assent of the G. G. on the 6th day of October* 1860.]

CHAPTER I.

TITLE OF THE CODE.

Recites expediency of providing a general Penal Code for British India.

1—3. Act to be called the Indian Penal Code, and it shall take effect on ... [illegible] ... 1st May 1861, and (2) every person shall be liable to punishment under it, and not otherwise for acts contrary to its provisions, (3) if triable within, though the offences be committed without the territories, provided the jurisdiction to try is given by an Indian Act.

4. Extends the punishments of the Code to servants of the Queen for offences committed in Native States.

5. This Act not to repeal, vary, &c., any provisions of 3 and 4 Wm. IV., c. 85, nor of the Mutiny Act, nor of the Indian Navy Act, nor of any special or local law.

Preamble.

WHEREAS it is expedient to provide a General Penal Code for British India; It is enacted as follows:—

Title and extent of operation of the Code.

1. This Act shall be called THE INDIAN PENAL CODE, and shall take effect on and from the 1st day of May 1861 throughout the whole of the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Punishment of offences committed within the said Territories.

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said Territories on or after the said 1st day of May 1861.

Punishment of offences committed beyond, but which by law may be tried within the Territories.

3. Any person liable, by any law passed by the Governor General of India in Council, to be tried for an offence committed beyond the limits of the said Territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said Territories, in the same manner as if such act had been committed within the said Territories.

Punishment of offences committed by a servant of the Queen within a Foreign allied state.

4. Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions thereof, of which he, whilst in such service, shall be guilty on or after the said 1st day of May 1861, within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement [illegible] entered into with the East India Company, or which may have been or may hereafter be made in the name of the Queen by any Government of India.

Certain laws not to be affected by this Act.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4 William IV Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company or the said Territories, or the inhabitants thereof, or any of the provisions of any Act for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty or of the East India Company, or of any Act for the government of the Indian Navy, or of any special or local law.

CHAPTER II.

GENERAL EXPLANATIONS.

6. Every part of the Code is to be understood subject to the General Exceptions contained in Chapter IV, so entitled, or connection with the illustrations in this Section given.

7. Expression of words once explained are used in every part of the Code in the same sense.

8. Explains the pronoun "he"; (9) the use of singular and plural number; (10) the word "man"; (11) "person"; (12) "public"; (13) "Queen"; (14) "Servant of the Queen"; (15) "British India"; (16) "Government of India"; (17) "Government"; (18) "Presidency"; (19) "Judge" with illustrations; (20) "Court of Justice" with illustrations; (21) "Public Servant"

with specifications and by general definitions; (22) "moveable property"; (23) "wrongful gain"; "wrongful loss"; (24) "dishonestly"; (25) "fraudulently"; (26) "reason to believe"; (27) "possession"; (28) "counterfeit"; (29) "document" with illustrations; (30) "valuable security"; (31) "a will."

32. "Acts" to mean also omissions.

33. "Acts," "omissions," to apply to a series of acts and omissions.

34—35. Joint offenders to be severally responsible; (35) if acting upon a common intent.

36. An omission to be construed as an act in estimating criminality.

37. In offences committed by means of several acts and several persons, any one of the acts is to be constructively a commission of the offence. Rule illustrated.

38. One and the same act may constitute several different offences.

39—51. Explains words "voluntarily," with illustration; (40) "offence"; (41) "special law"; (42) "local law"; (43) "illegal" and "legally bound"; (44) "injury"; (45) "life"; (46) "death"; (47) "animal"; (48) "vessel"; (49) "year"; "month"; (51) "oath."

52. Good faith shall not be imputed where there is want of due care and attention.

Definitions in the Code to be understood subject to exceptions.

6. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

Illustrations.

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

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

Expression once explained is used in the same sense throughout the Code.

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

Gender.

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

Number.

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

"Man." "Woman."

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

"Person."

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

"Public."

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

"Queen."

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"Servant of the Queen."

14. The words "servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Victoria Chapter 106, entitled "An Act for the better Government of India," or by or under the authority of the Government of India, or any Government.

"British India."

15. The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Victoria Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Government of India."

16. The words "Government of India" denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone as regards the powers which may be lawfully exercised by them or him respectively.

"Government."

17. The word "Government" denotes the persons authorized by law to administer Executive Government in any part of British India.

"Presidency."

18. The word "Presidency" denotes the Territories subject to the Government of a Presidency.

"Judge."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(a) A Collector exercising jurisdiction in a suit under Act X. of 1859, is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.

(c) A Member of a Panchayet which has power, under Regulation VII. 1816, of the Madras Code, to try and determine suits, is a Judge.

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

"Court of Justice."

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration.

A Panchayet acting under Regulation VII. 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

"Public Servant."

21. The words "Public Servant" denote a person falling under any of the descriptions hereinafter following namely:—

First.—Every Covenanted Servant of the Queen;

Second.—Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India or any Government;

Third.—Every Judge;

Fourth.—Every Officer of a Court of Justice whose duty it is, as such Officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.—Every Juryman, Assessor, or member of a Panchayet assisting a Court of Justice or public servant;

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

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

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

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

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

Illustration.

A Municipal Commissioner is a public servant.

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

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

"Movable property."

22. The words "movable property" are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to any thing which is attached to the earth.

"Wrongful gain."

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

"Wrongful loss."

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

"Wrongful gain" includes wrongful retention of property.

"Wrongful loss" includes being wrongfully kept out of property.

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

"Dishonestly."

24. Whoever does any thing with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly."

"Fraudulently."

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

"Reason to believe."

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

Property in possession of wife, clerk, or servant.

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

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

"Counterfeit." 23. A person is said to "counterfeit," who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

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

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

Illustrations.

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

A Cheque upon a Banker is a document.

A Power of Attorney is a document.

A Map or Plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

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

Illustration.

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

In the Press

THE POPULAR EDITION

OF

THE NEW INDIAN

PENAL CODE

WITH

ABSTRACT AND INDEXES

IN ROYAL 8vo.

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JP

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13 & 14