

THE PENAL CODE OF **ETHIOPIA 1957**

No. 158 of 1957.

THE PENAL CODE PROCLAMATION OF 1957

CONQUERING LION OF THE TRIBE OF JUDAH
HAILE SELASSIE I
ELECT OF GOD. EMPEROR OF ETHIOPIA

WHEREAS the progress achieved by Ethiopia requires **the replacement** Of the Penal Code of the Empire of Ethiopia, of 1930;

NOW THEREFORE, in accordance with Articles 34 and 88 of Our Constitution, We approve the resolutions of Our Parliament and We accordingly proclaim as follows:

1. This Proclamation may be cited as "The Penal Code Proclamation of 1957."
2. The Penal Code of 1957 as published in a separate volume appearing as Extraordinary Issue No. 1, of 1937 of the Negarit Gazeta, shall come into force on the 5th of May, 1958.
3. The Penal Code of 1930 and all Proclamations amending the same, shall be repealed as from the 5th of May, 1958, except to the extent as other-wise provided in the aforesaid Penal Code of 1957.

Given at Addis Ababa, this 23rd day of July 1957.

TSAHAFFE TEZAZ TAFFARA WORQ

Minister of the pen.

PREFACE

CONQUERING LION OF THE TRIBE OF JUDAH

HAILE SELASSIE I

ELECT OF GOD, EMPEROR OF ETHIOPIA

The codification of the principal branches of *law* of any country is always difficult *task*, *since* it must be profoundly grounded in the life and traditions of the nation, and it *must*, *at* the same time, be in keeping with and responsive to the influences, not only juridical, but also social, economic and scientific which are in the process of transforming the nation and our lives *and* which will inevitably shape the lives of those who come after us.

These considerations apply with particular validity to penal legislation at a time when, throughout the world, the expanding frontiers of society brought about through the contributions of science, the complexities of modern life and consequent increase in the volume of laws require that effective, yet highly humane and liberal procedures be adopted to ensure that legislative prescriptions may have the efficacy intended for them as regulators of conduct. New concepts, not only juridical, but also those contributed by the sciences of sociology, psychology and, indeed penology, have been developed and must be taken into consideration in the elaboration of any criminal code which would be inspired by the principles of justice and liberty and by concern for the prevention and suppression of crime, for the welfare and, indeed, the rehabilitation of the individual accused of crime. Punishment cannot be avoided since it acts as a deterrent to crimes; as, indeed, it has been said, "one who witnesses the punishment of a wrong-doer will become prudent." It will serve as a lesson to prospective wrong-doers.

We have, therefore, taken upon Ourselves the responsibility of ensuring to Our beloved subjects, both of the present and of the future, that the codification which We are today promulgating is, in all respects, consonant with these high principles and preoccupations.

To this end, we have personally directed the labours and recommendations of the Commission of Codification convened by us three years ago, after the completion of many years of preparatory work, and which throughout the ensuing period carried on *its* work at Our Imperial Palace. We have ensured that their concepts adopted as

point of departure the venerable and well-established legal traditions of Our Empire as revealed in the Fetha Negueet and in subsequent legislation and practice, including those customs and usages which are common to all citizens. To this end also. We have utilized these services not only of our most qualified publicists and jurists, but also those of the most distinguished jurists of the Continent and the contributions of the most significant systems of jurisprudence in the world today. All of

these contributions have been carefully assessed and have been adopted to the extent that they respond to the particular needs of Our Empire and can be incorporated into legislation so as to provide a fresh impulsion to the forces of progress, justice and humanity. As We stated three years ago on the occasion of the formal convening of the Codification Commission: "Although Ethiopia claims what is, perhaps, the longest-standing system of law in the world today, We have never hesitated to adopt the best that other systems of law can offer, to the extent that they respond and can be adapted to the genius of our particular institutions ... However,the point of departure must remain the genius of Ethiopian legal traditions and institutions which have origins of unparalleled antiquity and continuity."

It is in this sense also, that the work of the Codification commission has progressed in the allied fields of criminal and civil procedure and civil, commercial and maritime law. The penal code forms, therefore, but a part, although a highly significant part of one integrated whole, itself conceived within the yet larger framework of the Revised Constitution as granted by us on the occasion of the Jubilee of Our Coronation, and designed to serve and supplement in practice the high principles of that instrument. It has been our constant aim that the primary result of this vast undertaking should be to give reality and depth to the principles of human rights contained in that historic document.

We are certain that with the aid of the Almighty, Fountain of Justice and Source of all wisdom and benefits, this Code will contribute to the welfare and progress of our beloved subjects of today and of the future.

Given in the 27th year of Our Reign, this 23rd day of July, 1957.

HADLE SELASSIE I
Emperor

PART I
GENERAL PART

BOOK I
OFFENCES AND THE OFFENDER

TITLE I
CRIMINAL LAW AND ITS SCOPE

Chapter I. — SCOPE OF THE LAW

Art. 1. — *Object and Purpose.*

The purpose of criminal law is to ensure order, peace and the security of the State and its inhabitants for the public good.

It aims at the prevention of offences by giving due notice of the offences and penalties prescribed by law and should this be ineffective by providing for the punishment and reform of offenders and measures to prevent the commission of further offences.

Art. 2. — *Principle of Legality.*

(1) Criminal law specifies the various offences which are liable to punishment and the penalties and measures applicable to offenders. The court may not treat as a breach of the law and punish any act or omission which is not prohibited by law. It may not impose penalties or measures other than those prescribed by law.

The court may not create offences by analogy.

(2) Nothing in this Article shall prevent interpretation of the law.
In cases of doubt the court shall interpret the law according to its spirit, in accordance with the meaning intended by the legislature so as to achieve the purpose it has in view.

(3) Nobody shall be punished twice for the same act.

Art. 3. — *Other Penal Legislation.*

Nothing in this Code shall affect Police regulations and special laws of a penal nature:

Provided that the general principles embodied in this Code are applicable to those regulations and laws except as otherwise expressly provided therein.

Art. 4. — *Equality before the law.*

Criminal law applies to all alike without discrimination as regards persons, social

conditions, race or religion.

No difference in treatment of offenders may be made except as provided by this Code which are derived from immunities sanctioned by public international and constitutional law, or relate to the gravity of the offence or the degree of guilt, the age, circumstances or special personal characteristics of the offender, and the social danger which he represents.

Chapter II. — SCOPE OF APPLICATION OF THE LAW

Section I. — Conditions as to time

Art. 5. — *Non-retrospective effect of Criminal Law.*

- (1) Whoever commits an offence after the coming into force of this Code shall be tried under its provisions.

If the offence was committed under repealed legislation, it shall be tried in accordance therewith.

- (2) An act not declared to be an offence and committed prior to the coming into force of this Code is not punishable. Nor may a punishment not prescribed at the time of the commission of the offence be imposed.

Art. 6. — *Exception.: Application of the more favourable law.*

Where the offender is tried for an earlier offence after the coming into force of this Code, its provisions shall apply if they are more favourable to him than those in force at the time of the commission of the offence.

The court shall decide in each case whether, having regard to all the relevant provisions, the new law is in fact more favourable.

Art. 7. — *Application as to Measures.*

Upon the coming into force of this Code, security measures and those relating to the treatment and education of offenders prescribed in this Code shall be applicable -when passing sentence even where the earlier legislation provided the imposition of a penalty.

Art. 8. — *Application, as to periods of limitation.*

- (1) Upon the coming into force of this Code the provisions of this Code concerning the periods of limitation applicable to the right to prosecute and to enforce a

penalty shall apply.

The time elapsed prior to the coming into force of this Code shall be taken into account.

- (2) Wherever the provisions of this Code require official proceedings to be instituted in respect of offences committed under repealed legislation and which under such legislation could be prosecuted upon private complaint, such right of complaint shall be barred if not exercised within a period of two years after **the coming** into force of this Code.

Art. 9. — Judgments passed under legislation repealed by this Code.

Where a sentence has been passed in accordance with the legislation previously in force its enforcement shall be governed by the following principles:

- (1) If the Code no longer restrains the act in respect of which the sentence was passed

the punishment shall no longer be enforceable or shall forthwith cease to have effect.

However, where a sentence has been passed for the breach of a criminal law enacting a prohibition or an obligation limited to a given period of time for special reasons of a transitory nature, the expiration of the said period shall not bar the enforcement of the punishment, nor shall the prosecution be barred by such expiration.

- (2) Upon the coming into force of this Code punishments shall be enforced as provided in this Code. This shall also apply to the recovery of fines and the conditional release of prisoners.

- (3) If a prisoner who is undergoing punishment at the time of the coming into force of this Code is found guilty of an earlier offence which remained unknown and was punishable by a penalty entailing loss of liberty the court shall pass an aggregate sentence in accordance with, the provisions relating to concurrent offences (art. 191) and shall take into account the provisions regarding the application of the more favourable law (Art. 6).

The period of imprisonment undergone in pursuance of the earlier judgment shall be deducted.

Art.10. — Application as to cancellation and reinstatement.

- (1) The cancellation of entries in Police Records made prior to the coming into operation of this Code as well as reinstatement, even in the case of judgments given

under provisions repealed by this Code or customary law fallen into disuse shall be governed by this Code.

Section 11. — Conditions as to Place

Paragraph 1. Principal Application

Art. 11. — Offences committed on Ethiopian Territory: Normal Case.

(1) This Code shall apply to any person whether a national or a foreigner who has committed one of the offences specified in this Code on the territory of Ethiopia.

The national territory comprises the land, sea and air. The extent of this realm is determined by law.

(2); Nothing in this Code shall affect immunities of foreign persons enjoying an official status as sanctioned by public international law.

(3) If the offender has taken refuge in a foreign country his extradition shall be requested so that he may be tried under Ethiopian. Law.

Art. 12. — Special Case: Delegation.

- (1) Where a foreigner who has committed an offence in Ethiopia cannot be tried, because he has taken refuge in his country of origin and. his extradition cannot be obtained, the Ethiopian Authorities shall request that he be tried in the country of refuge.
- (2) The accused foreigner cannot be punished in Ethiopia for the same offence if he has been tried and acquitted in the foreign country by a judgment which has become final or, in case of sentence, if his sentence has been remitted or is barred by limitation.
- (3) If he has not undergone his punishment or only undergone part of it in the foreign country the whole or the unexpired part thereof shall be enforced in Ethiopia if the offender is apprehended and the enforcement of the penalty is not barred by limitation under the provisions of this Code. Should the punishments differ as to their nature or form, such punishment as is the closest to that imposed in the foreign country shall be enforced.

Art. 13. — Offences committed in a foreign country against Ethiopia.

This Code shall apply to any person who in a foreign country has committed one of the offences against the Emperor and- the Empire, their safety or integrity, its institutions or essential interests as defined in Book III Title I, Chapter I, and under Title V of the Special Part of this Code (Art. 248-272 and Art. 366-382).

Art. 14. — Offences committed in a foreign country by an Ethiopian enjoying immunity.

(1) This Code shall apply to members of the Ethiopian diplomatic and consular service and Ethiopian officials and agents who cannot be prosecuted at the place of commission of the offence by virtue of international principles of immunity, where they committed in a foreign country:

(a) an offence punishable under the Ethiopian Code, provided such offence is of another kind than those specified in Art. 13 and is also punishable under the law of the country where it was committed, or

(b) an offence punishable under the foreign law, provided such offence is also punishable under the Ethiopian Code.

(2) Where according to either the foreign law or this Code, the offence is punishable upon a formal complaint no proceedings may be instituted where such complaint has not been lodged.

Art.15. — Offences committed in a foreign country by members of the Armed Forces.

(1) Where a member of the Ethiopian Armed Forces in such capacity commits an offence against the ordinary law in a foreign country he shall be subject to the ordinary law and territorial jurisdiction if he is arrested and tried in the country where the offence was committed.

If he has taken refuge in Ethiopia, he shall be tried under the provisions of this Code, if extradition is not granted (Art. 21 (2)).

(2) In cases of offences against international law and specifically military offences, as defined in Titles II and III of Book III of the Special Part of this Code (Art. 281-331) the member of the Armed Forces shall remain subject to national law and be tried under the provision of this Code by Ethiopian military courts.

Art. 16. — Effect of foreign sentences.

(1) In all cases where an offender who is subject to Ethiopia's principal jurisdiction, (Art. 11, 33, 14 para (1) and 15 para (2)) has been sentenced in a foreign country, he may be tried and sentenced again on the same charge hi

Ethiopia, if he is found in Ethiopia or was extradited to her.

2) His discharge or acquittal in a foreign country shall be no bar to a fresh sentence being passed in Ethiopia in accordance with the Ethiopian Code.

(3) Where by reason of the offence committed, the offender has already been convicted in a foreign country and has undergone the whole or part of the punishment, the court shall deduct the punishment already undergone from the new sentence to be passed.

Paragraph 2. Subsidiary application

Art. 17. — Offences committed in a foreign country against International

Law or Universal Order.

(1) Any person who has committed in foreign country:

(a) an offence against international law or an international offence specified in Ethiopian legislation, or an international treaty or a convention to which Ethiopia has adhered: or

(b) an offence against public health or morals specified in Artic 510, S67, 605, 606, 609 or 610 of this Code. Shall be liable to trial in Ethiopia in accordance with the provisions of this Code and subject to the general condition mentioned hereinafter (Art. 19 and 20 (2)) unless he has been prosecuted in the foreign country,

:(2): Nothing in this Article shall affect the provisions of Articles 14 and 15 (2).

Art. 18. — Other offences committed in a foreign country.

(1) This Code shall also apply to any person who has committed an offence in a foreign country against an Ethiopian national or to any Ethiopian national who has committed in a foreign country an offence of another kind than those specified in the foregoing Articles, if the offender was not tried in the foreign country for the offence, provided that:

(a) the act to be tried is prohibited by the law of the State where it was committed and by Ethiopian law; and

(b) it is of sufficient gravity under the latter law to justify extradition.

(2) In the case of all other offences committed in a foreign country by a foreign national, the offender shall, save as otherwise expressly provided, failing extradition,

be prosecuted and tried only if the offence is punishable under Ethiopian law with death or with rigorous imprisonment for not less than ten years.

Art. 19. — Conditions for subsidiary application.

(1) In the application of this Code it shall be presumed:

- (a) that the complaint or denunciation by the victim or his dependants was lodged when it is a condition for prosecution and trial under the law of the place of commission of the offence or under Ethiopian law;
- (b) that the offender is within the territory of the Empire and has not been extradited, or that extradition was obtained by reason of the offence committed;
- (c) that the offence was not legally pardoned in the country of commission and that prosecution is not barred either under the law of the country where the offence was committed or under Ethiopian law.

(2) Prosecution shall be instituted by the Attorney General after consultation with the Minister of Justice.

(3) The punishment to be imposed under this Code shall not be more severe than the

heaviest penalty prescribed by the law of the country of commission where such country is recognized by Ethiopia.

Art.20.— Effect of foreign sentences.

(1) In all cases where Ethiopian courts have a subsidiary jurisdiction. only (Art. 15 (1), 17 and 18), the offender cannot be tried, and sentenced in Ethiopia if he was regularly discharged or acquitted, for the same act in a foreign country.

(2) If the offender was tried and sentenced in a foreign country but did not undergo his punishment, or served only part of it in the said country, the punishment, or the remaining part thereof, may if it is not barred by limitation, be enforced according to the forms prescribed by this Code. The provisions of Art. 12, (3) shall apply mutatis mutandis to this Article.

Paragraph 3. General Provisions

Art.21. — Extradition.

(1) Any foreigner who commits an ordinary offence outside the territory of Ethiopia and who takes refuge in Ethiopia may be extradited, in accordance with the

provisions of the law, treaties or international custom; extradition shall be granted on the application made in proper form by the State where the offence was committed for purpose of trial under the territorial law when the offence does not directly and principally concern the Ethiopian State (Art. 13).

(2) No Ethiopian national having that status at the time of the commission of the offence may, save as is otherwise expressly provided, be handed over to a foreign country. Failing extradition he shall be tried by Ethiopian courts and under Ethiopian law.

(3) In all cases where an offence raises a question of extradition the request shall be dealt with in accordance with the principles of Ethiopian law and provisions of existing treaties.

Art. 22. — Recognition of foreign sentences.

(1) Foreign criminal sentences may be taken into account as regards antecedents and aggravating circumstances, the granting or revocation of an order for conditional release, recidivism and its punishment, the enforcement of safety measures, incapacities and forfeitures, conditions as to reinstatement, as well as Compensation, restoration of property and other civil effects and all other legal consequences provided by this Code.

(2) The foreign sentence shall not be recognized unless passed by an ordinary court and not by a special tribunal for an offence punishable under this Code and its validity has been recognized by the appropriate Ethiopian authority.

Such recognition may be made on the basis of a certified extract from the police record of the offender or of the judgment pronounced or by means of an official attestation delivered by the judicial or executive foreign authority, or in any other reliable manner.

TITLE II

THE OFFENCE AND ITS COMMISSION

Chapter I. — THE CRIMINAL OFFENCE

Art. 23. — Offences.

(1) A criminal offence is an act or omission which is prohibited by law.

(2) The criminal offence is only completed when all its legal, material and moral ingredients are present.

(3) A criminal offence is punishable where the Court has found the offence proved and deserving of punishment.

Art. 24. — *Relationship of Cause and Effect.*

- (1) In cases where the commission of an offence requires the achievement of a given result the offence shall be deemed to have been committed only if the result achieved is the consequence of the act or omission with which the accused person is charged.

This relationship of cause and effect shall be presumed to exist when the act or omission within the provisions of the law would, in the normal course of things, produce the result charged.

- (2) Where there are concurrent causes or in the case of an intervening cause whether due to the act of a third party or to a natural or fortuitous event, this relationship of cause and effect shall not apply when the extraneous cause was in itself sufficient to produce the result.

If, in such a case, the act or omission with which the accused person is charged in itself constitutes an offence he shall be liable to the punishment specified for such an offence.

Art. 25. — *Place and Time of the Offence.*

- (1) An offence is committed at the place where and at the time when the offender performed or failed to perform the act penalised by criminal law.

An attempt is committed at the place where and at the time when the offender performed or failed to perform the preliminary acts which constitute such an attempt.

- (2) With regard to non-instantaneous offences where the act and the criminal result do not coincide the offence is deemed to have been committed both at the place of the unlawful act or omission and that of its result.

Similarly, an attempt is deemed to have been committed both at the place where the offender made it and the place he intended the result to be produced.

For purposes of prosecution, the jurisdiction of the place where the result was achieved is subsidiary to that of the place of commission.

Chapter II. — DEGREES IN THE COMMISSION OF THE OFFENCE

Art.26. — Preparatory Acts.

Acts which are merely designed to prepare or make possible an offence by procuring the means or creating the conditions for its commission, are not punishable unless:

- (a) in themselves they constitute an offence defined by law; or
- (b) they are expressly constituted a special offence by law by reason of their gravity or the general danger they entail.

Art.27. — Attempt.

1) Whoever intentionally begins to commit an offence and does not pursue or is unable to pursue his criminal activity to its end, or who pursues his criminal activity to its end without achieving the result necessary for the completion of the offence shall be guilty of an attempt.

The offence is deemed to be begun when the act performed clearly aims, by way of direct consequence, at its commission.

2) An attempted offence is always punishable save as is otherwise provided by law.

A mere attempt to instigate or participate in an offence does not come within the provisions of the law unless it is expressly provided to the contrary.

(3) In the case of an attempted offence the offender is liable to the punishment attaching to the offence he intended to commit:

Provided that if circumstances so justify the court may reduce the punishment within the limits provided by law. (Art. 184).

Art. 28.— Renunciation and Active repentance.

(1) If an offender of his own free will renounces the pursuit of criminal activity the court shall reduce the punishment within limits provided by law (Art. 184) or may reduce it without restriction (Art. 185) if circumstances so justify. No punishment shall be imposed if the renunciation was prompted by reasons of honesty or high motives,

(2) If an offender, having completed his criminal activity, of his own free will prevents, or contributes to prevent the consequent result, the court may without restriction reduce the punishment. (Art. 185).

(3) This Article shall also apply to an instigator or an accomplice (Art. 33 and 36)

who of his own free will renounced the pursuit of his criminal activity or has done everything incumbent upon him to prevent the commission of the offence.

Art. 29. — Offence impossible of completion.

When an offender has attempted to commit an offence by means or against an object of such nature that the commission of the offence was absolutely impossible, the court may, without restriction, reduce the punishment. (Art. 185).

No punishment shall be imposed when the offender, from superstition or owing to the simplicity of his mind acted by using means or processes in themselves innocuous which could in no case have a harmful effect.

Art. 30. — Special case of Attempt.

When the acts done in an attempt to commit an offence in themselves constitute a separate offence the punishment attaching thereto shall be applied.

Art. 31. — Discretionary power of the Court.

In determining the punishment to be imposed or, where appropriate, in reducing it within the limits allowed by law, or, in special cases, in imposing no punishment where an attempt was abandoned or tailed, the Court shall take into account all relevant circumstances. It shall, in particular, take into consideration the stage reached in the carrying out of the attempt and the danger it represented, the reasons for which it failed, the motives which prompted the renunciation or the active repentance of the offender, as well as his antecedents and the danger he represents to society.

Chapter III. — PARTICIPATION IN AN OFFENCE

Art.32. ---Principal Act: Offender and Co-offenders.

(1) A person shall be regarded as having committed an offence and punished as such if:

- (a) he actually commits the offence either directly or indirectly, for example by means of an animal or a natural force; or
- (b) he without performing the criminal act itself fully associates himself with the commission of the offence and the intended result; or
- (c) he employs a mentally deficient person for the commission of an offence or knowingly compels another person to commit an offence.

(2) Where the offence committed goes beyond the intention of the offender he shall be tried in accordance with Article 58 (3).

(3) Where several co-offenders are involved they shall be liable to the same

punishment as provided by law.

The Court shall take into account the provisions governing the effect of personal circumstances (Art. 40) and those governing the award of punishment according to the degree of individual guilt. (Art. 86).

Art. 33.---Participation in cases of special offences.

An accused person may be prosecuted as a co-offender when, by his acts, he fully participated with knowledge and intent in the commission of an offence which can be committed only by certain specified persons such as members of the Armed Forces or officials, or only by male persons as in the case of rape.

Art.34. — Collective Offences.

Where an offence is committed by a group of persons the person who is proved to have taken no part in the commission of the offence shall not be punished.

Art.35. — Collective Offences.

(1) Whosoever intentionally induces another person whether by persuasion, promises, money, gifts, threats or otherwise to commit an offence shall be regarded as guilty of having incited the commission of the offence.

The person who incited the commission of an offence shall be liable to punishment provided the offence was at least attempted.

(2) The punishment to be imposed shall be that provided by law for the intended offence. It may be reduced within the limits specified by law if the circumstances of the case justify such a reduction. (Art. 184).

(3) When the person who committed the offence went beyond what was intended by the instigator the latter shall be liable to Punishment only for the offence he intended or could foresee. (Art, 58 (3)).

The actual offender shall alone be answerable for the more serious offence which he committed.

Art. 36. — Accomplice.

(1) An accomplice is a person who knowingly assists a principal offender either before or during the carrying out of the criminal design, whether by information, advice, supply of means or material aid or assistance of any kind whatsoever in the commission of an offence.

(2). An accomplice in an intentional offence shall always be liable to punishment.

(3) The punishment to be imposed shall be the punishment for the offence whether attempted or completed insofar as such offence does not go beyond the accomplice's intention (Art. 58 (3)). The Court may, taking into account the

circumstances of the case, reduce the punishment in respect to an accomplice within the limits specified by law. (Art. 184).

Art.37. — Criminal Conspiracy.

- (1) Where two or more persons enter into an agreement to achieve an unlawful design or to commit an offence the provisions regarding participation and aggravation of punishment due to the abovementioned circumstances are applicable. (Art. 81 (d)).
- (2) The foregoing provision shall, however, not affect the provisions contained in the Special Part of this Code relating to conspiracies against the essential interests of the State and its defence, the forming of unlawful associations and the participation therein, as well as to the organization of gangs or associations of wrongdoers. (Art. 269, 236, 313 and 472).

Art. 38. — Failure to Report.

- (1) Failure to report the preparation, attempt or commission of an offence or of the person who committed the offence, shall not be liable to punishment as an act of an accomplice or an accessory after the fact except in the cases expressly provided by law. (Art. 267 and 344).
- (2) In all other cases the provisions regarding the failure to report to the authorities in the cases specified under Art, 438 shall apply.
- (3) The above-mentioned obligations are to be construed **in** a restricted Manner.

Art.39. — Accessory after the fact.

Whosoever after an offence has been committed assists an offender either by hiding him or helping him to escape prosecution or punishment or by receiving the proceeds of his offence shall be punished in accordance with the provisions of the Special Part of this Code dealing with such. (Art 439, 454 and 647).

Art.40.— Non-transmissibility of personal circumstances.

In case of participation whether as principal or accomplice **in** an offence each of the participants shall be punished for his own act, according to the extent of his participation, his degree of guilt and the danger which his act and his person represent to society,

Special circumstances or personal incidents or relationships which have the effect of excluding punishment or justify its reduction or increase are not transmissible to another person. They operate to the benefit or the detriment solely

of the person to whom they attach.

Chapter IV. — PARTICIPATION IN OFFENCES RELATIVE TO PUBLICATIONS

Art.41. — Principle.

- (1) In the case of offences relating to publications and with a view to ensuring freedom of expression while preventing abuse, the exceptions to the ordinary principles regarding participation in an offence provided hereinafter shall apply.
- 2) Offences relating to publications are those which are committed by means of printed material, posters or pictures, cinematography, wireless, television or tele-diffusion, or any other means.

They may be committed against the honour of other persons, public or private safety or any other legal object protected by criminal law and are committed only where publication is completed.

Art.42. — Principal Liability.

- (1) The author of the text, notice, poster, picture or other publication, the publication or diffusion of which constitutes the offence, or any-one who adopts them as his own and forwards them for publication or diffusion with a criminal intent, shall be guilty of an offence.
- (2) In such a case the rules governing participation whether as a principal or accomplice shall apply.

Art. 43. — Subsidiary liability in Press Matters.

(1) If the person **who committed the offence cannot be found, or if the** publication was made without the author's knowledge or against his will or if he is not amenable to Ethiopian Courts, the following persons shall be regarded as guilty and liable to punishment by the fact of the publication or diffusion:

(a) in the case of a printed periodical publication (newspaper magazine), the manager or the responsible editor of the printed publication unless he prefers to name the author who shall then be directly answerable for the offence within the meaning of the foregoing provision;

(b) in the case of a non-periodical or occasional printed publication the publisher or, failing such, the printer or, finally, failing such, the vendors or distributors of the publication.

- (2) In any case, the offender's guilt shall be viewed in accordance with the relevant provisions of this Code.

Art. 44. — *Guarantee of the Secrecy of Writings.*

In the case of offences committed by means of a newspaper or a periodical publication, if the manager or responsible editor refuses to name the author and invokes the secrecy of writings, no ordinary means of investigation or lawful coercion may not be resorted to in order to discover the author of the writing.

An exception is made, however, in the case of attacks against the safety of the State, the Emperor, its constitutional bodies or its military forces as defined in Book III, Title I of the Special Part of this Code or in special laws relating thereto (Art. 248-272).

Art. 45. — *Subsidiary liability in respect of other forms of diffusion.*

When the offence is committed by means of a film, poster, theatrical performance, wireless, television, or other means of diffusion, the author of the text or of the picture, then the producer or publisher and then the person who procured the diffusion in any manner shall be liable to punishment.

Art. 46. — *Exclusion of double liability.*

The punishment of one of the parties responsible in the order fixed by law shall exclude liability to punishment of the other parties for the same act.

Art. 47. — *Immunity in respect of certain publications.*

The author, publisher or diffuser of a true record or representation, which is correct in form, of public debates or acts of a legislative, administrative or judicial authority the diffusion of which is not expressly prohibited by law or by a specific decision shall not be liable to punishment.

TITLE III

CONDITIONS OF LIABILITY TO PUNISHMENT IN RESPECT

OF OFFENCES

Chapter I. — CRIMINAL RESPONSIBILITY

Section I. — Ordinary Responsibility

Art. 48. — *Criminal Responsibility and Irresponsibility.*

(1) The offender who is responsible for his acts is alone liable to punishment under the provisions of criminal law.

A person is not responsible for his acts under the law when, owing to age,

illness, abnormal delay in his development or deterioration of his mental faculties, he was incapable at the time of his act, of understanding the nature or consequences of his act, or of regulating his conduct according to such understanding.

(2)The Court may order in respect of an irresponsible person such suitable measures of treatment or protection as are provided by law. Art. 133-135).

Art.49.--- *Limited Responsibility.*

(1)He who owing to a derangement of his mind or understanding, an arrested mental development or an abnormal or deficient condition was not, at the time of his act, fully capable of understanding the nature and consequences thereof or regulating his conduct according to such understanding shall not be liable in full to the punishment specified for the offence committed.

The Court shall without restriction reduce the punishment. (Art.185).

(2)In addition to a penalty the Court may order such appropriate measures of treatment, correction or protection as are provided by Law. (Art. 133-135).

Art. 50. — *Intentional or culpable irresponsibility.*

(1) The provisions excluding or reducing liability to punishment shall not apply to the person who in order to commit an offence intentionally put himself into a condition of irresponsibility or of limited responsibility by means of alcohol or drugs or by any other means. The general provisions of this Code are applicable in such a case.

(2) If an offender by his own fault has put himself into a condition of irresponsibility or of limited responsibility while he was aware, or could and should have been aware, that he was exposing himself in such a condition, to the risk of committing an offence, he shall be tried and punished under the ordinary provisions governing negligence if the offence committed is punishable on such a charge. .(Art.59).

(3) In the case of an offence which was neither contemplated nor intended and was committed in a state of complete irresponsibility into which the offender put himself by his own fault. Article 485 of the Special Part of this Code relating to offences against Public Safety shall apply.

Art. 51. — *Doubtful cases, expert examination.*

(1) When there is a doubt as to the responsibility of the accused person, whether full or partial, the Court shall obtain expert evidence and may order an enquiry

to be made as to the character, antecedents and circumstances of the accused person.

Such evidence shall be obtained when the accused person shows signs of a deranged mind or epilepsy, is deaf and dumb or is suffering from chronic intoxication due to alcohol or drugs.

(2) The expert or experts shall be appointed by the court under the ordinary rules of procedure. The Court shall define their terms of reference and the matters to be elucidated.

The expert evidence shall describe the present condition of the accused person and its effect upon his faculties of judgment and free determination. It shall, in addition, afford guidance to the Court as to the expediency and the nature of medical treatment or safety measures.

(3) On the basis of the expert evidence the Court shall make such decision as it thinks fit. In reaching its decision it shall be bound solely by definite scientific findings and not by the appreciation of the expert as to the legal inferences to be drawn therefrom.

Section II. — Infants and Juvenile Delinquents

Art. 52. — Infancy: Exoneration from Criminal Provisions.

The provisions of this Code shall not apply to infants not having attained the age of nine years. Such infants are not deemed to be responsible for their acts under the law.

Where an offence is committed by an infant, appropriate steps may be taken by the family, school or guardianship authority.

Art. 53. — Special provisions applicable to young persons.

(1) Where an offence is committed by a young person between the ages of nine and fifteen the penalties and measures to be imposed by the court shall be those provided in Book II, Chapter IV of this Code (Art. 161-173).

Young persons shall not be subject to the ordinary penalties applicable to adults nor shall they be kept in custody with adult offenders.

(2) No order may be made under Art. 162-173 of this Code unless the offender is convicted.

Art. 54. — Assessment of Sentence.

In assessing the sentence the Court shall take into account the age, character,

degree of mental and moral development of the young offender, as well as the educational value of the measures to be applied.

The Court may vary its order to ensure the best possible treatment. (Art. 168).

Art.55.— *Expert evidence and enquiry.*

(1) For the purpose of assessing sentence the Court may require information about the conduct, education, position and circumstances of the young offender. It may examine his parents as well as the representatives of the school and guardianship authorities.

The Court may require the production of any files, particulars, medical and social reports in their possession concerning the young person and his family.

(2) The Court before passing sentence may order the young offender to be kept under observation in a medical or educational centre, a home or any other suitable institution.

The Court may require the production of expert evidence regarding the physical and mental condition of the young person. The Court shall put such questions as may be necessary to any expert for the purpose of informing itself as to the physical and mental state of the young person and inquire what treatment and measures of an educational, corrective or protective kind would be most suitable.

(3) In reaching its decision the Court shall be bound solely by definite scientific findings and not by the appreciation of the expert as to the legal inferences to be drawn.

Art. 56. — *Offenders over the age of fifteen.*

(1) If at the time of the offence the offender was over fifteen but under eighteen years of age he shall be tried under the ordinary provision of this Code.

(2) The Court may, in assessing sentence, take into account the circumstances of the case, in particular the age of the offender, his in corrigible or dangerous disposition and the likelihood of his reform, either by applying the general provisions regarding ordinary mitigation of penalties (Art. 184) or by applying one of the special penalties specified for young persons. (Art. 170-173).

Chapter II. — CRIMINAL GUILT

Section I. — Intention, Negligence and Accident

Art. 57. — *Principle; Criminal Fault and Accident.*

(1) No one can be punished for an offence unless he has been found guilty thereof under the law.

A person is guilty if, being responsible for his acts, he commits an offence either intentionally or by negligence.

(2) No one can be convicted under criminal law for an act penalised by the law if it was performed or occurred without there being any guilt on his part, and was caused by force majeure, or occurred by accident.

Nothing in this Article shall be a bar to civil proceedings.

Paragraph 1. Guilt in case of a simple offence

Art. 58. — Criminal Intention.

(1) A person intentionally commits an offence when he performs unlawful and punishable act with full knowledge and intent.

Criminal intention exists also when the offender being aware that his act may cause illegal and punishable consequences, commits the act regardless that such consequences may follow.

(2) An intentional offence is punishable save in cases of justification or excuse expressly provided by law. (Art. 64-78).

(3) No person shall be convicted for what he neither knew of or intended, nor for what goes beyond what he intended either directly or as a possibility, subject to the provisions governing negligence.

Art. 59, — Criminal Negligence.

(1) A person is guilty of a criminal negligence act where, by a criminal lack of foresight or imprudence, he acts without consideration or in disregard of the possible consequences of his act.

A person is guilty of criminal negligence when he fails to take such precautions as might reasonably be expected in the circumstances of the case and having regard to his age, experience, education, occupation and rank.

(2) Offences committed by negligence are liable to punishment only if the law so expressly provides by reason of their nature, gravity or the danger they constitute to society.

The Court shall assess sentence according to the degree of guilt and the dangerous character of the offender, and according to his realisation of the possible consequences of his act or his failure to appreciate such consequences as he ought to have done.

Paragraph 2. Guilt In case of concurrent offences or provisions

Art.60.---*Unity of guilt and penalty.*

(1) The same criminal act or a combination of criminal acts against the same protected right flowing from a single criminal intention or act of negligence, cannot be charged under two or more concurrent provisions of the same nature.

(2) Successive or repeated acts against the same protected right flowing from the same initial criminal intention or act of negligence and aiming at achieving the same purpose constitute one offence; the offender shall be charged with the said offence and not with each of the successive acts which constitute it.

(3) In cases of offences resulting from injury to property, the putting into circulation of counterfeit coins, or the use of forged documents, the subsequent acts performed by the offender himself after the commission of the main offence for the purpose of carrying out his initial criminal scheme shall not constitute a fresh offence liable to punishment and are merged by the unity of intention and purpose.

Art.61.— *Renewal of guilt entailing a fresh penalty.*

When an offender having committed an offence as specified in Art. 60 commits with renewed criminal intention or negligence another offence of the same land whether against the same person or the same protected right and with the same end in view, such offence constitutes a fresh offence and the Court shall apply the provisions of Article 189.

Art.62. — *Guilt in case of related offences.*

When an offender commits an offence with the intention of causing or facilitating the commission of another punishable offence the provision regarding aggravation of penalty in case of concurrence shall apply (Art. 190) when. this has been attempted unless such offence is declared by law to be an aggravated offence.

Art. 63. — *Guilt in case of a Combination of Offences.*

(1) When a given offence implying an injury to persons or property, or the use of arms, instruments or dangerous means, fire or explosive poison or toxic substances, entails an injury whereby the elements constituting a second offence are materialized, whether it be bodily injury, injury to health, death of a human being or the destruction of a third person's property, the Court shall apply the following principles for determining the guilt and the penalty:

(a) if the result was intended, or foreseen and accepted by the offender, (Art.58 1)), he shall be charged with both the principal offence and the resulting offence and aggravation shall apply in accordance with the relevant provisions (Art. 189 and 192), due regard being had to the combination of the element constituting the two intentional offences;

(b) if the injurious result could and ought to have been foreseen in the circumstances of the case (Art. 59 (1)) there shall be concurrence between the principal intentional act and the resulting offence due to negligence, and the Court shall increase the penalty accordingly.

(2) Aggravation shall apply in particular where the criminal result was achieved by means endangering public security, such as arson, explosion, use of explosives or where communications or public health are in danger as well as in the case of exposure of persons, maltreatment, duels, abortion, rape or sexual outrages.

Section II. — Lawful Acts. Justifiable Acts and Excuses

Paragraph 1. Lawful Acts

Art. 64. — Acts required or authorized by law.

Acts required or authorized by law do not constitute an offence and are not punishable in particular:

- (a) acts in respect of public. State or military duties done within the limits permitted by law;
- (b) acts reasonably done in exercising the right of correction or discipline;
- (c) acts done in the exercise of private rights recognized by law, where the conditions and limits of the exercise of such rights are not exceeded.

Art. 65.--- Professional Duty.

An act done in the exercise of a professional duty is not liable to punishment when it is in accordance with the accepted practice of the profession does not commit any grave professional fault.

Nothing in this Article shall affect civil liability.

Paragraph 2. Justifiable Acts and Excuses

Art.66.---Consent of the injured person.

The consent of an injured party to the commission of a criminal offence against himself or a right he possesses does not relieve the offender of criminal liability.

Art.67. *Absolute Coercion.*

Whosoever commits an offence under an absolute physical coercion which he could not possibly resist is **not** liable to **punishment. The person who exercised** the coercion shall answer for the offence. (Art. 32 (1), (c)).

When the coercion was of a moral kind the Court may without restriction reduce the penalty (Art. 185) or may impose no punishment.

Art.68--- *Resistible Coercion.*

If the coercion was not irresistible and the person concerned was **in a position** to resist it or avoid committing the act he shall, as **a general** be punishable.

The Court may, however, without restriction reduce the penalty (Art.185), taking into account the circumstances of the case, in particular the degree and nature of the coercion, as well as personal circumstances and the relationship of strength, age or dependency existing between the person who was subjected to coercion and the person who exercised it.

Art.69.— *Responsibility of person giving an Order.*

Is the case of an offence under this Code committed on the express order of a person of higher rank whether administrative or military to a subordinate, the person who gave the order is responsible for the act performed by his subordinate and is liable to punishment so far as the subordinate's act did not exceed the order given. (Art. 58 (3)).

Art.70. — *Responsibility of the subordinate.*

- (1) the subordinate who has carried out an order to commit an offence under this Code shall be liable to punishment if he was aware of the illegal nature of the order or knew that the order was given without authority or knew the criminal nature of the act ordered, such as in cases of homicide, arson or any other grave offence against persons or property, essential public interests or international law.

The Court may, without restriction, reduce the penalty (Art.185) when the person who performed the act ordered was moved by a sense of duty dictated by discipline or obedience; the Court shall take into account the compelling nature of the duty.

- (2) The Court may impose no punishment where, having regard to the circumstances and in particular to the stringent exigencies of State or military discipline, the person concerned could not discuss the order received and act otherwise than he did.

- (3) In the event of an order being intentionally exceeded the person exceeded the

order is alone responsible for the excess.

Art. 71. — Necessity.

An act which is performed to protect from an imminent and serious danger a legal right belonging to the person who performed the act or a party is not liable to punishment if the danger could not have been wise averted and the doer used means proportionate to the
of the case.

Art. 72. — Excess of Necessity.

If the abandonment of the threatened right could reasonably have required in the circumstances of the case or if the encroachment the third party's rights exceeded what was necessary or if the doer, by own fault, placed himself in the situation involving danger or necessity in which he found himself, the Court may, without restriction, reduce the penalty. (Art. 185).

Nothing in this Article shall affect civil liability for the damage caused.

Art. 73. — Military State of Necessity.

(1) An act done by an officer of a superior rank in active service to maintain discipline or secure the requisite obedience in the case of a military danger and in particular in the case of a mutiny or in the face of the enemy shall not be punishable if the act was the only means, in the circumstances, of obtaining obedience.

(2) Where the officer exceeded what was required in the circumstances the Court shall, without restriction, reduce the penalty (Art. 185) or, if the circumstances were of a particularly impelling nature, may impose no punishment.

Art. 74.— Self-Defence.

An act done under the necessity of self-defence or the defence of another Person against an imminent and unlawful assault or a threat of an assault directed against a legally protected belonging shall not be punishable if the assault or threat could not have been otherwise averted and if the defence was proportionate to the needs of the case, in particular to the danger and gravity of the assault and the importance of the belonging to be defended.

Art.75.— Excess in Self-Defence.

(1) When a person in repelling an unlawful assault exceeded the limits of self-defence by using disproportionate means or going beyond the acts necessary for averting the danger, the Court shall, without restriction, reduce the penalty. (Art. 185).

(2)The Court may impose no punishment when the excess committed was due to excusable fear, surprise or excitement caused by the assault.

(3) In the case of acts exceeding strict self-defence he who repelled the assault shall remain civilly liable for the injury caused by his excess.

Art.76. — Mistake of Fact.

(1) Whosoever commits an offence under an erroneous appreciation of the true facts of the situation shall be tried according to such appreciation.

Where there is no criminal intention the doer shall not be punishable. Where he could have avoided the mistake by taking such precautions as were commanded by his personal position and the circumstances of the case (Art. 59), he shall be punishable for negligence in cases where such negligence is penalized by law.

(2) Mistake as to a fact which constitutes a specified offence shall not exclude the punishment of the doer for another offence constituted by the act he performed.

(3) The offence is committed where there is a mistake as to the identity of the victim or the object of the offence.

Art.77.—Imaginary Offence.

A person is not punishable for an act or omission not penalized by law (Art. 2 (2)) even though he acted intentionally in the mistaken belief that he was committing a criminal offence.

Nothing in this Article shall prevent the court from applying the measures provided by Articles 139 and 144 of this Code.

Art.78. — Mistake of Law and Ignorance of Law.

(1) Ignorance of the law is no defence.

The Court shall, without restriction, reduce the punishment (Art.185) applicable to a person who in good faith believed he had a right to act and had definite and adequate reasons for holding erroneous belief.

The Court shall determine the penalty taking into account circumstances of the case and, in particular, the circumstance that led to the error.

(2) In exceptional cases of absolute and justifiable ignorance and faith and where criminal intent is not apparent, the Court may impose no punishment.

(3) The person who committed the breach of the law shall remain civilly liable for the injury caused.

Section III. — Extenuating and Aggravating Circumstances

Art. 79. — General Extenuating Circumstances.

(1) The Court may reduce the penalty, within the limits allowed by law (Art. 184,) , in the following cases;

(a) when the offender who previously of good character acted without thought or by reason of lack of intelligence, ignorance or simplicity of mind;

(b) when the offender was prompted by an honourable and disinterested motive or by a high religious, moral or civil conviction;

(c) when he acted in a state of great material or moral distress or under the apprehension of a grave threat or a justified fear or under the influence of a person to whom he owes obedience upon whom he depends;

(d) when he was led into grave temptation by the conduct of the victim or was carried away by wrath, pain or revolt caused by a serious provocation or an unjust insult or was at the time of the act in a justifiable state of violent emotion or mental distress;

(e) when he manifested a sincere repentance for his acts after the offence, in particular by affording succour to his victim, cognizing his fault or delivering himself up to the authorities, or by repairing, as far as possible, the injury caused by his offence.

(2) When the law, in a special provision of the Special Part, has taken one of these circumstances into consideration as a constituent element or as a factor of extenuation of a privileged offence, the court may not at the same time allow for the same circumstance to reduce the penalty applicable thereto.

Art. 80. — Special Circumstances: Family relationship or Relationship of Affection.

(1) Court may, without restriction, reduce the punishment (Art. 185) when the offender acted in a manner contrary to the law and in particular failed in his duty to report to the authority or afford it assistance, made a false statement or deposition or supplied false information or assisted an offender in escaping prosecution or the enforcement of a penalty, for the purpose of not exposing himself, one of his near relatives by blood or marriage or a person with whom he is connected by specially close ties of affection, to a criminal penalty, dishonour or grave injury.

The Court shall examine and determine the existence and adequate nature of the relationships invoked.

(2) If the act with which the accused person is charged was not very grave and if the ties in question were so close and the circumstances so impelling that they placed him in a moral dilemma of a particularly harrowing nature the Court may exempt him from punishment other than reprimand or warning. (Art. 121).

(3) Nothing in this Article shall affect the provisions of Articles 267 (4), 344 (3) and 647 (4).

Art.81. — General Aggravating Circumstances.

(1) The Court shall increase the penalty as provided by law (Art. 188) in the following cases:

(a) when the offender acted with treachery, with perfidy, with a base motive such as envy, hatred, greed, with a deliberate intent to injure or do wrong, or which special perversity or cruelty;

(b) when he abused his powers, or functions or the confidence, or authority vested in him;

(c) when he is particularly dangerous on account of his antecedents, the habitual or professional nature of his offence or the means, time, place and circumstances of its perpetration, in particular if he acted by night or under cover of disturbances or catastrophes or by using weapons, dangerous instruments or violence;

(d) when he acted in pursuance of a criminal agreement, together with others or as a member of a gang organized to commit offences and, more particularly, as chief, organizer or ringleader;

(e) when he intentionally assaulted a victim deserving special protection by reason of his age, state of health, position or function, in particular a defenceless, feeble-minded or invalid person, a prisoner, a relative, a superior or inferior, a minister of a representative of a duly constituted authority, or a public servant in the discharge of his duties.

(2) When the law, in a special provision of the Special Part, has one of the same circumstances into consideration as a constituent element or as a factor of aggravation of an offence, the Court may not take this aggravation into account again.

Art. 82. — Special Circumstances: Concurrence and Recidivism.

(1) The penalty shall be aggravated under the relevant special Provisions (Art. 189-193):

(a) in cases of material concurrence, when the offender successively committed several offences, whatever their nature; it may also be increased, according to the degree of guilt, in cases of notional concurrence, when the act simultaneously contravenes criminal provisions;

(b) when a second or further intentional offence against the provisions of this Code warranting extradition under Ethiopian law has been committed within five years of a sentence being served in whole or in part or having been remitted by pardon or amnesty.

(2) Where in a case of recidivism the offender has at the same time been convicted of concurrent offences the Court shall first assess sentence for the concurrent offences and then increase it having regard to recidivism.

Art. 83. — Other Circumstances.

The Court shall give reasons for applying extenuating or aggravating circumstances not expressly provided for in this Code and shall state clearly its reasons for taking this exceptional course.

Art. 84. — Cumulation of Extenuating and Aggravating Circumstances.

(1) If there exists both extenuating and aggravating circumstances the Court shall take both into consideration in determining the sentence.

(2) In the event of concurrent aggravating and extenuating circumstances the Court shall first fix the penalty having regard to the aggravating circumstances and then shall reduce the penalty in light of the extenuating circumstances.

BOOK II

THE CRIMINAL PUNISHMENT AND ITS APPLICATION

TITLE I

**PUNISHMENTS AND OTHER MEASURES AND
THEIR ENFORCEMENT**

Art. 85. __ Principle.

The penalties and other measures provided by this Code must be applied in accordance with the spirit of this Code and so as to achieve the purpose it has in view (Art. 1).

They shall always be in keeping with the respect due to human dignity.

Art. 86. __ Calculation of Sentence.

The court shall determine the penalties and other measures in conformity provisions of the General Part of this Code and the special provisions defining offences and their punishments.

The penalty shall be determined according to the degree of individual guilt, taking into account the dangerous disposition of the offender, his antecedents, motive and purpose, his personal circumstances and his standard of education, as well as the gravity of his offence and the circumstances of its commission.

Art. 87. __ Minor Offences.

In cases of minor offences the Court may apply the provisions of Art. 121 relating to reprimands or warning or the provisions of the Code of petty offences.

Chapter I. — ORDINARY PUNISHMENTS APPLICABLE TO ADULTS

Section I. — Principal Punishments

Paragraph 1. Pecuniary penalties

Art. 88.— Principles to be applied when fine imposed.

Sub-paragraph 1. Fine Confiscation. Sequestration.

The fine, when paid, is forfeited to the State and, subject to any provision of the law to the contrary, may extend from one dollar to five thousand dollars.

In fixing the amount of the fine the Court shall take into consideration the financial condition, the means, the family responsibilities, the occupation and earnings therefrom, the age and health of the offender.

The amount of the fine shall be such as to make the loss to be sustained the offender correspond, as far as possible, to his degree of guilt.

Art. 89.— Fine may be imposed in addition to imprisonment.

Where the Special Part of this Code provides for a fine or imprisonment as an alternative punishment for an offence, and. it appears to the court that, having regard to the degree of guilt and the circumstances of the offender, it is expedient so to do, it may impose both fine and imprisonment.

The provisions of this article shall apply notwithstanding that provision la specifically made for the infliction of both fine and imprisonment as a punishment for an offence.

Art. 90. — Motive of gain as an aggravating circumstance.

(1) Without prejudice to any special provision, of the law prescribing a higher maximum, where the offender has acted with a motive of gain or where he makes a business of crime in. a way that he acquires or tries to acquire a gain whenever a favourable opportunity presents itself, and where it appears to the Court that, having regard to the financial condition of, and the profit made by, the offender, it expedient n to do, it may impose a fine which shall not exceed ten thousand dollars.

The amount of the fine shall always be in addition to the confiscation of the profit made.

(2) Notwithstanding that no provision is specifically made in the Special Part of this Code, where although gain is not an essential element of an offence, the offender was motivated by gain in the commission of such offence, the Court, may impose a fine in addition to imprisonment or other punishment provided by law.

Art. 91. — Recovery of fine.

(1) Where the offender cannot pay the fine forthwith the court may allow a period of time for payment; such period may extend, according to circumstances, from one to three months.

(2) Where, having regard to the circumstances of the offender, it appears to the court that it is expedient so to do, it may direct the payment of the fine to be made by instalments within a period not longer than two years.

In fixing the amount and the date for payment of each instalment, the court shall take into consideration the actual means of the offender,

Art. 92. — Conversion of fine into labour.

In default of payment of the fine in the manner aforementioned, the Court may allow the offender to settle the fine by doing work for the state or for any public authority and in such case the period within which the fine is to be settled shall be determined.

The court shall fix an amount, which in no case shall be less than one dollar for each day's work and in fixing such amount it shall have regard to the circumstances of the offender and particularly to his average daily earnings.

Art. 93. — Security or surety for the payment of fine.

Whenever a fine is not paid forthwith, the court may require the offender to produce such security or sureties as is sufficient to ensure the payment of the fine within the stated period.

The security or sureties shall be determined having regard to the circumstances of the case, the condition of the offender and the interests of justices.

Art. 94. — Conversion of fine into simple imprisonment in default of payment.

(1) fine, or any part thereof, which remains unpaid within the stated period may be levied by the seizure of the offender's goods.

(2) If there are no goods liable to seizure or if such seizure will cause hardship to the offender or to his family, the fine or any part thereof which remains unpaid shall be converted into simple imprisonment.

The period of simple imprisonment shall be at the rate of one day for such amount as may be specified in the judgment having regard to the personal and financial condition of the offender.

In no case shall simple imprisonment exceed two years.

- (3) Simple imprisonment shall terminate when the offender pays the fine or part thereof which is still due. Simple imprisonment shall also terminate when the offender provides a security or surety which, in the opinion of the Court, is sufficient.

Art.59. — Suspension of execution of punishment.

The provisions of the law regarding the suspension of enforcement of punishments restrictive of personal liberty (Art. 196) shall apply to simple imprisonment into which a fine has been converted, and particularly in cases where the offender, notwithstanding his willingness to pay the fine, is not in a position to do so by reason of poverty, his family obligations, his state of health or for any other good cause:

Provided that if through changed circumstances the offender is in position to pay the fine and fails to do so on demand, the suspension shall terminate.

Art. 96. — Conversion of fine into compulsory labour.

In cases of minor importance the court may, whatever the reason for nonpayment of the fine, direct that the fine or part thereof which remains unpaid be converted into compulsory labour (Art. 102-103) instead into simple imprisonment.

Art. 97. — Confiscation of property.

- (1) Subject to the following provisions of this Article, where the law makes provision for confiscation the court may order the confiscation of the estate, or part thereof, of the offender.
- (2) An order of confiscation shall not be made except in cases where law specifically provides for confiscation.

Any property which the offender has acquired, directly or indirectly, by the commission of the offence in respect of which conviction is had shall be confiscated. An order of confiscation may also apply to any property lawfully acquired by the offender.

- (3) Confiscation shall not affect:

- (a) domestic articles normally in use, instruments of trade or profession and agricultural implements, necessary for the livelihood of the offender and his family;
- (b) such amount of foodstuffs and of money as are necessary for the support

of the family of the offender for a period of not less than three months or for such longer period as the court having regard to the particular circumstances of the case a for reasons to be given in its judgment, considers just;

- (c) goods, movable or immovable, forming part of a family inheritance, of which the offender cannot freely dispose by gift, legacy testamentary disposition or in any other manner;
- (d) personal goods of the spouse and children of which the offender has, by law or custom, the charge, administration, management or power to dispose.

Art. 98. — Sequestration of Property.

Where the offender has been convicted and sentenced in his absence for conspiring or engaging in hostile acts against the Emperor or the Empire, the Court may in addition to any other penalty order the sequestration of his property.

The provisions of Article 97 (3) shall apply to an order of sequestration

Sub-paragraph 2. Other pecuniary effects

Art. 99. Forfeiture to the State.

(1) Any material benefits given or intended to be given to an offender to commit an offence shall be forfeited to the State.

If they no longer exist in kind, the person who received them shall refund their value.

(2) Any fruits of an offence shall be forfeited to the State after a period of five years. Where the true owner is found the property shall be returned to him. A notice shall be published informing the public of all property which has been recovered.

Art. 100. — Compensation for damages caused by an offence.

(1) If an offence has caused considerable damage to the injured person or to those having rights from him, particularly in cases of death, injuries to the body or health, defamation, damage to property or destruction of goods, the injured person or the persons having or the persons having rights from him shall be entitled to claim that the offender be ordered to make good the damage or to make restitution or to pay damages by way of compensation.

Such claim shall include any expenses in hospital or expenses for medical treatment to such amount as may be assessed by expert evidence.

(2) The right to sue, the conditions under which an award is to be made, and the right to and the extent of the restitution, damages and indemnification shall be governed by the provisions of the civil law on such matter.

The court shall hear evidence and the submission of both parties and shall make an order according to its findings and where the parties have reached an agreement, which in the opinion of the court is just, it shall make an order accordingly.

The payment of any sum due on such order may be secured by the seizure of goods of the offender, not being goods which are necessary for his livelihood or for the exercise of his trade or profession.

(3) For the purpose of establishing his or their claim, the injured person or the persons having rights from him may be joined as parties in the criminal proceedings.

The conditions, form and manner of such joinder shall be governed by the provisions laid down in the Criminal Procedure Code.

In cases of a complicated nature or where the circumstances of the case make it expedient so to do, particularly where an inquiry has to be held in connection with the offence or where it is necessary to have the report of experts, the court sitting in Criminal Court may remit the case for decision by the civil court.

Art. 101. — Compensation to Injured Party.

Where it appears that compensation will not be paid by the offender or those liable on his behalf on account of the circumstances of the case or their situation, the court may order that the proceeds or part of the proceeds of the sale of the articles distrained, or the sum guaranteed as surety, or a part of the fine or of the yield of the conversion into work, or confiscated family property be paid to the injured party.

- (2) The granting of such compensation shall not be awarded except upon express application. It shall be proportionate to the extent of the damage suffered and to the needs of the injured party and the members of his family and shall be limited as a maximum to the amount of the damage as assessed by the Court or agreed by the parties.
- (3) The claim of the injured party who has been compensated shall be assigned to the State which may enforce it against the person who caused the damage.

Paragraph 2. Penalties entailing a restriction or a loss of liberty

Sub-paragraph 1. Pecuniary penalties combined with restriction of liberty

Art. 102. — *Compulsory labour with deduction of wages to the benefit of the State.*

(1) Where the offence is of minor importance and is punishable with simple imprisonment for a term not exceeding three months, the court may, if the offender is healthy and is not a danger to society, sentence him to compulsory labour without any restriction of personal liberty subject however to supervision.

This penalty may be for a period which may extend from one day to three months.

(2) The offender shall serve his sentence of compulsory labour at the place where he normally works or is employed or in a public establishment or on public works.

An amount not exceeding one fourth of the offender's wages or profits shall be deducted and forfeited to the State.

(3) The amount to be deducted, the place where the sentence is to be served and the period thereof and the nature of the supervision shall be stated in the judgment.

Art. 103. — *Compulsory labour with restriction of personal liberty.*

(1) Where with a view to keeping the offender away from unfavourable surroundings or undesirable company or for any other reason it appears to the court that it is expedient so to do, it may direct that compulsory labour shall be subject to restriction of personal liberty.

(2) The nature and the duration of such restriction shall be determined by the court according to the circumstances of the case.

Such restriction may require the offender to remain in a particular place of work, or with a particular employer or in a particular establishment for the purpose of doing work.

(3) If the offender fails to comply with any such requirement, he shall be liable to simple imprisonment for a period equal to any unfinished period of the sentence of compulsory labour.

Art.104. — Suspension of sentence during illness.

When the offender falls ill during the period of his sentence of compulsory labour, he shall not be required to do any work until he recovers.

When the offender is unable to resume work, any unfinished sentence of compulsory labour shall be converted into simple imprisonment.

Sub-paragraph 2. Penalties entailing loss of Liberty

Art.105.- Simple Imprisonment.

(1) simple imprisonment is a sentence applicable to offences of a not very serious nature committed by persons who are not a serious danger to society.

It is intended as a measure of safety to the general public and as a punishment to the offender.

Subject to any special provision of law and without prejudice to conditional release, simple imprisonment may extend for a period of from ten days to three years; such period shall be fixed by the court.

(2) The sentence of simple imprisonment shall be served in such prison or in such section thereof as is appointed for the purpose.

Art.106. — Substitution of compulsory labour for simple imprisonment.

Wherever by reason of local administrative difficulties the execution of a sentence of simple imprisonment is not possible or the carrying out of such sentence is not conducive to the reform or the rehabilitation the offender, the court may, in respect

of offences for which the Special Part of this Code provides for a term of simple imprisonment not exceeding three months, inflict a sentence of compulsory labour, with or without restriction of personal liberty (Art. 102 or 103) instead of sentence of simple imprisonment.

The provisions of this Article shall have effect notwithstanding no provision is made in the Special Part for the application of a sentence of compulsory labour instead of one of simple imprisonment.

Art. 107. — *Rigorous Imprisonment.*

(1), Rigorous imprisonment is a sentence applicable only to offences a very grave nature committed by offenders who are particularly dangerous to society.

Besides providing for the punishment and for the rehabilitation the offender, this sentence is intended also to provide for a strict confinement of the offender and for special protection to society.

Without prejudice to conditional release, the sentence of rigorous imprisonment is normally for a period of one to twenty-five years but where it is expressly so laid down by law it may be for life.

(2) The sentence of rigorous imprisonment shall be served in such central prisons as are appointed for the purpose.

The conditions of enforcement of rigorous imprisonment are more severe than those of simple imprisonment.

Art. 108. — *General provisions as to the execution of imprisonment.*

The following provisions are common to both forms of imprisonment.

Regulations relating to prisons shall provide for the manner of execution of sentences, the admission to prison, the segregation of prisoners, the contact of prisoners with persons outside, the internal discipline in the prisons, and for the education and spiritual welfare of the prisoners.

Art. 109. — *Separation of sexes and segregation.*

(1) Prisoners of different sexes shall serve their sentences in different buildings or in different sections of the same building and prisoners of one sex shall not be allowed to mix with prisoners of the other sex.

(2) Prisoners who are a danger to others, prisoners of a bad character and recidivists, sentenced to rigorous imprisonment or internment shall be kept

separate from prisoners under the age of eighteen years or from prisoners who are serving a sentence of simple imprisonment for the first time.

(3) Prisoners on remand or persons detained for civil debts shall be kept separate from prisoners serving sentence.

Art.110.— Obligation to do work and benefits accruing therefrom.

(1) A prisoner serving a sentence with deprivation of personal liberty shall be under an obligation to do work and such obligation is an essential element in the sentence.

A prisoner in good health shall be compelled to do such work as will be assigned by the Director of Prisons. Such work shall be suitable to the prisoner's ability and shall be of such nature as to reform and educate the prisoner and to be conducive to his rehabilitation.

(2) A prisoner compelled to work shall, if his work and conduct are satisfactory, be entitled to receive compensation for every day's work.

The amount of such daily compensation, the manner it shall be dealt with while the prisoner is serving sentence and on his release shall be governed by regulations relating to prisons.

Art.111.— Improved treatment in prisons.

With a view to ensuring that the sentence has the effect of reforming the prisoner and of enabling him to resume a normal social life on his release, the execution of the sentence shall be carried out in accordance with the following provisions in this article and with such other provisions as may be laid down by regulations relating to prisons:

(1) The Director of Prisons may, whenever it appears to him necessary so to do, impose solitary confinement at the beginning or in the course of the execution of the sentence.

Such confinement shall in no case exceed three months at a time and before imposing any period of confinement the Director shall consult a doctor and where it appears necessary a psychiatrist.

(2) The prisoner shall be bound to work either alone or together with others according to the requirements and conditions prevailing at the time.

Outside periods of work and during the night, prisoners shall, as far as possible, be kept isolated.

(3) Good conduct prisoners may be given more favourable treatment as regards food, access to visitors, nature of work and leisure and treatment may be further improved with improved conduct of the prisoner and with the approach of the prisoner's release: Provided that any improved, treatment may be withdrawn or suspended for a definite or an indefinite period of time in the case of abuse or persistent misconduct of the prisoner.

Art.112. — Conditional release before expiry of period of sentence.

(1) Where two thirds of the sentence have been served or when a sentence is for life when twenty years of such sentence have been served, the prisoner may be released on probation, if his conduct has been satisfactory and other conditions laid down by law (Alt. 207) have been fulfilled.

Before being released the prisoner may be required to live on probation in a penitentiary or labour settlement or other similar establishment.

(2) The law relating to the execution of sentences and the regulations relating to prisons lays down the conditions and the manner putting into effect the provisions of this article.

Art. 113. — Execution of sentence in the case of members of the armed forces

The foregoing provisions shall be without prejudice to the execution of sentences with deprivation of personal liberty, in the case of members of the armed forces in which case the sentence shall be carried into effect in military prisons, camps or fortifications.

The manner of carrying out such sentences shall be laid down by regulations.

Art. 114. — Deduction of period of remand.

(1) In passing a sentence with deprivation of personal liberty, the court shall specify what period of remand shall be deducted from the period of the sentence:

Provided that no such deduction shall be made or a deduction to a limited period shall be made if such remand or a prolongation thereof is attributable to the offender.

(2) The conditions of remand and the manner in which it is carried into effect are governed, by the Code of Criminal Procedure.

Art. 115. — Period of time spent in hospital and transfer in case of illness.

(1) If while serving sentence a prisoner has to be transferred to a hospital for treatment, the period spent in hospital shall be reckoned as a part of the sentence.

If the transfer to hospital is due to an illness or to any cause existing before the prisoner started to serve his sentence, the whole or part of any period in hospital may be reckoned as a part of the sentence.

If the transfer to hospital or the prolonged stay there is attributable to the prisoner, no reduction shall be made in the period of the sentence.

(2) If while serving sentence, a prisoner is deemed by experts to be suffering from some mental disorder or to be irresponsible for his acts, the sentence shall be suspended and the offender shall be transferred to a proper institution for care or treatment.

If the mental disorder or state of irresponsibility of the offender is of a permanent nature the remaining period of the sentence shall not be carried into effect.

Paragraph 3. Punishment of death

Art. 116.— General Principles.

(1) Sentence of death shall not be passed except in the cases specifically laid down by law as a punishment for offences which are completed and in the absence of any extenuating circumstances. The sentence shall be executed by hanging;

Provided that in the case of members of the armed forces the sentence may be ordered to be carried out by shooting.

The manner of execution shall be specified in the judgment and, except in cases where the court considers it expedient that the sentence shall be carried out in public to set an example to others in which case it may so order, the execution shall be carried out within the precincts of the prison.

(2) The execution of the sentence shall be subject to the power of His Imperial Majesty to remit or commute the sentence by virtue of His prerogative of mercy and by the grant of an amnesty and in no case shall the sentence be carried out unless it has been confirmed by His Imperial Majesty.

The execution of the sentence shall be carried out without any cruelties, mutilations or other physical suffering.

After execution the body shall be handed to his family or where there are no relatives shall be given a decent burial.

Art. 117. — Treatment of prisoner awaiting execution.

While awaiting the confirmation or the execution of the sentence the prisoner shall

be detained under the same conditions as a prisoner-serving sentence of rigorous imprisonment.

The Director of Prisons shall take such steps as may be necessary for the safety of the prisoner.

Where the prisoner ^{BO} desires lie may be given some work to do his cell.

Art. 118. — Execution shall not be carried out or shall be suspended in certain cases.

Sentence of death shall not be pronounced on a person who committed an offence under the age of eighteen years or in a state of limited responsibility.

In the case of a prisoner who is seriously ill or a woman who is child, execution of the sentence shall not be carried out while prisoner continues to be in that state and, in the case of a woman child and such child is born alive and the mother has to nurse such child, the sentence may be commuted to rigorous imprisonment for life.

Art. 119. — Commutation of sentence of death.

Where a sentence of death is commuted by way of pardon or the provisions of this Code (Articles 239 and 240) shall apply.

Section II. — Secondary Punishments

Art. 120. — General principles applicable to secondary punishments.

Secondary punishments shall not be applied except together with and subject to a principal punishment. Any such punishment may be applied whenever the general provisions of law have been fulfilled notwithstanding that no provision is specifically made for the application of such punishment in any particular case.

Any such punishments shall apply only when the court has expressly so directed and in doing so the court shall take into consideration the aims and objects of such punishments.

Art. 120 A. — Flogging.

(1) In the case of offences under Art. 635 (3) and 637 (1) of this Code, the Court may, in addition to the principal punishment, order that the convicted person be flogged at a place to be named in the judgment.

(2) Flogging may only be ordered in respect to male offenders between aighteen and fifty years of age and may not exceed forty lashes to be inflicted on the back.

(3)Flogging may only be ordered after a doctor has certified that the convicted

person is physically fit to receive a flogging. It shall be carried out under medical control and may be stopped at any time if the doctor considers that for reasons of health it is necessary.

Art.121.Caution, reprimand, admonishment and apology.

(1) Where the court considers that an appeal to the honour of the offender will have beneficial effects on the offender and on society at large, it may in open court, either during the trial or in its judgment, caution, admonish or reprimand the offender.

The Court may also order the offender to make a public apology to the person injured by the offence, or to the persona having rights from such injured person.

(2) The Court may apply any of the punishments mentioned in this Article instead of the principal punishment where it is specifically laid down by law that such punishments apply to minor offences; or where extenuating circumstances are present (Art. 79 and 80); or where the law provides for a free mitigation of the punishment (Art. 185); or where enforcement of the sentence is postponed (Art.196).

Art.122.— Deprivation of rights.

Where the nature of the offence and the circumstances under which the offence was committed justify such an order, and the offender has, by his unlawful act or omission, shown himself unworthy of the exercise of any of the following rights, the Court may make an order depriving the offender of:

(a) his civil rights, particularly the right to vote, to take part in any election or to be elected to a public office or office of honour, to be a witness to or a surety in any deed or document, to be an expert witness or to serve as assessor; or

(b) of his family rights, particularly those conferring the rights of parental authority or of guardianship; or

(c) his rights to exercise a profession, art, trade or to carry on any industry or commerce for which a licence or authority is required.

Art. 123. — Period of deprivation.

(1) Any deprivation (Art. 122) may be permanent or temporary and where temporary shall be from one to five years.

In fixing the period the Court shall take into consideration the gravity of the offence, the antecedents and character of the offender, the danger of a relapse into crime, the probable effect of the punishment and the interests of society.

(2) A sentence of death or of rigorous imprisonment carries with it the deprivation of all civil rights. Subject to the exercise of the prerogative of mercy and to Articles 242-247 such deprivation shall be permanent in the case of a sentence of death or of rigorous imprisonment for life.

Art. 124. — Date from which deprivation shall have effect.

(1) Any deprivation shall have effect from the day on which the judgment becomes final.

In the case of temporary deprivation the period fixed shall begin to run from the day of expiry of the term of the principal sentence or the day on which the principal sentence was remitted or barred by limitation.

(2) In the case of conditional release from a sentence restrictive of personal liberty, where the offender has been of good conduct during the period of such release, the deprivation or suspension of the exercise of rights shall begin to run from the day of release.

In case of forfeiture of professional rights (Art. 122 (c)), the Court may on trial authorize resumption of activity during the probation period of the conditional release (Art. 210).

Art. 125. — Reinstatement.

An offender may be reinstated into the exercise of his rights in the cases and under the conditions laid down by law (Art. 242-247).

Art. 126. — Dismissal from the Armed Forces and Reduction in Rank.

(1) Where the offender is a member of the Armed Forces and is convicted by a military court, the court may in addition order the reduction in rank of the offender and his dismissal from the armed forces where his offence shows him to be of a base, wicked or dangerous disposition.

(2) Such punishment shall be applied after consultation with the competent military authority.

Nothing in this Article shall prevent the imposition of any other secondary penalty.

Art. 127. — Legal effect.

Reduction in rank or dismissal from the armed forces shall take effect as provided by military law.

Chapter II. MEASURES APPLICABLE TO ADULTS IN SPECIAL CASES

Section I. — Measures against Recidivists and Habitual Offenders

Art.128.—Internment.

(1) When an offender who has served several sentences involving loss of liberty and who shows an ingrained propensity to evil doing, misbehaviour or incurable laziness, or habitually derives his livelihood from crime, is convicted for a further offence punishable with imprisonment not exceeding five years the Court shall order internment place of any other penalty.

(2) Internment may be ordered where the new offence is intentional and denotes the dangerous disposition of the offender, notwithstanding it is not serious or not of the same kind as the previous offences.

Art.129. — Conditions of enforcement.

(1) Internment shall be undergone in an institution, labour colony or Place of relegation used for such purpose.

Persons interned shall perform the work assigned to them.

(2) Conditions in such institutions shall be analogous to those applied in penitentiary institutions in general (Art. 109-111) subject to such restrictions or stricter measures of supervision as may be justified.

Particulars of such measures shall be laid down in regulations.

Art. 130—Duration.

(1) Internment shall be undergone in an institution, labour colony or offender shall be kept to internment for less than two years or more than ten years. Internment shall always be subject to conditional release.

The period of remand shall not be taken into consideration. (Art. 114).

(2) At any time after two years of internment have been completed the Court, having regard to the gravity of the case may, on the recommendation of the Director of the institution where the offender is interned, order his conditional release on the usual conditions (Art.206-212).

131. — Conditional release.

(1) Conditional release shall include the placing on probation of the internee for not less than three years. The court may prescribe conditions to be complied with by the released internee and place him under the supervision of an appropriate charitable organization. (Art. 213).

(2) Where the released person's conduct is satisfactory during the probation period he shall be finally discharged.

(3) The court may order reinternment where grounds for conditional release exist (Art. 211).

New conditional release may not be granted before five years have elapsed.

Art. 132. — *Impossibility of Enforcement.*

When more than five years have elapsed since the sentence was passed without it having been possible to enforce internment the Court decide whether internment should still be enforced. If the penalty is barred internment cannot be ordered.

Section II. — *Measures Applicable to Irresponsible Persons and Offenders with a limited Responsibility*

Art. 133. — *Principle.*

After having decided (Art. 51) whether the offender was irresponsible (Art. 48) or whether he is of a limited responsibility (Art. 49), the shall apply the following provisions having regard to the circumstances and requirements of the case.

Art. 134. — *Confinement.*

- (1) If the offender, by reason of his condition, is a threat to public safety or order, or if he proves to be dangerous to the persons living with him, the Court shall order his confinement in a suitable institution.
- (2) If he is in need of treatment he shall either be treated in the institution in which he is confined or be transferred to an appropriate institution in accordance with Article 135. Proper provision may be made for his safe custody.

Art. 135. — *Treatment.*

- (1) Where an offender is suffering from a mental disease or deficiency, deaf-and-dumbness, epilepsy, chronic alcoholism, intoxication due to the abuse of narcotics or any other pathological deficiency and requires to be treated or placed in a hospital or asylum the Court shall order his treatment in a suitable institution or department of an institution.
- (2) Where the Court is satisfied that the offender is not dangerous and can be treated as an out-patient, it shall order accordingly.

The Court shall then order that the offender be kept under proper

supervision and control either by the medical expert in charge of the case or by sonic oilier competent authority. An order made under this Article may he revoked and the Court *may* require such reports as it considers necessary.

Art. 136. — *Duration of Confinement or Treatment.*

- (1) The competent administrative authority shall carry out the Court's decision concerning treatment and confinement.

Treatment and confinement shall he of indefinite duration but the Court shall review its decision every two years. When the offender is cured, the dministrative authority with the consent of the court may release the offender.

As soon *as*, according to expert opinion, the reason for the measure has disappeared the administrative authority shall, after having referred the matter to the Court and upon its decision, put an end to the measure ordered.

- (2) When the Court is satisfied that the treatment or confinement may be suspended, it may on the request of the administrative authority order accordingly;

The Court shall release the offender to the supervision of a selected charitable organization for not less than one year and shall in addition impose such conditions as may he necessary (Art. 210).

- (3) Any order made under this Article may at any time be revoked where public safety or the condition of the released person so requires.

If the probation period *is* successfully undergone, the release shall be final.

Art. 137. — *Effect of Limited Responsibility upon Penalty.*

- (1) Where an offender is of limited responsibility, a mitigated penalty as provided by law (Art. 49) may be imposed by the Court.

The Court may when it is necessary make an order under Art.134 or 135, and the enforcement of the penalty shall be suspended.

- (2) Upon termination of the measure ordered the Court shall, upon a report made by the Management of the institution or the responsible authority of the charitable organization, decide whether the enforcement of the penalty u still necessary and determine the extent to which the period of confinement or treatment shall be deducted from the sentence unserved.

The court shall take into account the gravity of the offence committed, the

antecedents and character of the offender, the effect internment or treatment had upon his condition and the likelihood of his permanent recovery.

- (3) No penalty shall be enforced where the Court considers it inexpedient so to do.

Chapter III. — GENERAL MEASURES FOR PURPOSES OF PREVENTION AND PROTECTION

Art. 138. — Principle.

The general preventive or protective measures provided in this Chapter may be applied together with the principal penalty when in the opinion of the Court, the circumstances of the case justify.

All such measures must be specifically ordered by the Court on such conditions and in all such cases as it deems necessary, notwithstanding that no provision is made in the Special Part of this Code for their application.

Section I. — Measures of a Material Nature

Art. 139. — Guarantee of good conduct; Principle.

- (1) When a convicted person indicates his intention to commit a further offence or when it is likely that he will commit a further offence as in a case of declared hostility or threat, the Court may require him to enter into a recognizance to be of good behaviour together with a surety or sureties.
- (2) The recognizance shall be for a period of from one to five years. The surety shall be in the form of a personal or monetary guarantee.
- (3) The Court shall determine the duration of the recognizance and the value of the guarantee according to the nature and gravity of the threat, and having regard to the personal and material circumstances of the offender or his guarantors.

The recognizance of the guarantee shall be recorded in the judgment.

Art. 140.— Refusal of Recognizance or Guarantee.

- (1) If the person by whom the commission of an offence is feared refuses to enter into the required recognizance or if, by ill-will or bad faith, he does not name a guarantor or deposit the required surety within the specified time, the Court shall order him to be detained until he complies.
- (2) The Court shall at the same time determine the duration of such detention. Save in exceptional circumstances such as a renewal of the threats or the

obvious persistence of the dangerous disposition or ill-will of the person concerned, the detention shall not exceed three months.

The Court on application for good reason may release the convicted person under supervision (Art. 152) or grant a further detention of three months, if safety so requires. The total period of detention may in no case exceed six months.

(3) When adequate sureties or guarantees are furnished the prisoner shall be get free.

Art. 141. — Legal Effect.

When the probation period specified in the recognizance has elapsed without any offence having been committed the guarantee shall be discharged, the guarantors released and the sums or sureties lodged returned to their owners. If an offence is committed during the probation period, the surety shall be forfeited to the State or the guarantor required to discharge his obligation, without prejudice to the ordinary penalties and measures to which the offender is liable for his offence.

Art. 142. — Inability to furnish a Guarantee.

If the person by whom the commission of an offence is feared is through no fault of his own, unable to furnish the surety or personal guarantee required, the Court shall order that he be set free and placed under supervision. (Art. 152),

Art. 143. — Repetition of the Measure.

- (1) The Court may order a person who has entered into a recognizance to enter into a fresh recognizance in accordance with Article 139 if, upon the expiration of the probation period, circumstances justify such further order.
- (2) However, where the said person has been previously detained for the maximum period of six months specified in Art. 140 (2), he may not be detained again if he refuses to enter into the fresh recognizance. If a further order is required it shall be an order of supervision. (Art. 152).

Art. 144. — Seizure of Dangerous Articles.

(1) The Court shall order the seizure of all articles having been used or likely to be used for the commission of an offence, or which have been obtained as the result of an offence, when they endanger public order, safety, health or decency.

It may order that the seized articles be either destroyed useless or handed over to a police or a criminological institute

(2) Interests of innocent third parties shall be protected and weapons or instruments the possession of which is not forbidden by law shall be returned to their owner.

Art. 145. — Common Provisions General Preventive Application.

- (1) A person who has not been prosecuted may be required to enter into a recognizance to be of good behaviour where such person behaves or is likely to behave in a manner which threatens peace or security of the public or a member thereof.

An order for the seizure of articles under Art. 144 may also be made.

- (2) The authority competent for prescribing such a measure is designated in the law on procedure.

Section II. — Measures entailing restrictions on Activities

Art. 146. — Suspension and Withdrawal of a Licence.

In the case of a grave or repeated offence committed by a person holding an official licence entitling him to drive or use a vehicle, to hunt or fish, to manage a theatre, dance hall or eating-house, to trade or exercise any particular activity of a similar nature the Court may, in addition the penalty imposed, order the withdrawal of the licence for a period from one month to one year.

In cases of recidivism or of a particularly grave danger the licence may be revoked for life. Nothing in this Article shall affect the provisions of Art. 122 (c).

Art. 147. — Prohibition and Closing of an Undertaking.

In addition to the penalty imposed upon the offender the Court order that any undertaking or establishment whether commercial, industrial, cultural or political which was utilised to commit or further commission of an offence shall cease to function and be closed where the offence committed is a danger to public security and may where the offence has been punished with a sentence of rigorous imprisonment exceeding one year order its winding up.

Art. 148. — Effect of and Penalties for non-observance.

- (1) Measures prescribing closing down, suspension or prohibition be general or limited to a specified time, place or area as determined in the judgment.

They imply a prohibition of the continuance of the forbidden activity either by the convicted person or a third party by whatever name or management.

- (2) Infringements of a prohibition under this Article shall be punished under Art. 453.

Where an establishment or centre has been reopened in violation of a prohibition it shall be wound up and the assets disposed of according to law.

Section III. — Measures entailing a Restriction on Personal Liberty

Art. 149. — Prohibition from Resorting to certain places.

- (1) In addition to the penalty the Court may restrain the convicted person from having access to or remaining in certain places the resorting to which contributed to the commission of the offence or may expose the offender to committing fresh offences, in particular public-houses, inns, entertainment halls, markets and other public places.
- (2) The Court shall specify in its judgment the extent and duration of the restraint which may be from three months to one year.

Art. 150. — Prohibition to settle down or reside in a place.

- (1) A similar prohibition may be ordered in respect of settlement or residence in a town, village or a specified area.
- (2) It may be of a permanent or temporary nature having regard to the gravity of the offence, the character of the offender and the circumstances of the case. A temporary prohibition may be for a period of from one to ten years.

The court shall give reasons for its decision and shall specify the territorial area to which the prohibition extends and its duration.

Art. 151. — Obligation to reside in a specified place or area.

- (1) Where an offender is likely to cause further disturbances or pursue a life of crime, the Court may order the offender to reside in a specified place or area where the likelihood of his committing further offences is lessened.
- (2) The Court shall determine the duration of residence which shall be for not less than one year or more than five years.
- (3) An order shall not be made under this Article where an order under Art. 139 will meet the circumstances of the case.

Art. 152— Placing under Supervision.

- (1) Where such a measure appears necessary the Court may order that a convicted person be placed under Police supervision.

Except as otherwise expressly provided by law (in particular under Art. 142) such a measure shall be ordered only in respect of an offender who is proved to be dangerous by the gravity or repetition of his criminal acts and who was sentenced to at least a term of simple imprisonment of one year or to internment in case of repeated offences.

(2) The Court shall prescribe the period which shall be from one to five years.

Such supervision must be effected so as not to hinder the person who is the subject thereof in the exercise or resumption of his normal activities and living and not to prevent reinstatement.

The person subjected to supervision may be ordered to report himself either at regular intervals or when summoned so to do.

(3) The Court may in an appropriate case order supervision by a charitable organization. (Art. 213), where such an order appears sufficient having regard to the circumstances of the case.

Art. 153. — *Withdrawal of Official Papers.*

Where special reasons, relating to supervision or safety, require, the Court may in addition order the temporary retention or withdrawal of the official papers or passport of the convicted person.

The reasons for such a measure and its duration shall be stated in the judgment.

Art. 154. — *Prohibition from residing in the Territory; Expulsion.*

(1) If the convicted person is an alien and proves to be undesirable or dangerous the Court may order expulsion from the territory of the Empire either temporarily or permanently.

This measure may always be ordered in respect to a convicted person who has been sentenced to a term of simple imprisonment of three years or more, to a habitual offender sentenced to internment or to an irresponsible or partially responsible offender recognized by expert opinion as a danger to public order.

The duration of expulsion shall be specified in the judgment.

(2) The Court shall, prior to its decision, consult the competent public authority.

Nothing in this Article shall affect the provisions of international conventions.

(3) The application of any other measure does not preclude expulsion.

Art. 155. — *Enforcement.*

- (1) The enforcement of an order of expulsion shall be the duty of the competent public authority and shall be effected in accordance with the relevant administrative regulations.
- (2) In the case of a sentence entailing loss of liberty the order of expulsion shall be carried out after the sentence has been served or remitted.
- (3) In the case of an offender whose responsibility is limited and when circumstances so justify the penalty may be first enforced and expulsion substituted for the ordinary measures of treatment or safety.(Art. 134 or 135).

When the charge against an irresponsible person is dismissed or he is acquitted expulsion may, if appropriate in the circumstances of the case, be substituted for the aforesaid measured.

Art. 156. — *Suspension of the Measures by way of Probation.*

When an offender has been sentenced to a penalty entailing loss of liberty or to internment and his conditional release is ordered, the suspension of the order concerning prohibition from residing in a specified place, obligatory residence or expulsion may be ordered by the Court by way of probation and subject to possible revocation, on such general terms and under such guarantees as are provided by law. (Art. 212).

Art. 157. — *Penalty in case of violation of safety provisions.*

Infringements of the provisions relating to prohibition from resorting to certain places, or from residing or settling in the country, obligatory residence and the obligation to subject oneself to such supervision as is ordered, as well as prohibition from entering the territory of the Empire in case of expulsion, shall be punished under Art. 453.

Section IV. — *Measures for purposes of Information*

Art. 158. — *Notification to the Competent Authority.*

In every case where the Court pronounces a secondary penalty or a protective or

preventive measure as provided in the foregoing sections, it shall notify without delay the competent administrative, civil, military or police authority with a view to the enforcement of the decision and the control of its observation.

It shall, in each case, determine to what extent the decision shall be made publicly known in order to ensure its efficacy.

Art. 159. — *Publication of the judgment.*

- (1) Whenever the general interest or that of the accused or of the injured person so requires the Court shall order the publication of the judgment or parts thereof.

Such publication shall be ordered as a matter of course when it serves the public interest; it shall be effected only on request when it serves private interests.

Where an accused person is convicted he shall be liable for the costs of such publication. In case of acquittal they shall be borne by the complainant or informer or, failing such, by the State.

- (2) The Court shall determine the conditions under which the publications shall take place and their number, according to usage, the circumstances of the case and expediency.

Publication may be effected by means of posters in a public place, notices issued in an official or a privately owned gazette, or by the town-crier.

Art. 160. — *Entry in Police Record.*

- (1) Penalties and measures pronounced in a judgment shall be entered in the Police record of the person concerned in cases where such an entry is required by law and in accordance with the provisions of the order relating thereto.

These provisions shall also determine the particulars to be included in the entries and their duration, the extent to which they may be communicated to other people having a justified interest therein, as well as the conditions under which they may be cancelled and the effect thereof in case of reinstatement.

- (2) As a general rule, extracts from Police records are intended to enable the competent judicial authorities to ascertain the criminal antecedents of an accused person. They must not be communicated to third parties or to offices which are not expressly entitled to take cognizance thereof, in order not to hinder the reinstatement of the convicted person.

Chapter IV. — MEASURES AND PENALTIES APPLICABLE TO YOUNG PERSONS

Section I. — Period *between ages of nine and fifteen*

Paragraph 1. Ordinary Measures

Art. 161. — *Principle.*

In all cases where an offence provided by the Criminal Code or the Code of Petty Offences has been committed by a young person between the ages of nine and fifteen years (Art. 53) the Court shall order one of the following measures, having regard to the general provisions defining the special purpose to be achieved (Art. 54) and after having ordered all necessary enquiries for its information and guidance. (Art. 55).

Art. 162. — *Admission to a Curative Institution.*

If the condition of the young offender requires treatment and where he is feeble minded, abnormally arrested in his development, suffering from a mental disease, blind, deaf and dumb, epileptic or addicted to drink, the Court shall order his admission to a suitable institution where he shall receive the medical care required by his condition.

His treatment shall where possible include education and instruction.

Art. 163. — *Supervised Education.*

(1) If the young offender is morally abandoned or is in need of care and protection or is exposed to the danger of corruption or is corrupted, measures for his education under supervision shall be ordered.

He shall be entrusted either to relatives or, if he has no relatives or if these have proved to be incapable of ensuring his education, to a person (guardian or protector), a reliable family, home or organization for the education and protection of children.

The relatives, person or organization of a public or private nature ' responsible for the education under supervision of the young offender shall undertake in writing before the Court that they will, under their responsibility, see to the good behaviour of the young offender entrusted to them.

The local supervisory authorities (Art. 213) shall be responsible for the control of the measure.

(2) Specific conditions such as regular attendance at a school or the obligation to undergo an apprenticeship for a trade, the prohibition to associate with certain persons or resort to certain places, the obligation to appear personally before, or to report on certain dates to, the supervisory authority may be imposed.

Such conditions may, according to their nature and purpose, be ordered either in respect to the young person or to the persona who vouch for his good conduct.

(3) A recall or a formal admonition may, if necessary, be sent to such persons by the supervisory authority or the Court.

The custody and education of an infant may at all times be withdrawn from the person or organization entrusted therewith if they prove to be incapable of discharging their trust in a proper manner.

Art. 164. — Reprimand; Censure.

(1) When such a course seems appropriate and designed to produce good results the Court may reprimand the young offender.

It shall direct his attention to the consequences of his act and appeal to his sense of duty and his determination to be of good behaviour in the future.

(2) This measure may be applied alone when the Court deems it sufficient for the reform of the young offender, having regard to his capacity of understanding and the not serious nature of the offence. If expedient, it may be coupled with any other penalty or measure.

Art. 165. — School or Home Arrest.

In cases of small gravity or when the young offender seems likely to reform, the Court may order that he be kept at school or in his home during his free hours or holidays and perform a specific task adapted to his age and his circumstances. The Court shall determine the duration of the restraint in a manner appropriate to the circumstances of the case and the degree of gravity of the offence committed.

It shall order the necessary steps for ensuring strict enforcement under supervision.

Art. 166. — Admission to a Corrective Institution.

Where the character, antecedents or disposition of the young offender is bad, the Court may order his admission into a special institution for the correction and rehabilitation of young offenders.

The young offender shall there receive, under appropriate discipline, the general, moral and vocational education (apprenticeship) needed to adapt him to social life and the exercise of an honest activity.

Art. 167. — Duration of the Measures.

(1) Measures for treatment (Art. 162) and supervised education (Art. 163) shall, as a general rule, be applied for such time as is deemed necessary by the medical or supervisory authority and may continue in force until the young offender has come of age (eighteen years).

They shall cease to be applied when, in the opinion of the responsible authority, they have achieved their purpose.

(2) The sending to a corrective institution (Art. 166) shall, as a general rule, be ordered for a period of not less than one year nor exceeding five years; in no case shall it extend beyond the coming of age of the young offender. The judgment shall fix the duration in each case. Conditional release by way of probation after detention for one year may be ordered under such general conditions as are provided by law (Art. 210) and subject to the application of rules of conduct and submission of the released offender to the control of a charitable supervisory organization (Art. 213) during the fixed probation period.

Art. 168. — Variation of the Measures.

On the recommendation of the management of the institution the Court may vary an order made under the preceding Article when such variation will benefit the young offender.

Art. 169. — Legal Effect of the Measures.

A young person in regard to whom one of the aforesaid curative, educational or corrective measures has been ordered shall not be regarded as having been sentenced under criminal law.

Paragraph 2. Penalties

Art. 170. — Principle.

The Court may sentence a young offender to one of the following penalties, after having ordered such enquiries to be made as may seem necessary (Art. 55), where measures under Art. 162-166 have been applied and have failed.

Art. 171. — Fine.

(1) In exceptional cases when the young offender is capable of paying a fine and of realising the reason for its imposition, the Court may sentence him to a fine which shall be proportionate to his means and the gravity of the offence. A fine may be imposed in addition to any other penalty.

- (2) The ordinary provisions governing the redemption of a fine and the consequences of non-payment (Art. 92-94) are not applicable to young offenders.

Should a young offender deliberately fail to pay the fine within a reasonable time fixed by the judgment the fine may be converted into arrest (Art. 165) for such time as shall be fixed by the Court.

Art. 172. — Corporal Punishment.

- (1) Where a young offender is contumacious the Court may, if it considers corporal punishment is likely to secure his reform, order corporal punishment.

Corporal punishment shall be inflicted only with a cane and the number of strokes shall not exceed twelve to be administered on the buttocks. Only young offenders in good health shall be subjected to corporal punishment.

- (2) The Court shall determine the degree of punishment taking into account the age, development, physical resistance and the good or bad nature of the young offender, as well as the gravity of the offence committed.

Art. 173. — Imprisonment.

- (1) When a young offender has committed a serious offence which is normally punishable with a term of rigorous imprisonment of ten years or more or with capital punishment the Court may order him to be sent:

- (a) either to a corrective institution (Art. 166) where special measure for safety, segregation or discipline can be applied to him in the general interest; or
- (b) to a penitentiary detention institution if he is incorrigible and is likely to be a cause of trouble, insecurity or corruption to others. The principle of segregation shall be applied in this case. (Art. 109 (2)).

- (2) The Court shall determine the period of detention to be undergone according to the gravity of the act committed and having regard to the age of the offender at the time of the offence. It shall not be for less than three years and may extend to a period of ten years.

When the offender was sent to a corrective institution he shall be transferred to a detention institution if his conduct or the danger he constitutes render such a measure necessary, or when he has attained the age of eighteen years and the sentence passed on him is for a term extending beyond his majority.

In such a case the Court shall, without restriction take into account, in

determining the duration of the detention to lie undergone, the time spent in the corrective institution and the results favourable or otherwise thereby obtained.

(3) Detention shall *take* place under the regime of simple imprisonment (Art. 105) and conditional release may be granted under the usual conditions provided by law (Art. 112) if the young offender appears to have reformed.

Paragraph 3. Common Provisions

Art. 174. — *Petty Cases; Waiving of Penalty for Definite Reasons.*

When six months at least have elapsed since the offence was committed the Court may order no measure or penalty if it appears to be no longer necessary or expedient.

Such shall be the case in particular when educational or corrective measures or suitable punishment have already been imposed by the parental or family authority, or when the young offender is of good behaviour and seems to be reformed and no longer to be exposed to a risk of relapse.

Art. 175. — *Special Period of Limitation.*

(1) When half the normal period of limitation (Article 226) has expired since the day on which the offence was committed, the Court may, if circumstances seem to justify such a decision, renounce imposing any measure or penalty except in the cases of serious offences mentioned in Art. 173.

(2) In such cases the general rules governing the limitation of the prosecution and the sentence shall apply subject to reduction by half of the ordinary and absolute periods.

Art. 176. — *Suspended sentence and Period of Probation.*

In case of prosecution the general rules regarding the suspension of the sentence or of its enforcement with submission for a specific time to a period of probation under supervision (Art. 194-205) shall, as a general rule, remain applicable to young offenders if the conditions for the success of such a measure seem to exist and subject to the rules concerning serious offences as defined in Art. 173.

The duration of the period of probation shall be fixed between one and three years.

Art. 177. — *Effect of Condemnation upon Civil Rights.*

The measures and penalties imposed upon a young offender shall not result in the loss of his civil rights for the future, save in exceptional cases where the court regards it as absolutely necessary on account of the special gravity of the offence committed within the meaning of Art. 173.

Art. 178. — Preventive and Protective Measures of a General Nature.

The provisions concerning forfeiture to the State (Art. 99), the seizure of dangerous articles (Art. 144) as well as the prohibition from resorting to certain places (Art. 149) shall be applicable to young offenders

The Court may in addition order the expulsion (Art. 154) of an alien under age who proves to be unamenable to reform and dangerous for the community, at the end of the period of corrective internment or detention.

Due notice shall be given to the appropriate guardianship authority (Art. 158) of all measures taken and penalties imposed upon young offenders.

Art. 179. — Publication Of judgment and Entry in Police Record.

The publication of the judgment (Art. 159) shall never be effected in respect to young persons.

The entry in the Police record (Art. 160) of the measures and penalties affecting them shall be made merely for the information of the official, administrative or judicial authorities concerned. In no case shall excerpts from their record be communicated to third parties.

Art. 180. — Cancellation of Entry and Reinstatement.

On the application of the young offender or of those having authority over him the competent authority may order the cancellation of an entry in his personal Police record of measures or penalties applied to him, except imprisonment, within two years from their enforcement if the normal conditions for reinstatement (Art. 242-247) are fulfilled.

Section II. — Period between ages of fifteen and eighteen

Art. 181. — Normal case.

In the case of an offence committed by a young person belonging to the intermediary age group extending from the end of criminal minority (15 years) to legal majority (18 years), the court applying the ordinary provisions of the law (Art. 56), may reduce the penalty within the limits it specifies (Art. 184), if the circumstances of the case seem to justify such a reduction.

In no case may death sentence be passed upon an offender who had not attained his eighteenth year of age at the time of commission of the offence (Art. 118).

In the carrying out of penalties entailing loss of liberty the rule of segregation until majority (Art. 109 (2)) shall be strictly observed.

Art. 182. — *Special Case*

(1) When the young offender is undeveloped physically or mentally for his age or did not commit a serious offence and, according to expert opinion, still seems amenable to curative, educational or corrective measures provided in respect to young offenders (Chapter 1) the Court may by stating its reasons therefor, instead of mitigating the ordinary penalty in accordance with the preceding provision, order one of the aforesaid measures or penalties, in particular his despatch

to a curative or corrective institution, or corporal punishment.

(2) The curative, educational or corrective measure may under n circumstances be extended beyond legal majority (Art. 167).

The Court may, before the end of the term, review its order when in view of the length of the penalty imposed, it appears expedient to order detention in a penitentiary establishment (Art. 173 (2)) upon release from the corrective institution.

TITLE II

**DETERMINATION, SUSPENSION, DISCONTINUANCE
AND EXTINCTION OF THE PENALTY**

Chapter I. — DETERMINATION AND SUSPENSION OF THE PENALTY

Section I. — Determination

Art. 183. — *Assessment of the Penalty in case of Mitigation or Aggravation Provided by Law.*

Apart from ordinary cases of determination of the penalty in conformity with general principles (Art. 86) and where, by virtue of the law, a case arises of compulsory or optional mitigation or aggravation of the penalty the Court shall apply the following provisions.

Paragraph 1. Rules governing Mitigation and Exemption

Art. 184. — *Ordinary Mitigation.*

In all cases where the law provides that the Court mitigate the penalty, it shall, if it deems the mitigation justified, pronounce:

(a) instead of capital punishment, rigorous imprisonment from twenty years to life;

(b) instead of rigorous imprisonment for life, rigorous imprisonment from ten to twenty years;

(c) instead of rigorous imprisonment for a specified minimum period, rigorous imprisonment limited to the general minimum period of one year;

(d) instead of rigorous imprisonment, simple imprisonment from six months to five years;

(e) instead of simple imprisonment for a specified minimum period, simple imprisonment limited to the general minimum period of ten days;

(f) instead of simple imprisonment, compulsory labour or a fine.

Art. 185. — Free Mitigation.

In cases where the law provides the mitigation without restriction of the penalty, whether compulsorily or optionally, the Court shall have power to determine it in accordance with the following principles:

(a) The court shall not be bound by the kind of penalty provided in the Special Part of this Code for the offence to be tried, nor by the minimum which the provision enacts; it may without restriction impose a sentence for a term shorter than the minimum period prescribed or substitute a less severe sentence for the sentence provided;

(b) the Court shall be bound solely by the general minimum provided in the General Part, (Art. 89-107) as regards the penalty it imposes, whatever its nature may be.

Art. 186. — Common Provisions.

In exercising its power of mitigation under the conditions and within the limits provided by law the Court shall always determine the nature of the sentence in accordance with the general principles governing criminal guilt. (Art. 57).

In case of mitigation, whether ordinary or tree, reparation of the damage caused (Art. 100) may always be ordered. The same applies to secondary penalties (Art. 120-127) and to the various preventive, corrective and safety measures (Art. 138-157) which the court may deem necessary.

Art. 187. — Exemption from and Waiving of Penalty.

The Court may exempt an offender from any penalty whatever only in such cases as are expressly provided by law.

Similarly, the waiving of the penalty in whole or in part shall in all cases depend upon the express provisions of the law.

Paragraph 2. Rules governing Aggravation

Art. 188. — Ordinary Aggravation.

In general cases of aggravation provided by law (Art. 81) the court shall determine the penalty within the limits specified in the relevant provision of the Special Part taking into account the nature and die multiplicity of grounds of aggravation, as well as the degree of guilt of the of fender, if necessary by going to the extent of imposing the maximum sentence enacted. Such maximum is binding upon it.

Art. 189. — Circumstantiated Aggravation in case of Concurrent Offences.

(1) In case of material concurrence of offences (Art. 82 (a)) the court shall determine the penalty on the basis of the general rules set out hereafter, taking into account, for the assessment of the sentence, the degree of guilt of the offender:

(a) where capital punishment u provided for one of the concurrent offences this penalty shall override any other penalties entailing low of liberty;

(b) in case of several penalties entailing lass of liberty being concurrently applicable the court shall pass an aggregate sentence as follows: It shall impose the penalty deserved for die most serious offence and shall increase its length taking into account the provisions of die law or die concurrent offences; it may, if it thinks fit, impose a penalty exceeding by half die basic penalty without, however, being able to go beyond die general maximum fixed by law for die kind of penalty applied;

(c) in case of concurrence between a penalty entailing loss of liberty and a fine die court may impose both penalties taking into account die various provisions applicable or die concurrent offences; it may not exceed die general maximum prescribed by law for each kind of penalty;

(d) in cases where several fines have to be applied the Court shall impose a single fine die amount of which shall not exceed the aggregate amount of die separate fines, nor the general maximum amount provided by law, save in cases where die offender acted for gain (Art. 90).

(e) Where die court orders die forfeiture of the property owned by the offender it may not, in case of concurrence, impose a fine either as principal or as secondary penalty.

(2) Any secondary penalty or preventive, corrective or safety measure may be

applied even though its application is justified under only one of the relevant provisions or in respect of only one of the concurrent offences.

Art. 190. — Special Case.

(1) In case of concurrent offences, when one of them was committed with the intent of making possible, facilitating or cloaking another offence, the Court shall aggravate to the maximum permitted by law the penalty determined under the preceding provisions.

(2) Where such concurrence constitutes a special aggravated offence such as aggravated murder or robbery, the appropriate provision of the Special Part of this Code shall apply.

Art. 191. — Retrospective Concurrence.

(1) When an offence, committed concurrently with one or several other offences, is discovered after the said offences have been tried, the Court shall assess in accordance with the preceding provisions, so that the offender is not punished more severely than if all the offences had been tried together.

(2) The new sentence shall be assessed having regard to the sentence already imposed.

The new sentence shall run concurrently with the sentence already passed.

Art. 192. — Simultaneous Breach of Several Provisions.

When, by one and the same act the offender committed a breach of several criminal provisions (notional concurrence Art. 82 (a)) the Court may aggravate the penalty according to the provisions of Art. 189 where the offender's deliberate and calculated disregard for the law justifies aggravation; it shall be bound so to do in cases of aggravation expressly provided by law. (Art. 63 (2)).

In other cases the Court may only impose the maximum penalty prescribed by the most severe of the relevant provisions.

Art. 193. — Aggravation in case of Recidivism.

(1) Where an offence is committed after a sentence has been served in whole or in part in respect of a former offence (Art. 82 (b)) the Court may aggravate the penalty and is not bound by the provisions of the Special Part of this Code. It may exceed the penalty provided for the offence but may not exceed the general maximum provided for the kind of penalty imposed. It may go beyond this maximum having regard to the circumstances of the new offence,

the degree

of guilt and the danger represented by the offender and is bound solely by the general maximum specified for the kind of penalty imposed.

- (2) Nothing in this Article shall affect the provisions relating to internment in cases specified under Article 128 of this Code.

Section II . — Suspension of Penalty

Paragraph 1. Conditional Suspension

Art. 194. — Principle.

When the Court, having regard to all the circumstances of the case, considers that conditional suspension of the penalty will promote the reform and reinstatement of the offender, it may order conditional suspension of the sentence as provided hereinafter.

Such an order implies an appeal to the cooperation of the offender for his own reform and may at any time be revoked if circumstances show that it is not justified.

Art. 195. — Suspension, of Pronouncement of the Penalty, Suspended Sentence.

When the offender has no previous conviction and does not appear dangerous and where his offence is punishable with fine (Art. 88) compulsory labour (Art. 102 and 103) or simple imprisonment for less than three years (Art. 105), the Court, after having convicted the offender, may suspend sentence and place the offender on probation.

No conviction shall be entered when an offender is placed on probation and does not break the conditions of his probation.

Art. 196. — Suspension of Enforcement of the Penalty.

Where the Court considers that the offender, whether previously sentenced or not, shall receive a warning it shall enter a conviction and pass sentence and may order that the enforcement of the sentence be suspended for a specified period of probation.

If the probation is successfully undergone the sentence shall be remitted but the conviction entered in his Police record shall remain with all its other consequences.

Art. 197. — Cumulation of Penalties, Divisibility of Suspension.

If there is a cumulation of penalties. In particular when secondary penalties are imposed, the Court may, for good reason, decide not to extend the measure of suspension to some of the penalties on account of their preventive nature and the interest attaching to their enforcement.

Art. 198 — *Disallowance of Suspension.*

(1) Suspension of the enforcement of a penalty shall not be allowed if the offender has previously already undergone a sentence of simple imprisonment for a term of more than three years, or a sentence of rigorous imprisonment, or if he has been interned as a recidivist, and if he is sentenced again to one of these penalties for the offence for which he is tried.

(2) If a sentence is passed for one of the aforesaid penalties, after a suspension of penalty had been granted, for an offence previously committed but discovered subsequently to the first conviction, the suspension awarded in ignorance of these antecedents shall be cancelled.

In like manner the suspension granted may be cancelled where the Court considers it is undeserved.

(3) Measures (Art. 128-160) may not be subject to suspended enforcement.

Art. 199. — *Enquiry.*

For the purpose of deciding whether suspension should be granted the court must require information as to the antecedents, character, living and working condition and the personal circumstances of the offender applying for suspension.

Information may be given by an officer of a charitable organization or a reliable welfare worker.

Art. 200. — *Common Provisions: Period of Probation.*

(1) In choosing either of the two forms of suspension the Court shall give grounds for its decision.

It may not award a suspension of the pronouncement of the sentence or of its enforcement unless the antecedents, character and attitude of the accused afford a reasonable presumption that the suspension will produce good results.

(2) The Court shall fix the probation period imposed upon the offender taking into account the gravity of his offence, the risk of a relapse and his reliability.

The probation period shall be of at least two years and may not exceed five years. It shall run from the date of the decision.

Art. 201. — *Conditions of the Probation.*

- (1) Conditional suspension shall follow upon the offender entering into a formal undertaking to be of good conduct, to accept the requirements laid down, as well as to repair, to the fullest extent possible, the damage caused by the offence or to pay the indemnity to the injured person (Art. 100), as well as to pay the judicial costs within the time therefor.
- (2) The Court shall require a security for the undertaking. It may consist in a guarantee of a personal or material nature. It shall determine it having regard to the circumstances and the possibilities of the case.

Art. 202. — *Rules of Conduct.*

- (1) The Court shall specify the rules of conduct, protection and supervision which appear to it to be necessary.

Such rules may prescribe, in particular, the requirement of learning a trade, residing, working or living in a particular place, refraining from consorting with certain people or consuming alcoholic beverages, remitting to the probationer's family, guardian or protector part of his earnings, undergoing a requisite treatment or subjecting himself to any other similar measure for securing the success of the probation.

- (2) Rules of conduct shall take into account the individual offender's needs, according to the circumstances, and the nature of the risk run *and* shall be framed with a view to his reform, in accordance with the provisions of the law.

They must not be inconsistent with the aims of the institution, of suspension nor prescribe requirements which are incompatible with the provisions of the law.

- (.3) The rules of conduct laid down may be varied at the request of the probationer, his protector, guardian or guarantor, or on the application of the Attorney General where the necessity is apparent.

Art. 203. — *Control mid Supervision.*

- (1) Upon granting suspension the Court shall, if it is necessary, place the offender under the supervision of a protector, guardian, probation officer or a charitable organization in general. (Art. 213).

The protector or supervising officer shall keep in touch with the probationer: he shall visit him at home or at his place of work, make arrangements for his leisure hours, give him guidance and facilitate to the best of his ability his readjustment in life and his reform.

He shall exercise over the probationer a regular but unobtrusive control and report at least every three months and at more frequent intervals when necessary to the appropriate Probation Commission.

(2) The organization and into duties of the Probation Commissions and probation officers shall be regulated by law.

Art. 204. — *Failure of Probation: Revocation.*

(1) If during the period of probation the probationer infringes one of the rules of conduct imposed upon him, evades supervision or the authority of the charitable organization to which he is entrusted, commits an offence by negligence or in any other manner betray the confidence placed in him, a formal warning shall be addressed to him by the Court.

If necessary, fresh, roles of conduct or the extension of the probation period originally fixed may be imposed -within the limits permitted bylaw.

(2) If the probationer persists in his attitude or his conduct despite this formal warning or if he intentionally commits a fresh offence during the probation period the measure of suspension shall be revoked by the Court but not before the probationer has been given an opportunity of being heard.

A second suspension cannot be awarded for a new offence intentionally committed.

(3) In such a case die Court shall pronounce the penalty which it had suspended and order its enforcement or order die enforcement of the penalty which it had imposed.

If there has been a fresh offence which cancelled die measure of suspension die penalty pronounced in respect thereof shall be added to die previous penalty in conformity with die general principles governing recidivism. (Art. 193).

Art. 205. — *Probation Successfully Undergone.*

Where the probation has been undergone and the secondary penalties or measures which had been pronounced without suspension have been enforced the Court shall order the deletion of the entry in the police record of the successful probationer.

Paragraph 1. Conditional Release

Art. 506. — Principle.

In all cases where a penalty or measure entailing loss of liberty provided by this Code is imposed, anticipatory conditional release may be awarded by way of probation at the end of the period of enforcement provided by law, when the general requirements therefor are satisfied.

Conditional release must be regarded as a means of reform and social reinstatement, forming part of the progressive regime of enforcement. It must be deserved by the offender to whom it is applied and must be awarded only in cases where it affords a reasonable chance of success.

Art. 207. — Conditions for Release.

The Court lay, on the recommendation of the Management of the institution order conditional release:

- (a) if, during the requisite period of performance of the penalty or the measure entailing loss of liberty, the offender, by his work and conduct, gave tangible proof of his improvement; and
- (b) if he has repaired, as far as he could reasonably be expected to do, the damage found by the Court or agreed with the aggrieved party; and
- (c) if the character and behaviour of the offender, as well as the living conditions he may expect to find upon his discharge, warrant the assumption that he will be of good conduct when released and that the measure will be effective.

Art. 208. — Persons to be informed of provisions regarding conditional release.

- (1) Prisoners shall be informed upon their conviction and when entering the institution to which they are committed of the possibility and conditions of their anticipatory release.
- (2) The Director of the Institution shall recommend release of the offender where the conditions for granting release appear to have been fulfilled or shall inform the Court of an offender's application to be released. Such application shall be accompanied by a report from the Director.

Art. 209. — Period of Probation.

Upon ordering conditional release the Court shall fix a period of probation which, unless otherwise ordered, shall expire at the end of the sentence which remains to be undergone.

This period shall in no case be of less than two years nor, subject to any

provision to the contrary, of more than five years. It must be of at least two years in the case of the release of a persistent recidivist sentenced to internment (Art. 128) and of five years in the case of the release of a prisoner sentenced to rigorous imprisonment for life. (Art. 107).

Art. 210. — *Rules of Conduct and of Supervision.*

(1) Appropriate rules of conduct to be observed by the probationer during the period of probation shall be laid down in accordance with the foregoing general provisions. (Art. 202).

They shall, in particular, take into account the age and character of the released prisoner, the risk to which he may be exposed and the degree of the reliability of his family, employment and social circumstances upon leaving the institution.

The fulfilment of these conditions shall, as far as possible, be prepared prior to release with the assistance of the Management of the institution and the protection, guardianship or welfare authorities.

(2) The released probationer shall, unless otherwise ordered, be subject to the supervision, direction and guidance of a protector or charitable organization (Art. 213); no order shall be made which is unpractical or useless.

Art. 211. — *Result of Probation.*

The requirements for probation and conditions under which it can be revoked shall be governed by the general foregoing provisions (Art. 204).

(1) When the conditional release has been revoked the release person shall be sent back to the institution from which he had been released.

The time spent in conditional liberty shall not be deducted from the term of the sentence or duration of the measure still to be undergone.

If a fresh offence has been committed the penalty or measure shall be determined and enforced in accordance with the ordinary provisions.

(2) If the released person is of good behaviour until the expiration of the period of probation his release shall be final and his penalty extinguished.

Art. 212. — *Effect of Prohibitions and other Measures.*

(1) When, in addition to a penalty entailing loss of liberty or to internment, a prohibition to practice a trade or profession (Art. 122 (c)), to resort to certain

places or there to reside, or obligatory residence or expulsion (Art. 149-154) has been ordered, the Court may, in the event of conditional release and upon such release, order by way of probation, the suspension of the prohibition (Art. 156) if having regard to all the circumstances it seems desirable.

It shall be guided by the degree of reform of the released person, the disappearance or diminution of his dangerous disposition and the favourable effect that suspension may be expected to produce on his reinstatement.

(2) The Court shall decide after enquiry (if any) and on the recommendation of the penitentiary authority and the appropriate supervisory authorities.

It shall determine' the conditions, limitations or guarantees (security, control, etc.) upon which the attempt at resumption of normal life shall be conditioned.

(3) When a conditionally discharged probationer has been of good conduct and has behaved himself during the period of probation and appears to be reformed and no longer requires the application of measures, these measures* shall no longer be applied.

Paragraph 3. Supervision by a charitable organization

Art. 213. — Principle.

Supervision by a charitable organization is an essential feature of the system aiming at obtaining good results from the enforcement of penalties and measures and the various methods whereby such enforcement is carried out.

The placing under the supervision of a charitable organization is compulsory in all cases where the law so provides. In all other cases an offender either conditionally or finally released may at all times voluntarily have recourse to the help or assistance of such an organization. The responsible charitable bodies shall be bound to afford him their assistance.

Art. 214. — Purpose and Duties.

(1) The duties of the charitable organizations consist in affording offenders who have to readjust themselves to life in the community, either during a period of suspension or after their conditional or final release from a penalty or a measure entailing loss of liberty, counsel, guidance and moral and material assistance with a view to achieving the purpose of reinstatement which is aimed at, and forestalling a future relapse.

The appointed charitable organization may, in particular, place the protected persons in employment or find for them, or assist them in finding, work, an employer, lodgings or relief, direct them as to the proper use of their savings or earnings and, generally, give them every other support necessary to enable them to lead an honest life.

(2) It shall exercise regular supervision over them but with such discretion as is proper so as not to risk impairing their rehabilitation, and report to the Court and to the competent authorities whenever necessary.

Art. 215. — Organization.

(1) The aforesaid duties shall be carried out by the association or groups, of a public or private character, which devote their activity thereto, with the assistance and under the control of the State.

They may be entrusted to a qualified protector or probation office of unimpeachable morality, to be appointed from case to case.

Unless otherwise necessary they shall not be entrusted to police authorities.

(2) The detailed conditions shall be regulated in the law concerning the enforcement of penalties and orders dealing with this matter.

Chapter II. — DISCONTINUANCE AND EXTINCTION OF THE PROSECUTION AND THE PENALTY

Section I. — Absence of Accuser or Accused

Paragraph 1. Absence of Accusation or complaint

Art. 216— Right of Complaint or Accusation in general.

Prosecution with a view to a Judgment and the enforcement of the penalty is a public proceeding and is instituted by the Attorney General in cases where the law does not otherwise expressly provide.

Prosecution by the Attorney General does not exclude the right of denunciation of offences to the public authority.

These formalities, which are in the nature of an information, in such a case, an essential condition but merely the occasion setting in motion the public prosecution. Their performance is governed by the Code of Criminal Procedure.

Art. 217. — Offences depending upon a Formal Complaint.

Where the law in the Special Part of this Code or in any other provision of Criminal Law defines in a restrictive manner offences of a predominantly private nature which cannot be prosecuted except upon a formal accusation or request,

or a complaint in (he strict sense of the term, of the aggrieved person or those claiming under him the Court has no power to try the offence and a penalty cannot be pronounced in default of this condition precedent.

This form of express accusation or complaint upon which in such cases the bringing of the public action depends with a view to enforcing the relevant substantive law shall be governed by the following general provisions.

Art. 218 — *Right to lodge a complaint.*

Any person injured by the offence who is ox eighteen years of age at least is entitled to lodge a complaint if he is responsible. If the injured person u incapable of suing or being sued for the reason of being and infant or a person of unsound mind the right to lodge a complaint shall be exercised by his legal representative.

If the injured person dies before be was able to lodge a complaint but without having expressly renounced so to do the right shall pass to his next-of-kin. If, however, he renounces his right to complain and understands the effect of such renunciation, such renunciation shall be final.

Art. 219. — *Collective Complaint.*

When several persons were injured by the same offence each of them has the right to lodge a complaint. This right may be exercised cither individually or collectively.

Art. 220. — *Time within which to lodge a complaint and formalities.*

(1) The complaint must be lodged with the appropriate authority as defined in the law on criminal procedure within three months from the day when the injured person knew of the criminal act or the offender.

Upon expiration of this period of time he shall be deemed to have renounced so doing unless he was materially incapacitated from acting, and the complaint shall no longer be entertained.

Where a complaint is not made owing to material incapacity, the period of three months shall run from the day on which the incapacity ceased to exist.

(2) The formalities to be observed for the lodging of a complaint shall be governed by the provisions of the Code of Criminal Procedure.

Art. 221. — *Withdrawal of Complaint.*

Upon withdrawal of a complaint the right to prosecute shall lapse.

A complaint may be withdrawn at any time prior to the pronouncement of a judgment. Such withdrawal must be effected by means of a formal declaration.

The withdrawal shall be final as regards the facts to which it relates; the complaint may not be renewed.

Art. 222. — *Indivisibility.*

In the event of several offenders having participated in the same offence the complaint shall be made as one complaint and not in parts.

When a person so entitled has lodged a complaint against one of the participants all shall be prosecuted.

The withdrawal of the complaint in respect to one of the participants shall benefit to the extent that none may be prosecuted by the Attorney General, with the exception of any offender who expressly objects to the withdrawal and insists on being tried.

Paragraph 2. — Death of an Accused or a Convicted Person

Art. 223. — *Death prior to Conviction.*

A prosecution may be not instituted nor continued, nor a sentence passed, when the offender died prior to trial. Death puts an end to the prosecution and renders a conviction without object.

Art. 224. — *Death after Sentence.*

Death occurring after a sentence has been passed puts an end to the enforcement of the penalties and any other measures pronounced.

The estate of the deceased person shall be civilly liable for any damage caused.

Section II. — Limitation

Paragraph 1. — Limitation as to Prosecution

Art. 225. — *Principle and Effect.*

(1) In all criminal cases the prosecution and the criminal action shall be barred and may no longer be instituted or brought upon the expiration of the legal period of time stated below.

Limitation extinguishes the liability to punishment in respect to any of the participants. As soon as the limitation period has elapsed neither a conviction nor penalties or measures may be pronounced.

(2) If the defence of limitation and the barring of the action are not set up by the party concerned they shall be considered by the Court of its own motion or the Attorney General.

Art. 226. — Ordinary Limitation Periods.

The limitation period of a criminal action shall be:

- (a) of twentyfive years for offences punishable with death or rigorous imprisonment for life;
- (b) of twenty years for offences punishable with rigorous imprisonment exceeding ten years but not exceeding twentyfive years;
- (c) of fifteen years for offences punishable with rigorous imprisonment exceeding five years but not exceeding ten years;
- (d) of ten years for -offences punishable with rigorous imprisonment not exceeding five years;
- (e) of five years for offences punishable with simple imprisonment exceeding one year.
- (f) of three years for offence punishable with simple imprisonment not exceeding one year, or with fine only.

Art. 227. — Special Periods.

In cases of offences of a personal character solely punishable upon an express complaint of the person injured (Art. 217) in which a private interest is predominant, such as minor assaults or injuries to the person, attacks upon personal honour and minor attacks upon liberty or individual rights, the period of limitation of the criminal action shall be of two years.

Art. 228. — Calculation of the Period.

(1) Limitation periods shall be determined on the basis of the maximum penalty provided by the provisions of the Special Part without regard to the extenuating or aggravating circumstances involved in the case.

Where the law penalizes the act with several penalties to be applied either alternatively or concurrently the periods shall be calculated on the basis of the most severe penalty.

(2) The limitation period shall begin to run from the day on which the offender first exercised his criminal activity.

If such activity was exercised on several separate occasions the period shall begin to run from the day on which the last act was performed; if it was pursued over a period of time the period shall begin to run from the day on which it ceased.

Where achieving a given result is one of the constituents of the offence the period shall begin to run on the day on which this result occurred.

Art. 229. — *Suspension.*

- (1) Limitation shall be temporarily suspended as long as there subsists, in law or in fact, a bar other than one due to the volition of the offender to the institution or continuation of the prosecution.

It shall also be suspended as long as other judicial proceedings are pending against him.

Upon removal of the bar the period of limitation shall revive and continue its course.

- (2) In all cases where the law requires the lodging of a complaint for the institution of a prosecution the absence of this formality shall not prevent the limitation period from running.

Art. 230. — *Interruption.*

The limitation period shall be interrupted by any order, act or decision for purposes of search, summons, prosecution or investigation in relation to the offence or the offenders.

Upon each interruption the whole period of limitation shall begin to run afresh.

The interrupting act shall be absolute as to its effect; it is effectual towards all the participants in the offence, whether known or unknown.

Art. 231. — *Absolute Limitation.*

Whatever the circumstances may be the prosecution and the criminal action shall be barred in all cases when a period equal to double the ordinary period of limitation provided by law (Art. 226) has elapsed or, in cases where a special period applies (Art. 227), when such a period has been exceeded by half.

Art. 232. — *Effect as to the Civil Action.*

The limitation of the civil action for reparation of the damage caused, whether or not brought conjointly with the criminal action, is governed both as to its conditions, period of limitation and its effect by the ordinary provisions of civil

law.

In the event of the criminal action being barred before the civil action this action may no longer be brought before the criminal court but must be heard by the appropriate civil court.

Paragraph 2. — Limitation of the Penalty

Art. 233. — *Principle and Effect.*

(1) When for any reason whatsoever the sentence has not been enforced within the period of time stated below the right to enforce it shall be extinguished and the penalty or measure pronounced no longer enforceable.

The limitation of the principal penalty shall entail the limitation of any secondary penalties or measures.

(2) Limitation is mandatory and must be carried out on their own initiative by all appropriate judicial or executive authorities.

The sentence passed shall subsist and its entry remain in the Police record of the offender.

(3) The limitation of condemnations of a civil nature and orders for the payment of compensation, damages and judicial costs shall be governed by the roles of civil law and the periods of limitation therein provided shall apply.

Art. 234. — *Periods of Limitation.*

The period of limitation shall be:

(a) of thirty years for a death sentence or a sentence for rigorous imprisonment for life or a general forfeiture of property;

(b) of twenty years for a sentence for rigorous imprisonment for more than ten years;

(c) of ten years for a sentence entailing loss of *liberty for more than* ten year;

(d) of five years for all other penalties.

Art. 235. — *Calculation of the Period.*

(1) The period of limitation shall run from the day on which the judgment, being final, was enforceable or, if the enforcement had commenced, from the day on which the convict evaded such enforcement.

When the convict was granted the benefit of a measure of suspension and such suspension was cancelled, the period shall start from the day on which the enforcement of the penalty was ordered.

(2) In the event of concurrent penalties regard shall be had for the calculation of the period to the most severe penalty: the lighter penalties shall be barred at the same time as the latter.

Art. 236. — *Suspension.*

The limitation of the penalty shall be suspended:

- (a) whenever its enforcement cannot be carried out or continued under the provisions of the law, and as long as such impediment subsists.:
- (b) as long as the convict enjoys the benefit of a measure of suspension or probation or was granted time for payment;
- (c) as long as he is imprisoned pursuant to a penalty entailing loss of liberty or an order of internment.

Art. 237. — *Interruption.*

Limitation shall be interrupted by any act for the enforcement, or aiming at the enforcement, of the penalty performed by the authority responsible for such enforcement.

Art. 238. — *Absolute Limitation.*

The limitation of the penalty or the measure shall in all circumstances be final when the ordinary period (Art. 234) is exceeded by one half, save when, during this period, the offender showed that he remained dangerous by committing a serious intentional offence punishable with at least rigorous imprisonment.

Section III. — Pardon and Amnesty

Art. 239. — *Pardon.*

(1) A sentence may be remitted in whole or in part or commuted into a penalty of a lesser nature or gravity by an act of pardon of the sovereign power.

The conditions of pardon shall be governed by the relevant provisions of public law.

(2) Pardon may apply to all penalties and measures, whether principal or secondary and whatever their gravity, which are enforceable. The order granting pardon may determine the conditions to which it is subjected and its scope.

Pardon shall not cancel the sentence the entry of which shall remain in the Police record of the offender and continue to produce its other effects.

Art. 240. — *'Amnesty.*

(1) An amnesty may be granted in respect to certain offences or certain classes of offenders, either absolutely or subject to certain conditions or obligations, by the appropriate constitutional authority, when circumstances seem to indicate that such a measure is expedient.

It shall be governed by the relevant provisions of public law. The decision granting it shall determine, in a restrictive manner, its purpose, the beneficiaries and its scope.

(2) An amnesty cancels both the indictment and the sentence and bars or discontinues any prosecution from *the moment of its promulgation*.

When a sentence has been passed an amnesty cancels it as well as all its other consequences under criminal law; the conviction shall be presumed to be non-existent and the entry deleted from the police record of the offender.

Art. 241. — Civil Reparation and Costs.

(1) Civil reparation and the payment of damages to injured persons shall not be affected by a pardon or an amnesty.

(2) Costs incurred towards the State shall be regarded as remitted by a pardon or an amnesty so far as they have still to be collected, subject to any provision to the contrary contained in the order granting the benefit of either measure.

Section IV. — *Reinstatement*

Art, 242. — Principle.

(1) A convicted person who has undergone his penalty or whose penalty is barred or has been remitted by pardon may, at his request, obtain his reinstatement and the cancellation of his conviction by a judicial decision, if he fulfills the conditions mentioned below.

Reinstatement must be deserved and shall never be granted as of right.

(2) If a former convicted person who satisfies the requirements prescribed by law is incapable of acting by himself or has died the request may be made by his legal representative or a next-of-kin.

Art. 243. — Conditions.

Reinstatement shall be granted by the Court:

- (a) if since the penalty was undergone or remitted a period of ten years at least has elapsed in cases of a penalty of imprisonment, a measure of internment for inveterate recidivism, a measure of permanent expulsion or a penalty of general forfeiture of property; in other cases, the period must be of five years at least;
- (b) if during the aforesaid period the convicted person was always of good behaviour and gave rise to no prosecution or complaint for any offence whatsoever;

- (c) if the sentence has been enforced as regards any secondary penalties imposed;
- (d) if the convicted person has paid the compensation, damages and costs ordered by the judgment in so far as it could be expected from him having regard to circumstances.

Art. 244. — *Special Cases.*

- (1) When the penalty is barred reinstatement may not be ordered before the time at the earliest when the penalty pronounced would have come to an end if it had been undergone on the coming into force of the sentence.
- (2) When a prisoner who has been conditionally released successfully underwent the period of probation to the end, the time on the expiration of which a request for reinstatement may be made shall run from the date of the conditional release.
- (3) When a notably praiseworthy act performed by the applicant in the civil, military or social fields so justifies, reinstatement may be ordered prior to the expiration of the normal period of time.

Art. 245. — *Effects.*

Reinstatement, since it cancels the sentence, shall produce the following effects;

- (a) the convicted person is relieved, for the future, of any forfeitures of rights or privileges, incapacities and disqualifications and recovers the capacity to exercise his civic, family and professional rights;
- (b) the sentence shall be deleted from his Police record and for the future be presumed to be non-existent;
- (c) a reproach referring to an old conviction made either by ill-will or any other reason shall come under the provisions of criminal law regarding defamation, and the defences based upon justification or public interest shall not be admissible.

Art. 246. — *Dismissal and Renewal of the Request.*

If the Court dismisses the request for reinstatement as unjustified it cannot be renewed before a period of two years has elapsed.

Art. 247. — *Revocation of the Decision.*

Reinstatement shall be revoked and may no longer be granted when subsequently, within a period of five years, a fresh sentence to corporal

is punishable with rigorous imprisonment from five years to life, or in cases of exceptional gravity, with death.

Art. 250. — Outrages against the Constitution, or the Constitutional Authorities.

Whoever, by violence, threats, conspiracy or any other unlawful means:

(a) overthrows, or attempts to overthrow, suspend or modify the Constitution of the Empire; or

(b) overthrows, or attempts to overthrow, change or destroy the Government or any constituted public, legislative, executive or judicial authority,

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is punishable with rigorous imprisonment from three years to life, or, in case of exceptional gravity, with death.

Art. 251. — Obstruction of the exercise of Constitutional Powers.

Whoever, by violence, threats or any other unlawful means, prevents, or attempts to prevent or restrain any legislative, executive or judicial authority from exercising its constitutional powers, or to force a decision, is punishable with rigorous imprisonment not exceeding fifteen years.

Art. 252. — Armed Rising and Civil War.

(1) Whoever raises, or attempts to raise:

(a) a revolt, mutiny or armed rebellion against the Emperor, the State or the constitutional authorities; or

(b) civil war, by arming citizens or inhabitants or by inciting them to take up arms against one another, is punishable with rigorous imprisonment from five years to life, or, in cases of exceptional gravity, with death.

(2) Whoever of his own free will takes part in such a movement is punishable with rigorous imprisonment not exceeding fifteen years.

Art. 253. — Attacks on the Political or Territorial Integrity of the State.

Whoever commits an act designed to destroy the unity of the peoples, or to sever part of the territory or population from the Empire or the Federation, by violence or by any other unconstitutional means, is punishable with rigorous imprisonment from five years to life, or, in cases of exceptional gravity, with death.

Art. 254. — *Material preparation of subversive Acts.*

Whosoever, for any of the foregoing purposes, prepares, collects, brings into the country or stores up material means, such as troops or guerillas, arms or munitions, provisions or money. is punishable with rigorous imprisonment not exceeding fifteen years.

Art. 255. — *Violation of Territorial or Political Sovereignty.*

Whosoever,

(a) contrary to the principles of public international law, to immigration treaties or public order regulations in force, secretly enters the territory of the Empire for the purpose of there engaging in any subversive activity; or

(b) contrary to the conventions or treaties of mutual assistance or collaboration in force, or without the authorization of the competent public authority, proceeds, within the territory of the Empire, to perform on behalf of a foreign Power or organization acts which are within the jurisdiction of the public authorities of Ethiopia, particularly investigations, searches, seizures, arrests or administrative or judicial inquiries, is punishable with simple imprisonment, or in cases of exceptional gravity, with rigorous imprisonment not exceeding ten years.

Paragraph 2. — *Injuries and Insults to the Emperor or the State*

Art. 256. — *Injury to the Emperor or the Constitutional Authorities.*

(1) Whosoever insults, abuses, defames or slanders the Emperor or the Imperial Crown Prince

is punishable with rigorous imprisonment not exceeding five years, or in less serious cases with a fine not less than five hundred dollars.

(2) Where the offence is directed against the Government or one of the constituted legislative, executive, or judicial authorities, the punishment is simple imprisonment from three months to five years, or fine.

(3) The concepts of insult, abuse, defamation or slander are defined in the provisions relating to attacks on honour (Art. 580 and 583).

Art. 257. — *Insults to National Emblems.*

Whosoever, maliciously, or with contempt or any other similar intent, publicly tears down, destroys, defaces or insults a national emblem, such as the flag or armorial bearings of the Emperor, the Empire or *we* of its provinces, is punishable with simple imprisonment for not less than three months or fine.

Art. 258. — *Unlawful use of Official Emblems.*

Whosoever makes unlawful use, for any purpose, of such flag or armorial bearings, is punishable with simple imprisonment or fine.

Section II. — Offences against the External Security and defensive Power of the State,

Art. 259. — Attacks on the Independence of the State.

Whosoever commits an act intended to:

- (a) jeopardize or destroy the independence of the Empire; or
- (b) provoke intervention in or interference with the Empire's affairs, calculated to endanger its independence; or
- (c) initiate hostile acts from outside the State directed against the Empire, or to involve it in a foreign war, hostilities, a blockade or occupation,

is punishable with rigorous imprisonment from five years to life, or, in cases of exceptional gravity, with death.

Art. 260 — Impairment of the Defensive Power of the State.

Whosoever intentionally impairs the defensive power of the State:

- (a) by unjustifiable gin-rendering, or by destroying, sabotaging, or putting out of action any enterprise, installation or position, any means of production, trade or transport or any works establishments depots, armaments or resources of a military nature or intended for the defence of the country; or
- (b) by delivering troops to, or by recruiting a citizen of the Empire for, or encouraging his enlistment in the military service of, a foreign power, or by himself entering such service, as a citizen; or
- (c) by publicly instigating refusal to serve, mutiny or desertion, or by inciting a person liable to military service to commit any of these offences; or
- (d) by obstructing, impeding or in any other way sabotaging military measures taken for the purpose of national defence,

is punishable with rigorous imprisonment from three years to life, or, in cases of exceptional gravity, such as in time of war or danger of war, with death.

Art. 261. — High Treason.

Whosoever enjoying Ethiopian nationality, either by birth or by naturalisation, or

being officially entrusted with the protection of Ethiopian national interests:

- (a) takes up arms or engages in hostile acts against Ethiopia; or
- (b) has dealings with or keeps up a secret correspondence with a power at war with Ethiopia, or with a person or persons doing on behalf of such power, for the purpose of ensuring or promoting the enemy's success in any manner whatsoever; or
- (c) delivers to the enemy, whether directly or indirectly, an object, armament, plan, document or resources of any kind used for the national defence, or aids the enemy by rendering services or delivering supplies to him,

is punishable with rigorous imprisonment from five years to life, or, in cases of exceptional gravity, with death.

Art. 262. — *Treasonable offences committed by Diplomats.*

- (1) Whosoever enjoying Ethiopian nationality, either by birth or by naturalisation, or being officially entrusted with the protection of Ethiopian national interests:

- (a) discloses, delivers, communicates or makes accessible to the public, to a foreign State, political party, organization or agent, a secret, a document, negotiations or a decision which the interests of the Empire demand shall not be divulged; or
- (b) while acting as a representative of the Empire or while entrusted with the conduct on its behalf of negotiations with a foreign power, manifestly sacrifices the interests he is called upon to defend to those of the other power; or
- (c) destroys, suppresses, purloins, causes to disappear or falsifies documents, papers or means of proof relating to the security, independence or vital interests of the Empire,

is punishable with rigorous imprisonment not exceeding fifteen years.

- (2) In cases of exceptional gravity directly endangering the existence or independence of the Empire, the Court may impose rigorous imprisonment for life, or death.

- (3) Where the offender has acted negligently, the punishment is simple imprisonment for not less than six months, which may be increased to five years in cases of exceptional gravity.

Art. 263. — *Economic Treason.*

- (1) Whosoever enjoying Ethiopian nationality, either by birth or by naturalisation, or

being: officially entrusted with the protection of Ethiopian national interests:

- (a) discloses, delivers, communicates or makes accessible to the public or abroad economic negotiations, decisions, facts or documents kept secret in the higher interests of the Empire or in those of national defence; or
- (b) discloses or delivers objects, means or other things of such a nature entrusted to him; or
- (c) participates in or subscribes to a loan floated by a country in a date of war with the Empire,

is punishable with rigorous imprisonment not exceeding twenty years.

(2) Where the offender has acted negligently, the punishment is simple imprisonment for not less than three months.

Art. 264.;— Collaboration.

Whosoever enjoying Ethiopian nationality or being officially entrusted with the protection of Ethiopian national interest, in time of war or of occupation of the territory of the Empire, helps the enemy with advice or by deed, thereby intentionally favouring the enemy, in particular:

- (a) by exercising on his behalf civil or administrative functions in the judicial, police or prisons services, or in custody, transport or other services; or
- (b) by denouncing or handing over to him patriots or fugitives seeking to escape from his restraint; or
- (c) by entering any propaganda, publishing or press service designed to promote the interests of an enemy or occupying power; or
- (d) by engaging, directly or through an intermediary, in dealings involving economic collaboration with such enemy or power,

is punishable with rigorous imprisonment not exceeding twenty years or, in cases of exceptional gravity, with rigorous imprisonment for life, or with death.

Art. 265. — Espionage.

(1) Whosoever, on behalf of a foreign State, political party or organization, and to the detriment of the Empire or of its institutions, organizations or nationals:

- (a) organizes, engages in or encourages a political, diplomatic, military or economic intelligence service, or recruits another person for such service; or

(b) collects, transmits, delivers or makes available information of this nature which is secret or is not a matter of public knowledge, whether to an official service or to a private service or to its agents,

is punishable with rigorous imprisonment not exceeding ten years, where the espionage is harmful to the State or to the public interest, or with simple imprisonment not exceeding five years where it is harmful to private persons or undertakings.

(2) Where the information divulged is calculated directly to endanger the internal or external security of the State, the punishment is rigorous imprisonment not exceeding twenty years.

In cases of exceptional gravity, and especially in the case of political, diplomatic or military espionage carried out in time of war or danger of war, the offender is punishable with rigorous imprisonment for life or, where the vital interests of the Empire are at stake, with death.

Art. 266. — *Protection extended to Allied Powers.*

The punishments prescribed in this section shall also apply where one of the offences thereunder has been committed to the detriment of a power in alliance with or associated with the Empire, wherever the legislation of such power provides for reciprocity.

Section III. — Common Provisions

Art. 267. — *Indirect Aid and Encouragement.*

(1) Whosoever, being aware that an offence is being prepared or has been committed against the Emperor, the Empress or the Crown Prince, against constitutional order or national defence, or against the internal or external security of the State, fails to inform the authorities thereof, or does not to the best of his ability try to prevent the offence from being carried out and to bring the offender to justice, save in cases of force majeure or manifest impossibility.

is punishable with rigorous imprisonment not exceeding five years.

(2) Official or professional secrecy cannot be invoked to evade the obligation to inform the authorities.

(3) When the offence is committed in time of internal or external emergency, the punishment shall be rigorous imprisonment not exceeding ten years.

(4) Kinship or close ties of affection with the perpetrator or perpetrators of the

offence, whether projected or carried out, cannot be invoked as an excuse in the above mentioned cases. (Art. 80).

Art. 268. — 'Attempted participation.

Attempted instigation and attempted aiding and abetting are also punishable. (Art. 27 (2)).

Art. 269. — Provocation and preparation.

Whosoever, with the object of committing, permitting or supporting any of the acts provided for in the preceding section of this chapter:

- (a) publicly provokes them by word of mouth, images or writings; or
- (b) conspires towards, plans or urges the formation of, or himself forms, a band or group with other persons, whether within or outside the country; or
- (c) joins such band or group, adheres to its schemes or obeys its instructions; or
- (d) enters into relations or establishes secret communication with a foreign government, political party, organization or agents; or

(e) launches or disseminates, by word of mouth, image* or writing information or insinuations to undermine its confidence or its will, to limit,

is punishable with simple imprisonment from one to five years or, where the offence is particularly grave, with imprisonment from three to ten years.

Art. 270. — 'Aggravated Offence.

In all cases involving offence* against the constitutional order, against the independence or against the territorial or political integrity of the State or power, for which the law provides the death penalty, for life or death, the Court shall impose of Jodi:

as follows

- (a) where the offence has been committed in or in internal disturbance, in time of war or foreign interference, or where martial law or — of emergency has been declared; or

where the acts are the consequence of
fruition, or have been carried aid: by JB
where the offender has lade UK of re-i
furnished from abroad or by foreign political parties <

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where the offender has used bombs,
terrorist methods constituting a public

dynamite, explosive or other

. — *Other additional penalties.*

In all cases punishable under this chapter wish
ment, the Court may also impose a fine •at exceedBag IweutJ tkoic-
and dollars where the offender exere—es official f—ctioas, or where
he has acted for motives of seK iRtezest.

(2) Where the offence is punishable with rigo— MumsiiannrMt tar
twenty years or more, the Court shall
person be deprived of his civil rights.

that iBe caBTicted

(3) Where a foreign national has been se
meat for five years or more, his expolo— on ni—pkilir •C his sen-
tence shall be ordered.

(4) In all cases of treason, espionage or tr—saaissioa of secrets, die
material, correspondence or documents oasHMeted wish die off dice,
shall be confiscated.

Art. 272. — Confiscation of property.

Wherever a person enjoying Ethiopian nationality, either by birth or by naturalization, or being officially entrusted with the protection of Ethiopian national interests:

- (a) makes or attempts to make an attack on the life of the Emperor; or
- (b) overthrows or attempts to overthrow the Emperor or to break or modify the order of succession to the Throne; or
- (c) is convicted of an offence under Articles 252 or 259-264 of this Code, the Court may, in addition to the principal penalty, order the confiscation of the estate of the offender within the limits specified by law. (Art. 97)).

Chapter II. — OFFENCES AGAINST FOREIGN STATES

Art. 273. — Hostile Acts against a Foreign State.

Whosoever, within the territory of the Empire and at the risk of endangering peaceful relations with foreign countries:

- (a) attempts to disturb by subversive activities, by slander, by malicious propaganda or by violence the internal political order or security of a foreign State; or
- (b) infringes a governmental decision, duly published in the Negarit Gazeta, taken for the purpose of safeguarding Ethiopia's neutrality during a foreign war; or
- (c) provokes, undertakes or encourages acts hostile to a foreign belligerent power,
is punishable with simple imprisonment for at least three months, or, in cases of exceptional gravity, with rigorous imprisonment not exceeding ten years.

Art. 274. — Outrages against Foreign Heads of State.

- (1) Whosoever, within the territory of the Empire, makes or attempts to make an attack on the liberty or security of the Sovereign or Head of a foreign State with which Ethiopia maintains peaceful relations,
is punishable with rigorous imprisonment not exceeding ten years.
- (2) Where the attack is against the life, person or health of the individual

enjoying *such* protection, rigorous imprisonment shall be from three to twenty years.

Art.275. — Violation of Foreign Sovereignty.

Whosoever:

(a) contrary to public international law, or to treaties or regulations in force, enters the territory of a foreign State for the purpose of engaging in unlawful, subversive or dangerous activities; or

(b) improperly performs on the territory of *such* State acts falling within the jurisdiction of the public authorities

is punishable with simple imprisonment or, in more serious cases, with rigorous imprisonment not exceeding three years.

Art. 276. — Insults to Foreign States

(1) Whosoever in any way publicly abuses, insults, defames or slanders by word or by deed, a foreign State, either directly or in the person of its Head, of one of its constituted authorities, of one of its accredited diplomatic representative or of one of its official representatives or delegates in the territory of the Empire,

is punishable with simple imprisonment or fine.

(2) In grave cases, especially in a case of Blander, simple imprisonment shall be for not less than three months.

Art. 277. — Insults to the Official Emblems of Foreign States.

^Whosoever, out of ill-will, hatred, contempt or other improper motives tears down, destroys, defaces or insults the emblems of sovereignty of a foreign State with which Ethiopia maintains peaceful relations, particularly its armorial bearings or national flag publicly hoisted by an official representative of such State,

is punishable with simple imprisonment or fine.

Art. 278. — Insults to inter-State Institutions.

Whosoever publicly insults the representatives or the official emblems of an inter-State institution or organization of which Ethiopia is a member, is liable to the same punishment.

Art. 279. — Reciprocity.

The provisions relating to offences against foreign States laid down in this chapter

shall apply only to States whose legislation grants reciprocal protective treatment to Ethiopia, to the Sovereign of Ethiopia and to its relations with those States. Nothing in this Article shall affect the provisions granting protection to Powers allied with Ethiopia (Art. 266).

Art. 280. — *Conditions of Prosecution.*

Prosecution for offences under this chapter can be initiated only by the Attorney-General with government agreement and on demand by the State or international organization which considers that it has been injured.

TITLE II

OFFENCES AGAINST THE LAW OF NATIONS

Chapter I. — FUNDAMENTAL OFFENCES

Art. 281. — *Genocide; Crimes against Humanity.*

. Whosoever, with intent to destroy, in whole or in part, a national, ethnic, racial, religions or political group, organizes, orders or engaged in, be it in time of war or in time of peace:

(a) Killings, bodily harm or serious injury to the physical or mental health of members of the group, in any way whatsoever; or

(b) measures to prevent the propagation or continued survival of its members or their progeny; or

(c) the compulsory movement or dispersion of peoples or children, or their placing under living conditions calculated to result in their death or disappearance,

is punishable with rigorous imprisonment from five years to life, or, in cases of exceptional gravity, with death.

Art. 282. — *War crimes against the Civilian Population.*

Whosoever, in time of war, armed conflict or occupation, organizes, orders or engages in, against the civilian population and in violation of the rules of public international law and of international humanitarian conventions:

- (a) killings, torture or inhuman treatment, including biological experiments, or any other acts involving dire suffering or bodily harm, or injury to mental or physical health; or
- (b) wilful reduction to starvation, destitution or general ruination through the depreciation, counterfeiting or systematic debasement of the currency; or
- (c) the compulsory movement or dispersion of the population, its systematic deportation, transfer or detention in concentration camps or forced labour camps; or
- (d) forcible enlistment in the enemy's armed forces, intelligence services or administration; or
- (e) denationalization or forcible religious conversion; or
- (f) compulsion to acts of prostitution, debauchery or rape; or
- (g) measures of intimidation or terror, the taking of hostages or the imposition of collective punishments or reprisals; or
- (h) the confiscation of estates, the destruction or appropriation of property, the imposition of unlawful or arbitrary taxes or levies, or of taxes or levies disproportionate to the requirements of strict military necessity,

is punishable with rigorous imprisonment from five years to life, or, in cases of exceptional gravity, with death.

Art. 283. — War Crimes against wounded, sick or shipwrecked persons.

Whosoever, in the circumstances defined above, organizes, orders engages in:

- (a) killings, torture or inhuman treatment **or** other acts entailing dire suffering or physical or mental injury to wounded, sick or shipwrecked persons, or to members of the medical or first-aid services; or
- (b) the destruction, rendering unserviceable or appropriation of supplies, installations or stores belonging to the medical or first-aid services, in a manner which is unlawful, arbitrary or disproportionate to the requirements of strict military necessity, is punishable in accordance with Art. 282.

Art. 284. — War Crimes against prisoners and interned persons.

Whosoever, in the circumstances defined above:

- (a) organizes, orders or engages in killings, acts of torture or inhuman treatment or acts entailing dire suffering or injury to prisoners of war or interned persons; or
- (b) compels such persons to enlist in the enemy's armed forces or intelligence or administrative services,

is punishable in accordance with Art. 282.

Art. 285. — *Pillage, Piracy and Looting.*

Whosoever organizes, orders or engages in looting, piracy, pillage, economic spoliation or the unlawful destruction or removal of property on pretext of military necessity,

is punishable in accordance with Art. 282.

Art. 286. — *Provocation and preparation.*

Whosoever, with the object of committing, permitting or supporting any of the acts provided for in the preceding articles:

- (a) publicly encourages them, by word of mouth, images or writings; or
- (b) conspires towards or plans with another, urges the formation of, or himself forms a band or group, joins such a band or group, adheres to its schemes or obeys its instructions,

is punishable with rigorous imprisonment not exceeding five years

Art. 287. — *Dereliction of duty towards the enemy.*

Whosoever, in time of war and contrary to public international law and humanitarian convention:

- (a) kills or wounds an enemy who has surrendered or laid down his arms, or who for any other reason is incapable of defending, or has ceased to defend, himself; or
 - (b) mutilates a dead person; or
 - (c) lays hands on or does violence to a wounded, sick or dead enemy on the field of battle, with intent to rob or plunder him; or
 - (d) orders one of the above acts,
- is punishable with rigorous imprisonment or, in cases of exceptional gravity, with death.

Art. 288. — *Use of illegal means of combat.*

Whosoever uses, or orders to be used, against the enemy any means or method of combat expressly forbidden by international conventions to which Ethiopia is a party, or by the standing orders of the Ethiopian Army,

is punishable with simple imprisonment for not less than three months, or, if the offence is grave, with" rigorous imprisonment from three years to life; in the gravest cases the offender is punishable with death.

Art. 289. — *Breach of Armistice or Peace Treaty.*

Whosoever, having been officially informed of an armistice or peace treaty duly concluded, contrary to the orders given continues hostilities, or in any other way knowingly infringes one of the agreed condition,

is punishable with simple imprisonment or, in more serious cases, with rigorous imprisonment not exceeding ten years.

Art. 290. — *Franç Tireurs.*

Whosoever not being a member of an armed force or auxiliaries recognized by the Imperial authorities, engages, in time of war and contrary to public international law, in hostile acts against the Ethiopian Army, its services or its lines or means of communication or transport,

is punishable with rigorous imprisonment from three years to life, or, in cases of exceptional gravity, with death.

**Art. 291. — *Maltreatment of, or dereliction of duty towards, wounded, sick*
*Or prisoners.***

Whosoever in violation of the rules of public international law, maltreats a sick or wounded man, or a prisoner of war or war internee, or uses. violence against him, or prevents him from exercising or makes it impossible for him to exercise, the rights guaranteed to him by such rules, or issues orders to the same effect,

is punishable with simple imprisonment not exceeding five years.

Art. 292. — *Denial of Justice.*

Whosoever, in time of war or occupation and in violation of the rules of public international law, deprives a civilian, a wounded man, a prisoner or an internee, of his right to be tried according to law guaranteeing. him humane treatment and the free exercise of his right to defend him self, or orders such deprivation,

Is punishable with simple imprisonment.

Chapter II. — OFFENCES AGAINST PROTECTING INSTITUTIONS

Art. 293. — *Hostile 'Acts against International Humanitarian Organizations.*

Whosoever;

- (a) indulges in hostile acts against or threats or insults to persons belonging to the International Red Cross or to corresponding humanitarian relief organizations (the Red Crescent, the Red Lion or the Red Sun) or to the representatives of those organizations or to persons placed under their protection; or
- (b) intentionally destroys or damages in the course of hostilities material, installations or depots belonging to these organizations, is punishable with simple imprisonment.

Art. 294. — *Abuse of International Emblems and Insignia.*

Whosoever;

- (a) wears or files without due authorization the emblems or insignia of one of the international humanitarian organizations mentioned above; or
- (b) abuses such emblems or insignia or any other protective device recognized in public international law, in particular the white flag, with intent to prepare or to commit hostile acts,

is punishable with simple imprisonment, or, in cases of exceptional gravity, with rigorous imprisonment not exceeding five years.

Art. 295. — *Hostile 'Acts against the Bearer of a Flag of Truce.*

Whosoever maltreats, threatens, insults or unjustifiably detains an enemy bearing a flag of truce, or an enemy negotiator, or any person accompanying him,

is punishable with simple imprisonment.

TITLE III

**MILITARY OFFENCES AND OFFENCES AGAINST THE ARMED FORCES
AND THE POLICE FORCES**

Chapter I. — MILITARY OFFENCES

Section 1. — Breaches of Liability to Serve

Art. 296. — *Refusal to perform Military Service.*

- (1) Whosoever, with intent to evade recruitment or military service which he is legally bound to perform, fails to obey an enlistment or mobilization order duly served by personal summons, by placard or by public announcement.

is punishable with simple imprisonment.

- (2) Where the offence is committed in time of emergency, general mobilization or war, the punishment shall be rigorous imprisonment not exceeding ten years.

Art. 297. — *Failure to enlist or to rejoin the Colours.*

- (1) Whosoever, without seeking to evade recruitment or liability to military service, fails to obey a calling-up notice, in particular for an examination for recruitment, for an inspection, for training, or in respect of any other military obligation,

is punishable with simple imprisonment not exceeding six months.

- (2) Where the offence is committed in time of war, the punishment is rigorous imprisonment not exceeding five years.

Art. 298. — *Intentional Provocation of Unfitness.*

- (1) Whosoever, by maiming or other voluntary process injurious to his bodily integrity, renders himself, by his own action that of another, totally or partly unfit for service, be it permanently or temporarily, is punishable with simple imprisonment.

- (2) Whosoever, for the purpose described above and with the consent of the interested party, renders the latter by any such act totally or partly unfit for service,

is punishable with simple imprisonment not exceeding five years.

- (3) Where the offence is committed in time of emergency, general mobilization or war, the punishment is rigorous imprisonment not exceeding fifteen years.

Art. 299. — *Fraudulent Evasion of Service.*

- (1) Whosoever, with intent to evade military service, be it permanently or temporarily, employs means intended to deceive the competent civil or military authority, in particular by making a false declaration or using a false document, or by feigning an illness or infirmity,

is punishable with simple imprisonment.

- (2) Where the offence is committed in time of emergency, general mobilization or war, the punishment is rigorous imprisonment not exceeding ten years.

Art. 300. — *Desertion.*

- (1) Whosoever, with intent to evade military service, quits *his* unit, post or military duties without proper authority, or fails to return to them after being absent with leave,

is punishable with rigorous imprisonment not exceeding five years.

- (2) Where the offence is committed in time of emergency, general mobilization or war, the offender is punishable with rigorous imprisonment from five years to

life, or, in the gravest cases, with death.

Art. 301. — *Absence without leave.*

(1) Whosoever, without intent to evade service:

- (a) leaves his regiment, or quits his unit, depot, organization or military duties, without proper authority, except in case of force majeure; or
- (b) overstays, except in case of force majeure, a period of leave granted to him, is punishable with simple imprisonment not exceeding six months.

(2) In time of war, simple imprisonment shall not exceed two years.

Art. 302. — *Voluntary failure to rejoin the Forces.*

Whosoever, in time of war;

- (a) having been separated from his unit, fails to rejoin it, or to join the nearest body of troops; or
- (b) having been taken prisoner, fails upon regaining his freedom to report to a depot or to a military authority or to return to the ranks, is punishable with simple imprisonment, or, where his failure is intentional and permanent, with rigorous imprisonment from three to ten years.

Section II. — *Abuse of Military Authority*

Art. 303. — *Unlawful Exemption from Service.*

(1) Whosoever, in abuse of his commission or of the military authority conferred upon him, exempts from service a person who is legally under a liability to perform it,

is punishable with simple imprisonment for at least six months.

(2) Where the offence is committed in time of emergency, general mobilization or war, the punishment is rigorous imprisonment not exceeding five years.

Art. 304. — *Abuse of Authority.*

A superior officer who exceeds the authority he exercises by virtue of his commission, abuses such authority or improperly assumes authority not conferred by such commission,

is punishable, where his act does not constitute an offence under this Code, in accordance with the provisions of military regulations.

Art. 305. — *Threats or Violence against one Inferior.*

- (1) Whosoever threatens a person subject to his orders or of lower rank, strikes him, uses cruelty or violence towards him, or treats him in a degrading manner,

is punishable with simple imprisonment not exceeding six months.

- (2) Where the offender has made use of a weapon or other dangerous instrument, he is punishable with simple imprisonment not exceeding five years.

Section III. — Breaches of Military Duty

Paragraph 1. — Offences endangering Good Order and Discipline

Art. 306. — *Infringement of General Service Regulations.*

- (1) Whosoever intentionally fails to comply with general service orders or regulations other than disciplinary cases (Art. 747),

is punishable with simple imprisonment not exceeding six months.

- (2) Where the offence is committed in time of emergency, general mobilization or war, the offender is punishable with simple imprisonment not exceeding three years.

- (3) Where the offence is due to negligence, the offender shall be subject to disciplinary punishment in time of peace; in time of war or emergency he is punishable with simple imprisonment not exceeding one year.

Art. 307. — *Incomplete or inaccurate official statements.*

- (1) Whosoever, being required by his commission or military duties to draw up an official return or declaration, or to fill up a service document:

- (a) knowingly alters or conceals the facts or the truth, or intentionally leaves blank any detail or figure which his signature is intended to certify; or

- (b) refuses, or fails through culpable negligence, to draw up or to submit a minute, report or declaration he is required to render, is punishable with simple imprisonment.

- (2) Any member of the armed forces who makes a false statement or withholds the truth from the competent authority, with the object of obtaining or prolonging leave, is liable to the same punishment.

- (3) Where the offence is committed in time of emergency, general mobilization or war or is likely to have serious consequences, the offender is punishable with

simple imprisonment not exceeding five years.

Art. 308. — *Drunkenness on. Active Duty.*

(1) Whosoever:

- (a) repeatedly gets drunk while under arms; or
 - (b) being drunk, disturbs discipline or causes a public scandal,
- is punishable with simple imprisonment not exceeding three months.

(2) Where the drunken person threatens another with his weapon, or otherwise behaves in a dangerous manner, he is punishable with simple imprisonment not exceeding one year.

Where, in a state of culpable irresponsibility, he wounds or kills another person, the general provision applies (Art.50).

Art. 309. — *Want of Discipline.*

Whosoever:

- (a) absents himself without proper authority from barracks, camps or military quarters, or is found without proper order or authority in a place forbidden to him, or outside the bounds laid down for him; or
- (b) takes part in a quarrel or brawl, or in disturbances, or refuses to obey an order to desist issued to him by a superior officer; or
- (c) misbehaves or disobeys orders in a hospital, in sick-quarters or elsewhere at the risk of complicating or aggravating his condition or of causing his treatment to be prolonged; or
- (d) in any other way, by word of mouth, gesture or deed, disturbs good order and military discipline,

is punishable with simple imprisonment not exceeding one year.

Art. 310. — *Insults or Threats to, or Assaults upon, a Superior Officer.*

(1) Whosoever insults, threatens or molests a superior officer, or uses violence against him,

is punishable with simple imprisonment.

(2) Where the threat or assault is accompanied by violence or done by the use of a weapon, an instrument or a dangerous object, the offender is punishable with rigorous imprisonment not exceeding five years.

(3) Where the offence is committed in *time* of emergency, general mobilization or war, the punishment shall be simple imprisonment not exceeding five years in respect of an offence under clause 1, or rigorous imprisonment not exceeding ten

years in respect of an offence under clause 2.

Art. 311. — *Insubordination.*

(1) Whosoever intentionally fails to carry out, or refuses to obey, an order relating to his duties issued by Ill's commanding officer or the competent military authorities, either to him personally or to the unit of which he is a member, be it by word of mouth, in writing, by sign or in any other way,

is punishable with simple imprisonment.

(2) Where the offence is committed in time of emergency, general mobilization or war, and where the refusal to obey is definite, the punishment is rigorous imprisonment not exceeding ten years.

(3) Where the offence is of exceptional gravity and is committed in the face of the enemy, the offender is punishable with rigorous imprisonment for life or with death.

Art. 312. — *Mutiny.*

(1) Whosoever, in concert with other members of the armed forces, in an unlawful assembly or by any other method, takes part in a seditious movement leading to insubordination or revolt, or to threats, violence or assault on or against a superior officer or a military authority, is punishable with rigorous imprisonment not exceeding ten years.

(2) Where the mutiny is raised in time of emergency, general mobilization or war, the offence is punishable with rigorous imprisonment from three years to life, or, in cases of exceptional gravity, with death.

(3) The ringleaders or organizers shall be sentenced to exemplary punishment (Art. 81 (d)), within the limits of these punishments.

Art. 313. — *Concert or Conspiracy to raise a Mutiny.*

Whosoever conspires or joins with others for the purpose of preparing a mutiny or seditious movement,

is punishable with simple imprisonment, and, in time of war, with rigorous imprisonment from three to ten years.

Art. 314. — *Attempted Participation.*

In cases of mutiny in time of emergency, general mobilization or war, attempted

instigation, attempted aiding and abetting, are punishable offences. (Art. 27 (2))

Art. 315. — Offences against Guards, Sentries or Patrols.

Insults, threats, assaults, acts of violence, insubordination or mutiny against a military guard, sentry, or a patrol on duty are punishable as though committed against a superior officer.

Paragraph 2. — Offences against Guard Duty or Instructions

Art. 316. — Breaches of Guard Duty.

(1) Whosoever:

(a) intentionally or through criminal negligence or imprudence renders himself incapable of discharging his duties as a guard, he it by drunkenness or otherwise; or

(b) without proper authority, abandons his post, or quits it before being regularly relieved,

is punishable with simple imprisonment.

(2) Where the offence is committed in time of emergency, general mobilization or war, the punishment is rigorous imprisonment not exceeding five years.

Where the offence is committed intentionally in the face of the enemy, the offender is punishable with rigorous imprisonment for life or with death.

Art. 317. — Infringement of Military Instructions.

(1) Whosoever acts contrary to the instructions issued to a guard, sentry, patrol, escort or to any person with similar duties, is punishable with simple imprisonment.

(2) The punishment shall be simple imprisonment for three months at least where the offence is committed:

(a) when the guard is mounted over a power station supplying electric power or light, dams, weirs, sluices, dykes, jetties, port installations or major protective works, or bridges, viaducts or crossings of vital importance; or

(b) where it is mounted over an anchorage, a depot or a park containing equipment, locomotives or motorized vehicles, an arsenal, or a dump of weapons, ammunition, explosives, fuel or provisions of substantial value or importance; or

(c) in a dangerous zone or while the offender is on frontier guard duties.

(3) Where the offence is committed in time of emergency, general mobilization or war, the offender is punishable with rigorous imprisonment not exceeding three

years and with rigorous imprisonment not exceeding five years in cases of gravest importance.

Art.318.—*Disclosure or Alteration of Instructions.*

(1). Whosoever, while on active service, but without *committing* treason:

- to (a) gives countersigns, passwords or instructions to any person not entitled to receive them; or
(b) knowingly gives to another entitled to receive them countersigns, passwords or instructions other than those which he has himself received,

is punishable with simple imprisonment.

(2) where offender has acted through negligence he shall be liable to disciplinary punishment.

(3) Where the offence is committed in time of emergency, general mobilization or war, the offender is punishable with simple imprisonment not exceeding five years in the case of negligence, and with rigorous imprisonment not exceeding twenty years in the case of intentional infringement.

Paragraph 3. — Offences against Honesty

319. — *Misuse or Waste of Material.*

(1) Whosoever:

- (a) improperly uses, lends, alienates or pawns; or
(b) makes away with, abandons, damages, loses or destroys arms, munitions, equipment, material or instruments, vehicles, animals, or any other objects entrusted or handed over to him, or to which he has access by reason of or during his military service,

is punishable, where no other provision of this Code applies, with simple imprisonment, even where his military status or functions have ended.

(2) Where the offence is committed in time of war, the Court may pass sentence of rigorous imprisonment not exceeding five years.

Art. 320. — *Malversation and Receipt of ill-gotten gains.*

(1) Whosoever, being entrusted with the supervision, procurement, handling or distribution of provisions, money, material or any other property:

- (a) uses them unlawfully, or undervalues them in any manner whatsoever; or
(b) receives or solicits any benefit therefrom, or in any way has an improper interest in the purchase, sale or distribution of any provisions, supplies, equipment, goods

or other objects delivered to a garrison, camp, canteen, barracks or other military establishment,

is punishable, where the act does not come under another provision of this *Code*, such as breach of trust, fraudulent administration, corruption or peculation, with simple imprisonment, or, in more serious cases, with rigorous imprisonment not exceeding five years.

(2) Where the offence is committed in time of war, the Court may pass sentence of rigorous imprisonment not exceeding ten years.

Section IV. — Offences endangering the Safety, Morale or Power of the Armed Forces

Art. 321. — Failure to report Danger.

(1) Whosoever, in time of emergency, general mobilization or war, fails to inform his commanding officer or the military command of an event or fact of which he is aware and which manifestly calls for immediate military measures,

is punishable with simple imprisonment not exceeding six months.

(3) Failure to report a danger or projected treason, espionage, mutiny or desertion is punishable under Art. 344.

Art. 322. — Failure to take Essential Security Measures.

(1) A commanding officer or other person in the service of the armed forces who fails, be it during military operations or in any other service circumstances, to take on his own initiative the precautionary or security measures necessary to safeguard the lives and health of the persons and animals, or to maintain in good order or to ensure the safety of the depots, installations, works, resources or other objects, for which he is responsible, thereby hazarding them,

is punishable with simple imprisonment not exceeding one year.

(2) Where the offender has acted through negligence, carelessness or imprudence, and where the offence appears to justify more than a mere disciplinary penalty, the punishment shall be simple imprisonment not exceeding three months.

(3) Where the offence is committed in time of emergency, general mobilization or war, the offender is punishable with simple imprisonment not exceeding three years in the case of intentional failure, or with simple imprisonment not exceeding one year in the case of negligence.

Art. 323. — False alarm.

(1) Whosoever, on the march or in camp, in the field or in barracks, on a warship or

on an aerodrome, or in any other place, intentionally raises a false alarm, especially by drawing or discharging his side or fire arm, by beating a drum or sounding a bugle, by cries, signals shouts or gestures, or in any other way, is punishable with simple imprisonment.

(2) Where the offence is committed in time of emergency, general mobilization or war, and where it is not punishable under another provision of this Code, the offender is punishable with simple imprisonment not exceeding five years.

(3) Where the alarm has been raised through criminal negligence or imprudence, the offender is punishable with simple imprisonment not exceeding three months and, in time of emergency or war, with simple imprisonment not exceeding one year.

Art. 324. — *Demoralization of Troops.*

(1) Any member of the armed forces or any military commander who during or immediately before battle, demoralizes or disheartens the troops or weakens their position by his behaviour, in particular by giving ground contrary to orders, by throwing away arms, equipment or munitions, by spreading fear or causing disorder or confusion, or by failing to take the steps required of him to prevent or remedy such developments,

is punishable with rigorous imprisonment not exceeding three years.

(2) Where the offence and its consequences are of particular gravity, the offender is punishable with rigorous imprisonment for life, or, in the gravest cases, with death.

Art. 325. — *Cowardice.*

Whosoever, in face of the enemy and from cowardice:

(a) refuses to take up arms or to use them; or

(b) hides, runs away or abandons his post without orders to that effect; or

(c) incites his comrades or subordinates to similar behaviour,

is punishable with rigorous imprisonment from three years to life, or, in the gravest cases, with death.

Art. 326. — *Capitulation.*

A commanding officer who:

(a) in battle or in the face of the enemy lays down his arms, dispatches a bearer with a flag of truce, hauls down his flag, or surrenders with his men without having done everything that the exigencies of military duty require of him; or

(b) abandons, leaves, scuttles or surrenders his ship, his aircraft, his armoured fighting vehicle or any other instrument of war for which he is responsible without having done everything in his power to save it; or

(c) surrenders a fortress, a town, port or aerodrome, a garrison, a post or a fortified position without having exhausted all possible means of defence,

is punishable with rigorous imprisonment for life or with death.

Art. 327. — *Abandonment of Means of War Intact.*

(1) Any member of the armed forces or any commanding officer who, in time of war, abandons to the enemy, without having done everything in his power to destroy them or put them out of commission, a depot, an establishment, a military camp or installation, munitions, arms, other means of war, bridges, viaducts, railways or any other object of importance to the national defence,

is punishable with rigorous imprisonment not exceeding ten years.

(2) Where the offence is due to negligence, the punishment shall be simple imprisonment from six months to five years.

Section V. — *Common Provisions*

Art. 328. — *Offences committed by Prisoners of War or Military Internees.*

(1) Irrespective of any offences against public international law for which they may have to answer under the provisions of the preceding title (Title II), prisoners of war or military internees who are on Ethiopian territory or are dependent upon the Ethiopian military or civilian authorities, are subject to the provisions of this title for any military offences they may commit,

The ordinary punishments prescribed in this Code, with the exception of pecuniary penalties and ordinary disciplinary punishments are applicable to them.

(2) Prisoners of war or military internees are subject to the provisions of this Code concerning deprivation of liberty or life in cases of non-military offences, particularly in the event of escape, or of any other offences of which they may be guilty.

Art. 329. — *Breaches of Military Duty committed by Officers or Commanding Officers.*

In all cases of breach of liability to perform military service, of breach of military order or discipline, of service or of military obligations in general, officers and commanding officers, irrespective of rank, shall be subject to exemplary and drastic punishment, according to their degree of guilt, within the limits of the punishments provided under this Code.

Art. 330. — *Additional Penalties in Grosses.*

In all cases punishable with *fig/atom* imprisonment or death, the Court may order the payment of a fine not exceeding twenty thousand dollars in the case of a commanding *officer*, or not exceeding five thousand dollars in other cases, where the offender has acted for gain.

The court may, in addition, order dismissal from the Armed Forces or reduction in rank, where the offender has shown himself unworthy to serve or unworthy of his rank.

Art. 331. — *Disciplinary Offences excepted.*

In the case of minor infringements of service orders or regulations, of occasional drunkenness, of disobedience, of indiscipline or of abuse, where the punishment prescribed in the Penal Code seems excessive (Art. 87), disciplinary punishments (Art. 748) may be imposed.

Chapter II. — OFFENCES AGAINST THE ARMED FORCES AND MEMBERS THEREOF

Section I. — *Offences against Members of the Armed Forces on Active Duty*

Art. 332. — *Compelling breaches of duty.*

Whoever, by the use of threats or violence, compels a member of the armed forces to execute a duty without proper authority or prevents him from executing a duty he is bound to perform, is punishable with simple imprisonment or fine.

Art. 333. — *Attack on a Member of the Armed Forces while on Active Duty.*

(1) Whomever, without provocation, threatens, attacks or strikes a member of the armed forces in the execution of his duties, is punishable with simple imprisonment not exceeding one year.

(2) Where the offender is armed and threatens the victim with a weapon, or uses physical violence, and causes him minor bodily harm or slight impairment of health, he is punishable with simple imprisonment for one month to three years.

Where the attack results in serious bodily harm (Art. 538 and 540) or in death which was probable or ought to have been foreseen in the circumstances of the case, the general provisions concerning assessment of sentence in such cases shall apply.

Art. 334. — *Aggravated Offences.*

Where an offence under Articles 332 and 333 is committed:

- (a) against a guard, a sentry, a patrol or a member of the military police or other military authority in the execution of its duty; or
- (b) against an officer or commanding officer recognisable by his functions or by his badges of rank,

the offender is punishable with simple imprisonment for at least one month in the case of threat or unarmed attack which has done no injury to the victim's person or health, and for at least three months in the case of armed or violent attack, except as otherwise provided in the general provisions concerning assessment of sentence (Art. 63).

Section II. — *Offences against the Armed Forces and their Auxiliary Services*

Art. 335. — Breach of Legal or Contractual Obligations.

(1) Whosoever intentionally:

- (a) fails, without just cause, to comply with a legal obligation to hand over, deliver or escort animals, vehicles, provisions, materials or any other supplies necessary to the military service or to the armed forces; or
- (b) fails to perform his contractual obligations towards the armed forces or their services, be they in respect to deliveries or supplies of provisions, equipment, material or of any other objects, or in respect to installations, buildings, or public works of any kind; or
- (c) in general, performs the tasks, services or deliveries incumbent upon him, supervises them, or takes or makes delivery of them without abiding by his contractual obligations or without due care with resultant delay or default harmful to the armed forces.

is punishable with simple imprisonment or fine; in more serious cases the offender is punishable with rigorous imprisonment not exceeding ten years.

(2) Where the offender has acted through negligence, the punishment is fine or simple imprisonment, according to the gravity of the case.

Art. 336. — Sabotage.

(1) Whosoever:

- (a) destroys, damages or renders unfit for use installations, material or equipment used by the armed forces; or

(b) prevents an official or an authority from carrying on his or its activities on behalf of the armed forces or disturbs or endangers such activities,

is punishable with simple imprisonment or fine, or, in the gravest case, with rigorous imprisonment not exceeding ten years.

(2) where the offender has acted through negligence, the punishment is fine or simple imprisonment.

(3) Acts intended to impair the defensive power of the State are punishable under Art. 260.

Art. 337. — *Traffic in Military Material.*

Whosoever unlawfully gives away, sells or acquires, lends or pledges, receives on loan or in pledge, consumes or makes away with, destroy or puts out of commission objects requisitioned, utilized or sequestered by the administrative services of the armed forces,

is punishable with simple imprisonment or fine.

Art. 338. — *Unauthorized manufacture of, and traffic in. Military Uniforms, Insignia or Decorations.*

Whosoever without authority manufactures, stores, offers or sells, acquires or receives, military uniforms, insignia or decorations,

is punishable with simple imprisonment not exceeding one year, or fine.

Art.339. — *Unauthorized wearing of Military Uniforms, Decorations or Insignia.*

Whosoever unlawfully wears a military uniform, decorations or insignia,

Is punishable with simple imprisonment not exceeding six months or with fine not exceeding three hundred dollars.

Art.340. — *Disregard of Military Measures.*

(1)Whosoever contravenes orders, regulations or instructions issued by the Government or by the competent civil or military authority on grounds of military necessity or to safeguard military interests,

is punishable, where he is not punishable under any other provisions of this Code, with simple imprisonment not exceeding one year, or fine.

(2)Where the offence is due to negligence, simple imprisonment shall not exceed three months, and the fine shall not exceed three hundred dollars.

Art.341.—*Incitement to disregard Military Orders.*

Whosoever:

- (a) provokes or incites, be it in public or not, anyone to disregard military orders, to acts of indiscipline or to breaches of military duties; or
- (b) organizes a band, a movement or an unlawful assembly to these ends, or takes part in its organization, adheres to it or subscribes to its schemes,
is punishable with simple imprisonment or fine.

Art. 342. — *Disregard of prohibitions protecting specified military zones and objects.*

Whosoever, without authority, or unlawfully:

- (a) enters an establishment, a work or any other site, access to which is forbidden by the military authorities or *on* military grounds; or
- (b) makes, takes, prepares, reproduces, publishes or communicates to another or others an account, sketch, photograph or any representation whatsoever of such establishment, work or site, or of the installations, equipment or other objects therein.

is punishable with simple imprisonment or fine.

Art. 343. — *Falsification or Suppression of General Orders or Instructions.*

(1) Whosoever intentionally:

- (a) forges, falsifies, destroys or makes away with an order to report for enlistment or for military service, a military delivery order or an instruction of any kind intended for citizens liable to military service, or relating to the interests or needs of the armed forces; or
- (b) makes use of such forged or falsified order or instruction,
is punishable with simple imprisonment, or, in the gravest cases, with rigorous imprisonment not exceeding three years.

(2) Where such destruction, suppression or use is due to criminal negligence or imprudence, the offender is punishable with simple imprisonment not exceeding six months or fine.

Art. 344. — *Failure to report Crimes against the Armed Forces and Breaches of Military Obligations.*

(1) Whosoever, being aware of plans to commit or of the commission of mutiny or desertion, fails to report them or makes no attempt to prevent their commission or to cause the offender to be arrested,

is punishable with simple imprisonment, where the offence is committed or attempted, or in the more serious cases, with rigorous imprisonment not exceeding three years.

(2) Official or professional secrecy is no defence to a charge under this Article. In time of emergency, general mobilization or war, kinship or close ties of affection (Art. 80) are no excuse.

(3) Failure to report plans to commit or the commission of military treason or espionage is punishable under Article 267.

Art. 345. — *Disclosure of Military Secrets.*

(1) Whosoever, in cases other than those of treason or espionage, punishable under Articles 261-265 of this Code, communicates or delivers to an unauthorized person or to the general public documents or information of any kind which are not a matter of common knowledge and which by their nature are military secrets,

is punishable with simple imprisonment or fine.

(2) Where the offence relates to documents or information of a restricted kind, or where it is committed by a person closely acquainted with them, or expressly appointed to handle or preserve them, or where the offence has or might have consequences of exceptional gravity, the offender is punishable with rigorous imprisonment not exceeding ten years.

(3) Where the offence is due to negligence or imprudence, the offender is punishable with simple imprisonment not exceeding six months in ordinary cases (1), and not exceeding two years in aggravated cases (2).

Art. 346. — *False or Tendentious Information.*

Whosoever, when troops have been mobilized or are on active duty, puts forth or disseminates information which he knows to be inaccurate or tendentious, with intent to obstruct or to thwart measures ordered in the military interest, to impede or endanger movements or operations of the armed forces, to incite troops to indiscipline or insubordination, or to foment disorder and spread alarm among the population,

is punishable with simple imprisonment or fine, and in the gravest cases, with rigorous imprisonment not exceeding three years.

Section III.—Common Provisions

Art. 347. — State of Emergency or War: Aggravated Punishment.

- (1) Where any of the offences punishable under the preceding section, committed or attempted against a member of the armed forces on active duty, against the armed forces or their auxiliary services, or against military interests, is done in time of alarm, general mobilization or war, and where no specific provision prescribes a more severe punishment, the offender is punishable as follows:
 - (a) instead of simple imprisonment, rigorous imprisonment not exceeding three years;
 - (b) where rigorous imprisonment is prescribed, rigorous imprisonment not exceeding double the prescribed maximum. In the gravest cases of failure to report (Article 344), rigorous imprisonment shall not exceed ten years,
- (2) Where criminal negligence or imprudence are punishable, the Court may:
 - (a) increase the maximum term of simple imprisonment to five years in cases where the prescribed maximum is three years;
 - (b) increase the maximum to three years in cases where the maximum prescribed is less than three years.
- (3) When the Court imposes a fine, it may double the maximum amount laid down in the relevant provision of this Code.

Art. 348. — Offences committed for Gain.

In all cases punishable with rigorous imprisonment and when the offender has acted for gain, the Court may in addition impose a fine not exceeding ten thousand dollars, having regard to the gravity of the offence and the offender's financial resources.

Chapter III. — APPLICATION OF ARTICLES 296-316 TO THE POLICE FORCE

Art. 349. — Principle of Application.

The provisions of the two preceding Chapters (Art. 296-346) shall apply where any of the offences provided therein has been attempted or committed by or against a member of the police force and where it does not come under any other special provisions of the law.

Art. 350. — *Aggravated Cases.*

(1) Where the offence is committed in time of disorder, emergency, rebellion, civil war or war, the court shall aggravate the punishment in accordance with Art. 347 unless such aggravation is provided by some other special provision.

(2) the Court may also apply the aggravation provided by Article 348.

Art. 351, — *Special Circumstances.*

When applying to the police the provisions relating to the military the Court shall take into account the special duties and organization of the police force.

Art. 352. — *Scope of Official Duties.*

Apart from the cases mentioned hereinbefore which relate to offences committed against the organization, duties and security of the police force, the provisions of this Code relating to public servants shall apply to the member of the Police Force (Art. 410-426).

Art. 353. — *Court to elect when offence falls under two provisions of the Law.*

Where the same act might come under the provisions of either this chapter or Book IV, Title III of this Code such as cases of infringement of service regulations (Art. 306 and 412), abuse of authority, (Art. 304 and 414), breaches of trust (Art. 319 and 320 and 420-126), breaches of official secrecy (Art. 345 and Art. 404 and 405) the Court shall decide as to the appropriate provision to apply having regard to whether the offence is of a quasi military nature or an offence relating to public servants.

TITLE IV

OFFENCES AGAINST THE FISCAL AND ECONOMIC INTERESTS OF THE STATE

Chapter I. — GENERAL PROVISIONS

Art.354. — *Charges brought under Special Legislation.*

(1) Where, in accordance with the law, a ministry or an administrative or executive

organ of the State issues orders, rules or regulations duly published in the Negarit Gazeta concerning:

the establishment, operation, control or protection of State monopolies, undertakings or services, the assessment and collection of taxes and dues, the restriction, control or promotion of imports or exports, the exploitation of the national wealth, the fixing, control or maintenance of prices, or the regulations of any other sector affecting the country's fiscal or economic interests,

the punishment for breaches of such orders, rules, and regulations shall be determined in accordance with the principles and punitive provisions of this Code.

- 2) All breaches classed as petty offences or, in default of such classification, all breaches of mandatory or prohibitory provisions of this kind where the sum or value involved does not exceed five thousand dollars, come within the Part of this Code regarding petty offences and are punishable as provided therein.

335. — *Penalties: Kind and Extent.*

- (1) Where the said orders, rules or regulations make no explicit reference to an offence defined in this Code, the Court shall pass sentence of simple imprisonment or fine, fixed in accordance with the provisions, and within the general limits, of this Code (Art. 88-90 and Art. 105 and 106).
- (2) Where the degree of guilt is of exceptional gravity and the offence involves large sums or values, or where the accused makes a profession of such offences within the meaning of Art. 90, the Court may impose a fine not exceeding twenty thousand dollars, in addition to the forfeiture of the gain derived from the offence.
- (3) The general provisions relating to protective penalties and preventive measures, prohibitions and injunctions, and those relating to collateral measures of publicity and information, shall be applied wherever the court thinks necessary.

Art. 356. — *Collateral Fiscal Penalties.*

Nothing in this chapter shall affect the recovery under the appropriate law of sums or dues misappropriated.

Chapter II. — SPECIAL PROVISIONS

Art. 357. — *Illicit Traffic in Gold, Coins, Currencies or Foreign Exchange.*

Whosoever, apart from cases coming under the provisions relating to offences against currency (Title V below), buys, imports or exports, accepts in trust, exchanges, sells or offers without authority or contrary to the orders or regulations in force, gold, coins, currencies or exchange, whether national or foreign, dealings, in or rates for which are subject to limitation, restriction or measures of control or protection,

is punishable with simple imprisonment or with fine not exceeding ten thousand dollars, without prejudice to the confiscation of the subject matter of the charge.

Art. 358. — *Illicit traffic in precious metals and minerals.*

Whosoever violates, as defined in the preceding Article, provisions or regulations on forbidden or unlawful traffic in precious metals such as gold, silver, platinum, uranium or any other precious metal, as well as in precious stones or minerals, is punishable under Art. 357.

Art. 359. — *Dealings endangering the Credit of the State.*

Whosoever, with the object of damaging the credit of the State, or knowingly running the risk of damaging it, carries out operations, speculation or dealings likely to:

(a) bring about a fall of value in the national currency, the withdrawal of funds from banks or from other institutions legally bound to make payment into banks, or widespread selling of government bonds or other public securities; or

(b) prevent subscription to or the purchase of such funds, bonds or securities,

is punishable with simple imprisonment or with fine not exceeding ten thousand dollars.

Art. 360. — *Unlawful Refusal to pay Public Taxes or Dues.*

(1) Whosoever, being duly ordered to pay the taxes or dues prescribed by law and validly assessed by the competent authority, refuses to discharge his obligation though able so to do, whether it be payment of a due in kind, of real property tax, of tax capital or income, or any other due or tax whatsoever,

is punishable with simple imprisonment or fine.

(2) Where the refusal is accompanied by threats, violence or assault, by the display or use of arms, or by disorder or revolt, the punishment may be

aggravated in accordance with the relevant provision of this Code. (Art. 82).

Art.361. — *Incitement to Refusal to pay Taxes.*

(1) Whosoever incites or attempts to incite another, by acts, gifts, speeches or threats, or in any other way, to refuse to pay the taxes and dues prescribed by law,

is punishable with simple imprisonment or fine.

(2) Simple imprisonment may be up to five years and the fine up to ten thousand dollars where the offence is more serious.

Where the offence is punishable under a more severe provision, such as incitement to riot, to rebellion or to the overthrow of authority, the punishment may be aggravated in accordance with the relevant provision of this Code. (Art. 82).

Art.362. — *Endangering of Sources of Revenue.*

(1) Whosoever, with intent to save himself or another, whether an individual or a body corporate, payment in full or in part of dues, taxes or charges due to the Government:

(a) knowingly supplies to the competent authorities false information about the property, capital or income subject to taxation, or about any other relevant circumstances in connection with the assessment of the taxes or dues; or

(b) in any other way, be it by fraud, concealment, or false returns or fictitious operations, or by any other means, knowingly misleads such authorities,

is punishable with fine, or with simple imprisonment not exceeding six months.

(2) Where the offender has acted in circumstances which constitute another offence such as forgery or misrepresentation, the provisions regarding these offences may also be charged.

Art. 363. — *Contraband.*

(1) Whosoever intentionally brings into or takes out of the Empire, or across its frontiers, goods, property, objects or products of any kind without paying the duty or taxes due on them,

is punishable with fine not exceeding ten thousand dollars, or simple imprisonment, in addition to the forfeiture of the instruments, means, or the

subject matter of the offence, subject to the rights of third parties in good faith who have taken no part whatsoever in the offence. (Art. 144).

(2) Evasion of customs duty of an isolated character comes within the scope of the provisions relating to petty offences. (Art. 740).

Art. 364. — Offences against the National Economy and State Monopolies.

(1) Whosoever, apart from the cases especially specified above and petty infringements of the provisions and regulations issued by the competent authorities provided for and punishable under the Code of Petty Offences (Art. 740-745), intentionally violates the provisions concerning:

(a) the importation, exportation, storage or transport of objects, products or materials subject to prohibition, licence, control or duties; or

(b) the exploitation of the natural resources of the country, whether of the soil, of the sub-soil or of their products, of electric power water, forests, minerals, game or wild animals; or

(c) a monopoly whether granted by way of concession or controlled by the State, whether or armaments, alcohol, tobacco or matches, or public communications, postal, telephone, telegraph or transport services; or

(d) the organization of the State Bank or State undertakings, or of concessions for, or the operation and supervision of, banks or undertakings, whether commercial or industrial, factories, flownulls or State controlled hotels or establishments of any kind.

is punishable, where the offence does not come under a specific provision prescribing a more severe penalty, with simple imprisonment or fine, in addition to the forfeiture of the subject matter of the offence and the withdrawal of any licence, and the suspension or closing down of any business, association or company.

(2) Where such offence is due to negligence, the offender is punishable with fine not exceeding one thousand dollars, or, according to the circumstances and gravity of the case, with simple imprisonment not exceeding three months.

Art. 365. — Aggravation to the Offence.

The fine shall not exceed twenty thousand dollars, and the punishment of deprivation of liberty shall be rigorous imprisonment not exceeding five years, in the case of trafficking, speculation or illicit dealings, of contraband or of other

offences involving large amounts, or where the accused has made a profession of such trafficking or prohibited practices.

TITLE V
OFFENCES AGAINST CURRENCIES OR AGAINST OFFICIAL SEALS,
STAMPS OR INSTRUMENTS

Chapter I. — COUNTERFEIT CURRENCY

Art.366. — *Making.*

Whosoever, on the territory of the Empire or abroad, makes without lawful authority or counterfeits currencies or paper money, with intent to utter them as genuine,

is punishable with rigorous imprisonment from five to twenty years.

Art.367. — *Forgery.*

Whosoever, on the territory of the Empire or abroad, forges, by alteration, overprinting, dyeing or any other means, currencies or paper money

with intent to utter them at a value greater than their current value, is punishable with rigorous imprisonment not exceeding ten years.

Art.368, — *Debasing.*

Whosoever, by a mechanical, physical or chemical process, or by any other means, debases currencies, with intent to utter them at their full value, is punishable with rigorous imprisonment not exceeding five years.

Art.369. — *Uttering.*

1) Whosoever, not being the author of the principal offence and not having taken part therein:

(a) knowingly utters as genuine or as having greater value than their current value counterfeit or forged currencies or paper money; or

(b) utters debased currencies at their full value,

is punishable with rigorous imprisonment not exceeding ten year in respect of an offence under (a) and with simple imprisonment not exceeding five years, or fine, in respect of an offence under (b).

(2) Where the offender, his principal or his representative has received the currency or paper money as genuine, or against payment of their current value, and having discovered their falseness, has retained them to circulation only in order to avoid loss, the Court may pass sentence of simple imprisonment in the case of

counterfeit or forged currencies or paper money, or impose a fine in the case of debased currencies.

Art. 370. — *Importation, Acquisition, Acceptance in Trust, or Offer.*

(1) Whosoever, with intent to utter them or to cause them to be uttered as genuine or at their current value, imports, acquires or procures, accepts in trust or offers counterfeit or forged currencies or paper money, or debased currencies, is punishable with rigorous imprisonment not exceeding ten yens.

(2) In petty cases, where small sums only are involved, the offender is punishable with simple imprisonment.

**Chapter II. — FALSIFICATION OF OFFICIAL SEALS, STAMPS,
MABKS, WEIGHTS AND MEASURES**

Art. 371. — *Falsification of the Seals of the Emperor and of the State.*

(1) Whosoever:

(a) falsifies or counterfeits the Seal of the Emperor, or that of the Government or of a Government Department or of a Government Institution, intended to be affixed to Government papers, or makes use of such falsified or counterfeit seal; or,

(b) having procured a genuine seal, makes improper use of it,

is punishable with rigorous imprisonment from three to tea years.

(2) Where, as a consequence of the offence, grave harm u done to national interests or rights, the offender is punishable with rigorous imprisonment not exceeding twenty years.

Art. 372. — *Falsification of other Public Seals.*

(l) Whosoever:

(a) falsifies or counterfeits any seal of a public authority or department, or public utility undertaking, or makes use of such seal; or

(b) makes improper use of a genuine seal of such kind,
is punishable with rigorous imprisonment not exceeding five years.

(2) Where grave harm u caused by the offence, the offender is punishable with rigorous imprisonment not exceeding ten years.

Art. 373. — *Falsification of Official Marks.*

(1) Whosoever:

(a) with intent to use them or to cause them to be used as genuine or unused, makes without lawful authority, falsifies or counterfeits official marks of origin or indentity, or of certification or warranty, particularly in connection with customs or transport operations, with gold, silver or other precious metals, timber, skins or other materials or products, or with foodstuffs, medicaments or articles affecting public health, whether they be seals, die-stamps, rubber stamps, labels or any other distinguishing mark, or

(b) knowingly uses such false or counterfeit marks as genuine or unused,

is punishable with simple imprisonment from three months to five years, or fine.

Art.374. — *Falsification of Official Stamps of Value.*

(1)Whosoever:

(a) with intent to use them or to cause them to be used as genuine or unused, makes without lawful authority, falsifies or counterfeits official stamps of value, in particular officially stamped paper, pastage stamps or receipt stamps; or

(b) after such stamps have been used and cancelled, gives them the appearance of unused stamps for the purpose of using them or causing them to be used again,

is punishable with simple imprisonment for at least three months, or, in grave cases, not exceeding five years, and fine.

(2) In petty cases, especially those of isolated use of forged, falsified or cancelled postage or receipt stamps, the court may impose a fine only.

375. — *Falsification of Weights and Measures.*

(1) Whosoever, with intent to deceive another:

(a) falsifies weights, balances, measures or other instruments intended for use in commerce or trade; or

(b) unlawfully affixes thereto a made or imprint denoting official certification or warranty, or forges each marks; or

(c) knowingly makes me of such forged or falsified instruments,
is punishable with rigorous imprisonment not exceeding fire years.

(2) In petty cases, the offender is punishable with simple imprisonment or fine.

Art. 376. — *Importation, Acquisition, Acceptance in Trust, Offer.*

Whosoever imports, acquires or procures, accepts in trust, puts on sale or offers stamps, tickets, marks, weights or measures which he knows to be forged or falsified,

is punishable with simple imprisonment or fine.

In grave cases, the offender is punishable with rigorous imprisonment not exceeding two years.

Chapter 3. — COMMON PROVISIONS

Art. 377. — *Counterfeiting without intent to defraud.*

(1) Whosoever without intent to commit forgery:

(a) counterfeits or imitates, especially by way of advertisement, or with the intention of uttering them as facsimiles, bank notes, paper money, official stamps of value or postage stamps, in so a way that they create, or tend to create, risk of confusion;

(b) imports, accepts in trust, puts on sale or utters such counterfeits or imitations,

is punishable with fine, or, in cases where the risk of confusion or abuse is particularly great, with simple imprisonment not exceeding three months.

(2) Reproduction for official scientific or information purposes, subject to the consent in writing of the competent issuing authority, is not an offence.

Art. 378. — *Endangering of the Currency, Securities or Bonds, or Official Titles or Seals.*

Whosoever, without the express order or permission of the competent authority or institution:

(a) sets up, procures, imports, off erg or hands over to another or machinery, moulds, dies, paper, models or other objects or mate used for making or manufacturing currency, securities, bonds, brands, postage stamps, official titles or seals; or

(b) accepts, executes or causes to be executed, or delivers or causes to be delivered, orders for currencies, securities, bonds, stamps, official titles, or seals,

is punishable with simple imprisonment not exceeding six months or fine.

Art. 379. — *Machinery and Means of Falsification.*

(1) Whomever, with the object of making unlawful use of them, makes, procures, keeps or offers machinery, moulds or dies, paper, metal or any other mean for counterfeiting or forging currencies, paper money, bank notes, seals, stamps or official marks,

is punishable with simple imprisonment for at least six months.

(2) Where, however, such machinery and means are intended for counterfeiting or falsifying the national currency, or the Seal of the Emperor, of the State or of any other public authority, the offender is punishable with rigorous imprisonment not exceeding five years.

Art. 380. — *Extenuating Circumstances.*

(1) The Court may without restriction mitigate the punishment (Art. 185) or, in special circumstances, exempt from punishment any person taking part in the preparation or commission of any of the offences under this Title who:

(a) destroys of his own accord machinery and means of counterfeiting before any use whatsoever has been made of them; or

(b) prevents uttering, use or damage before the offence has come to the knowledge of the public authorities; or

(c) reveals the existence or preparation of the offence or enables the offender to be brought to justice.

(2) The Court may, whether a penalty has been imposed or not, make an order requiring the offender to enter into a recognizance to be of good behaviour (Art. 139) or an order restricting his personal liberty (Art. 149-154).

(3) The Court may reduce the penalty within the limits specified by law (Art. 184) where the making, counterfeiting, forging, debasing or falsification provided in the two proceeding chapters is so small or so obvious as not to constitute a serious danger to the interests of the State or to the public.

Art- 381. — *Aggravation to the Offence and Collateral Penalties.*

(1) In all cases under this Title, the Court shall have regard to the provisions

concerning increase of sentence where the criminal activity is of an habitual or professional nature, or is the consequence of an agreement or of the formation of a gang or of a criminal conspiracy (Art. 81 (d)), and where the criminal activity is inspired by motives of gain (Art. 90).

(2) Where the motive is gain, the fine shall not exceed twenty thousand dollars, or, in the case of manufacture of counterfeit coinage, fifty thousand dollars.

(3) Nothing in this Article shall prevent *the* Court from seizing the articles having been used for the commission of the offence (Art. 144).

Art. 382. — *Protection of Foreign Interests.*

The provisions of this Title shall apply equally to the various charges in respect to offences committed on Ethiopian territory against the official currencies, paper money, bank notes, seals, stamps or marks, weights and measuring instruments of foreign countries, where there is a convention directed to this end or where reciprocal arrangements have been made with a foreign country.

BOOK IV

**OFFENCES AGAINST THE PUBLIC INTEREST
OR THE COMMUNITY**

TITLE I

BREACHES OF CONFIDENCE

Chapter I. — FORGERY OF INSTRUMENTS

Art. 383. — *Material Forgery.*

Whosoever, with intent to injure the rights or interests of another, or to procure for himself or another any undue advantage:

- (a) falsely executes an instrument, such as, a writing a deed or any document or material means constituting proof of, or capable of proving, a fact material, or susceptible of becoming material, to legal proceedings; or
- (b) makes improper use of the sign manual, signature, mark or stamp of another to make a false instrument; or
- (c) counterfeits an instrument, especially by changing his handwriting, by affixing to the instrument a false signature, mark or stamp, or by signing it in a false capacity purporting to certify its authorship; or
- (d) falsified an instrument, especially by modifying, deleting or altering, in whole or

in part, the name or signature of its author or the terms, figures, facts or material details it contains.

is punishable with rigorous imprisonment not exceeding five years, or, in less serious cases, with simple imprisonment for not less than three months.

Art.384. — *Intangible Forgery.*

Whosoever, with the intent specified in Art. 383, falsely inserts or causes to be inserted in an instrument, while it is being drawn up, a fact possessing or susceptible of assuming legal significance, is punishable under Art. 383.

Art.385. — *Specified Cases.*

Whosoever, with the intent specified in Art. 383:

- (a) deceives a third party about the contents of an instrument so that he affixes his signature thereto in the belief that he is signing another instrument, or an instrument of other content; or
- (b) delivers an instrument in the name of a person without that person's consent, or in the name of a non-existent person, is punishable under Art. 383.

Art. 386. — *Use of Purged Instruments.*

Whosoever, *mat* being a party to the forgery, knowingly makes use of a forged instrument or of an instrument falsified by a third party, is punishable under Art. 383.

Art. 387. — *Forgery of Public or Military Documents.*

- (1) Where the forgery whether material or material, or the use of forged instruments, concerns:
 - (a) a public register, an official act, a government bond or a public loan certificate; or
 - (b) a genuine deed or • holographic will; or
 - (c) an instrument or document concerning national defence, or armed forces or their organisation, duties or affairs,

the punishment is rigorous imprisonment not exceeding years.

- (2) Where the offence is committed by a public servant, officially entrusted with the drawing up, filing, keeping or delivery of extracts from the registers, instruments, deeds or documents in question, the punishment is rigorous imprisonment from three to fifteen years.

Art. 388. — *Suppression of Instruments.*

- (1) Whosoever, with the intent specified in Art. 383, damages, destroys,

suppresses or takes an instrument of which he has not the right of absolute disposal,

is punishable with rigorous imprisonment not exceeding three years, or, in less serious cases, with simple imprisonment not exceeding two years.

- (2) Where the act has been done to the prejudice of a member of the offender's family, a near relative or a person cohabiting with him, proceedings shall be instituted only upon complaint by the injured party or his legal representatives.

Art. 389. — *Suppression of Public or Military Documents.*

- (1) Where the offence concerns a public or military instrument, register, act or document, rigorous imprisonment shall not exceed five years;

in less serious cases, the court shall pass sentence of simple imprisonment from three months to three years.

- (2) Where the offence is committed by a public servant, officially entrusted with the drawing up, keeping, disposal or delivery of such instrument, the punishment is rigorous imprisonment not exceeding ten years.

(3) Where the offender has acted through negligence, the Court shall *pass* sentence of simple imprisonment not exceeding one year, or impose a fine, according to the gravity of the case.

390. — *Falsification or Suppression of Commercial Instruments or Negotiable Securities.*

- (1) Where the *forgery* or the use of the forged instrument concerns:

(a) a bill of exchange, a cheque or promissory note, or a bank deposit book or other certificate of deposit in a bank, savings bank or institution of deposit or loan; or

(b) the shares or bonds of a commercial or industrial company,
the punishment shall be rigorous imprisonment not exceeding five years.

- (2) In the case of suppression of such instrument or security, the punishment is rigorous imprisonment not exceeding three years, or simple imprisonment.

Where the suppression is due to negligence, the Court shall pass sentence of simple imprisonment not exceeding six months, or impose a fine.

Art.391. — *True or Certified Copies.*

True copies or certified true copies, which, in law, may be accepted as originals, rank with original instruments,

Art. 392. — *Falsification of and use of Fake Public Transport Tickets.*

(1)Whosoever, with intent to injure the rights or interests of another, or to procure for himself or another an undue advantage:

(a) makes without lawful authority, falsifies or counterfeits, vouchers, passes or tickets for private or public transport, whether by land, by sea or by air, or for persons, animals, objects or goods; or

(b) after genuine tickets, vouchers or passes have been used, can celled or punched, gives them the appearance of valid tickets, vouchers or passes in order to use them. or to cause them to be used anew,

is punishable with simple imprisonment for not less than one month, and not exceeding five *years* in grave cases; and fine.

(2)The use of such falsified tickets, vouchers or passes, or of lapsed tickets, vouchers or passes, as *it* genuine or still valid,

is punishable under the Code of Petty Offences (Art. 737).

Chapter II. — FOKGEKY OF CERTIFICATES

Art. 393. — *Forged Certificates.*

(1)Whosoever, for the purpose of procuring for himself or another advantage or betterment:

(a) falsifies or counterfeits personal papers, certificates or testimonials, no matter what their object, or knowingly hands sock a paper to another to make unlawful use of it; or

(b) knowingly makes use of paper thus falsified or counterfeited, or of a genuine paper not intended for his use or not relating himself,

is punishable with fine or simple imprisonment. Simple imp eminent shall not exceed one year in cages involving private certificates or testimonials, and shall not exceed three years in case of official papers, such as identity cards or birth certificates, certificates of destitution, of good conduct or of fitness or unfitness, or

of extracts from public registers or rolls.

(2) Where the offence is committed by a public servant entrusted the drawing up, filing, keeping or delivery of such papers, but without the intent of benefitting himself (Art. 383), the punishment simple imprisonment from three months to five years, or fine.

Where the offender has acted through negligence, the court impose a fine not exceeding five hundred dollars.

Art. 394. — *Fraudulent Procurement of False Official Certification.*

Whosoever, for the purpose of procuring for himself or for another advantage or betterment:

(a) induces, by deceit, a government servant, employee, a public officer or any other person authorized to verify or establish, a fact of legal significance, to certify falsely the authenticity of a date, document or signature, the truth of a copy, or any other similar fact; or

(b) knowingly makes use of an attestation thus obtained to deceive other,

is punishable with simple imprisonment or fine.

Art. 395. — *False Medical Certificates.*

(1) Any doctor, dentist, pharmacist, veterinary surgeon, midwife or other person entitled professionally to issue certificates of a medical nature who makes out a certificate which is untrue and calculated to procure an unlawful advantage for, or to injure the legitimate interests of, a third party, knowing that such certificate will be used,

is punishable with simple imprisonment not exceeding one year, or fine, without prejudice to secondary professional penalties (Art. 122

(c)) in the event of repetition of the offence,

(2) Where the false certificate has been issued for a handy consideration, the punishment shall be simple imprisonment not exceeding three years, and fine (Art. 90).

(3) Where the person who has made the false declaration is a public servant and has acted in his official capacity, simple imprisonment shall be for not less than one month in respect of an offence under (1) and from three months to five years in respect of an offence under (2).

- (4) Whosoever knowingly makes use of such a certificate to deceive another,
is punishable with simple imprisonment not exceeding one year or fine.

Art. 396. — *Aggravated Offences.*

Where a person has obtained and used a false testimonial or a false certificate, or a genuine certificate not relating to himself or not intended for his use, with the intention of thereby committing a further offence, such as in particular, embezzlement or obtaining by false pretences, and where such further offence has at least been attempted, the Court shall determine the sentence in the light of the general rule relating to aggravation of the penalty in case of concurrence (Art. 62).

Art. 397. — *False Declaration or Entries by Landlords or Employers.*

- (1) Any employer, landlord, hotelkeeper, innkeeper or other person required by law to keep a register or list of individuals or activities subject to the control of the authorities who knowingly.
- (a) enters, or causes or permits to be entered, names, dates or personal or material details which are untrue; or
- (b) omits to enter them in accordance with the facts,
is punishable with simple imprisonment not exceeding three months, or fine not exceeding five hundred dollars.
- (2) Where the offender has acted for pecuniary consideration, simple imprisonment shall be from one month to one year, and the fine may be increased up to the general maximum.

Art. 398. — *Instruments and Means of Falsification.*

- (1) Whosoever, with intent to make unlawful use thereof, makes, procures or possesses, delivers or offers any material, means or instrument intended for the counterfeiting of official papers, certificates, diplomas or documents,
is punishable with simple imprisonment for not less than three months, or fine.
- (2) Whosoever, of his own accord, destroys such material means or instrument before any use whatsoever has been made of them may be exempted from punishment,

Chapter III. — FALSIFICATION OF GOODS

Art. 399. — *Falsification and Adulteration.*

Whosoever, with intent to deceive another, falsifies, counterfeits, adulterates or alters goods,
is punishable with simple imprisonment and fine.

Art. 400. — Uttering.

(1) A third party who, with intent to deceive another offers, puts on sale or utters falsified, counterfeit or adulterated goods as genuine, unadulterated or intact,
is punishable with simple imprisonment and fine.

(2) Negligence is punishable with a fine not exceeding five hundred dollars in the gravest cases where it was the duty of the offender, especially as a tradesman, to exercise particular circumspection or care.

Art. 401. — Importation, Acquisition, and Storing.

A third party who imports, acquires or procures or accepts for storage falsified, counterfeit, altered or adulterated goods, for the purpose of deceiving another, or knowing that they are intended to deceive,
is punishable with fine.

Art. 402. — Aggravation and Collateral Penalties.

(1) The punishment for an habitual offender shall be simple imprisonment for not less than three months, and a fine not exceeding thousand dollars according to the gravity of the case.

(2) Nothing shall affect confiscation of the goods and publication of the sentence.

Art. 403. — Falsification and Alteration Injurious to Health.

Nothing shall affect the provisions relating to the manufacture, alteration and sale of noxious or damaged foodstuffs, goods and other products capable of injuring health (Art. 511) which shall be applied where appropriate.

TITLE II

REQUIREMENTS OF SECRECY

Art. 404. — Breaches of military Secrecy.

(1) Any member of the armed forces, or any person in the service there of, who, apart from cases of treason and espionage punishable under the relevant provisions (Art. 261-265), discloses or communicates information, papers or facts which are secret, or have been declared secret by order, or are not intended for publication, which have come to his knowledge in the course of his duties,

is punishable, whether his duties have ended or not, with simple imprisonment not exceeding five years.

(2) The punishment shall be rigorous imprisonment not exceeding ten years:

(a) where the offence concerns secret information or documents kept in cipher, or of which the safekeeping has been expressly entrusted to the accused person, or where the latter has sworn an explicit oath of secrecy; or

(b) where the damage caused by the offence affects particularly vital interests.

3) Where the offence is due to negligence, the punishment shall be a fine, or simple imprisonment not exceeding one year in the case of the simple offence (clause 1) or not exceeding three years where there is aggravation (clause 2).

Art. 405. — Breaches of Official Secrecy.

(1) Public servants (Art. 410) who disclose or intentionally communicate information, documents or facts which are secret within the meaning of Art. 404 and which have come to their knowledge in the course of their duties,

are punishable with simple imprisonment or fine, whether the disclosure was made during the period of their employment, office or duties or after termination, thereof.

(2) Where there is aggravation due to the offender's special obligation to maintain secrecy or special position of trust, or to the gravity of the damage caused by the breach of duty, the punishment of deprivation of liberty shall be rigorous imprisonment not exceeding five years.

(3) Where the breach is due to negligence, the punishment shall be a fine not exceeding five hundred dollars, or, in more serious cases, simple imprisonment not exceeding six months.

Art. 406. — Authorized Disclosure.

Disclosure before a court of justice or a competent court of inquiry is: not punishable where it is made with the written consent of the competent civil, administrative or military authority.

Art. 407. — Breaches of Professional Secrecy.

(1) Upon complaint:

(a) ministers of religion of whatever belief;

(b) advocates, legal advisers, attorneys, arbitrators, experts, jurors, translators and interpreters;

(c) notaries, bankers, directors, managers, inspectors or employees of private companies or undertakings pledged to secrecy under the provisions of the civil and commercial codes; and

(d) doctors, dentists, pharmacists, midwives, nurses and auxiliary medical personnel,

who disclose a secret which has *come to* their knowledge the course of their professional duties, whether or not such duties have ended at the moment of disclosure, are punishable with simple imprisonment or fine.

(2) Students, probationers or apprentices who disclose a secret which they have learned in the course of their professional training are liable to the same punishments.

(3) Where the breach is due to negligence, the punishment shall be a fine not exceeding five hundred dollars or simple imprisonment not exceeding six months.

Art. 408. — *Authorized Disclosure.*

(1) Any disclosure made especially in court or on the occasion of a dispute relating to insurance or compensation, shall not be punishable:

(a) where it is made with the express consent of the person interested in keeping the secret;

(b) Where, at the suggestion or request of the possessor of the secret, the competent higher professional or supervisory body has given its written permission for disclosure;

(c) where it is made following an express and reasoned decision of a court of justice in a specific case;

(d) where special provisions of the law impose the duty, in the interests of public order, to give evidence before a court of justice or to inform a public authority.

(2) Where disclosure is expressly ordered by law, by a court of justice or by the competent authority, the possessor of the secret cannot invoke his professional obligation to maintain secrecy.

The secrecy of religious confession is nevertheless at all times inviolable.

Art. 409. — *Disclosure of Scientific, Industrial or Trade Secrets.*

(1) Whosoever, having learned of a scientific, industrial or trade secret or of its applications as a result of his position, duties or employment, discloses it with intent to cause prejudice to its owner or possessor, or to derive an advantage from it for himself or another,

is punishable, upon complaint, with fine, or with simple imprisonment not exceeding three months, where the more severe provisions relating to breaches of official or professional secrecy proper do not apply.

(2) Where a scientific secret affecting national defence is involved, proceedings shall be initiated officially, and the special provision (Art. 404) shall apply.

TITLE III

OFFENCES AGAINST PUBLIC OFFICE **Chapter I. — OFFENCES AGAINST OFFICIAL DUTIES**

Art. 410. — *Principle.*

- 1) All persons who are to any degree repositories of the power or authority of the State, such as members of the public authorities, government officials and agents and servants of the government and public administrations of any kind or members of the armed or police forces (hereafter referred to as "public servants"), are subject to the punitive provisions which follow where, in the discharge of their office, duties or employment, they commit any of the offences under this chapter.
- (2) Where the act which they have done or omitted to do in the discharge of their duties, and in respect to which they are charged, comes within the scope of ordinary criminal law, but there is aggravation due to the offenders' public position and the breach of the special responsibility resting upon them by virtue of the trust placed in them, the relevant provisions of the other titles of this Code shall apply.

Art. 411. — *Administrative Penalties and Compensation to be concurrent.*

- (1) Penalties imposed under this chapter are without prejudice to the imposition of appropriate administrative penalties.
- (2) Nothing in this chapter shall affect claims for damage.

Section I. — *Breaches of the Obligations of Office*

Art. 412. — *Breach of Official Duties.*

- (1) Public servants who fail to carry out their duties in a proper manner and to the prejudice of the public,
are punishable, where damage has been caused thereby with fine not

exceeding five hundred dollars, or, in more serious cases, with simple imprisonment not exceeding three months.

- (2) Where substantial damage, whether public or private, results from the offence, both simple imprisonment and fine may be increased to the general legal maximum.

Art. 413. — *Disorganization of Service by striking.*

Any public servant who with the intention of disturbing public order and the public interest or State services, urges others to strike or himself goes on strike of his own free will in breach of his professional or statutory obligations

is punishable under Art. 412.

Art. 414. — *Abuse of Power.*

- (1) Public servants who with intent to procure for themselves or another an unlawful advantage or to do injury to another:

(a) apart from the cases especially provided for below, misuse then official position or the powers proper to their office, whether by a positive act or by a culpable omission; or

(b) exceed the powers with which they are officially invested; or

(c) perform official acts when they are not, or are no longer, qualified to do so, especially in the case or in consequence of incompetency, suspension, removal from office or its cessation,

are punishable with simple imprisonment or fine, except where a specific provision prescribes a more severe penalty.

- (2) In case entailing or capable of entailing grave consequences for public or private interests, the punishment shall be rigorous imprisonment not exceeding five years, and fine.

Art. 415. — *Abuse of the Right of Search or Seizure.*

Public servants, even when lawfully authorized to carry out searches or to effect seizure, who forcibly enter a person's house or premises or who execute acts of search, seizure or sequestration other than those authorized by law, or without due regard for the conditions and forms thereby prescribed,

are punishable, where the act does not come under a specific provision prescribing a more severe penalty, with simple imprisonment for not less than one month, and fine.

Art. 416. — *Unlawful Arrest or Detention.*

Any public servant who arrests or detains another except in accordance with the law, or who disregards the forms and safeguards prescribed by law,

is punishable with rigorous imprisonment not exceeding five years, and fine.

Art. 417. — *Use of Improper Methods.*

Any public servant charged with the arrest, custody, supervision, escort or interrogation of a person who is under suspicion, under arrest, summoned to appear before a court of justice, detained or interned, who, in an performance of his duties, treats the person concerned in an improper or brutal manner, or in a manner which is incompatible with human dignity or with the dignity of his office, especially by the use of blows, cruelty or physical or mental torture, be it to obtain a statement or a confession, or to any other similar end,

is punishable with fine or simple imprisonment, except where his act

may justify the application of more severe punitive provisions.

Art. 418. — *Unlawful Release and Aiding to Escape.*

(1) Any public servant who:

(a) contrary to the law releases from his custody a person under lawful arrest, imprisonment or internment; or

(b) causes, permits or aids any such person to escape,
is punishable with simple imprisonment for not less than three months, and fine not exceeding one thousand dollars.

(2) Where the circumstances of or the means used for the escape or improper release, the damage caused by it, the seriousness of the grounds on which detention was ordered, or the dangerous character of the person detained or interned render the case of exceptional gravity, the fine may be increased up to the maximum prescribed by law and the punishment of deprivation of liberty shall be rigorous imprisonment not exceeding five years.

(3) Where the offender has acted through negligence, the punishment shall be a fine not exceeding five hundred dollars, or, in more serious cases, simple imprisonment not exceeding one year.

Art. 419. — *Release of Prisoners of War, of Military Detainees and Aiding to escape.*

(1) Where the unlawful release or aiding to escape from custody has benefitted

prisoners of war or military detainees, and is committed by a public servant, the punishment shall be rigorous imprisonment not exceeding ten years.

(2) When the offender has acted through negligence, the punishment shall be simple imprisonment not exceeding one year.

Section II. — Breaches of Integrity or Honesty by Public Servants
Art. 420. — Maladministration.

(1) Any public servant who, with intent to procure for himself or another an unlawful advantage:

(a) improperly takes or ensures for himself an interest in a business or undertaking, or a purchase, an option or any other financial transaction concerning his department; or

(b) concludes a supply or public works contract or any other transaction at a price higher than that fixed by the competent authority; or

(c) in general, by any means, injures the public interests entrusted to his charge and which it is his duty to protect,

is punishable with simple imprisonment and fine.

(2) In more serious cases, the punishment may be rigorous imprisonment not exceeding five years, and fine not exceeding ten thousand dollars.

Art. 421. — Unlawful Disposal of objects in charge.

(1) Any public servant who, without lawful authority but without intent to appropriate:

(a) opens or permits to be opened, takes or permits to be taken, communicates or hands over to another a packet, envelope or document, securities, or any other object whatsoever received on deposit or under seal; or

(b) makes use of such objects, or authorizes another to make use of them,

is punishable with fine not exceeding five hundred dollars, or with simple imprisonment not exceeding one year, subject to the application of specific provisions prescribing more severe penalties under which the act may fall.

(2) Where the offence has been committed for purposes of speculation, the punishment shall be rigorous imprisonment not exceeding three years, and fine.

(3) Where the offence is due to negligence, the punishment is a fine not exceeding

three hundred dollars.

Art. 422. — Appropriation and Misappropriation in the Discharge of Duties.

Any public servant who, with intent to procure for himself or another an undue material advantage:

(a) appropriates to himself *objects*, legal instruments, securities, cash, chattels or any consumable things whatsoever in the course of a search, seizure or process of confiscation, public auction, sequestration or disstrait, or during any other similar procedure; or

(b) misappropriates such objects or securities which have been entrusted to him or which have come into his hands by virtue of or in the course of his duties,

is punishable with rigorous imprisonment not exceeding ten years, and fine not exceeding ten thousand dollars.

Art. 423. — Acceptance of Undue Advantages.

1) Any public servant who, in consideration for the performance of an act of his office, solicits or exacts a promise of a gift, a sum of money or any other undue advantage,

is punishable with a fine not exceeding five hundred dollars, or with simple imprisonment not exceeding three months.

(2) in like case, arbitrators, experts, jurors, translators and interpreters engaged by the public authorities in their technical capacity are liable to the same punishments.

Art. 424. — Traffic in Official Influence.

Any public servant who solicits, exacts a promise of or receives sums of money, gifts, presents or other advantages in consideration for his procuring for another, through the exercise of the influence, real or pretended, he enjoys by reason of his being a public servant:

(a) a situation, an office, employment, decorations, rewards or favours within the dispensation of the competent authority; or

(b) contracts, deals, undertakings, orders or other benefits resulting from agreements concluded with the public authorities or with an administration placed under his control or direction; or

(c) in general, an advantage or a favourable decision on the part of a public authority or administration,

is punishable with simple imprisonment from three months to five years, and a fine not exceeding ten thousand dollars according to the gravity of the case.

Art. 425. — *Corrupt Practices.*

- (1) Any public servant who, in consideration for the performance of or omission of an act, in violation of the duties proper to his office, seeks, exacts a promise of or receives a gift or any other advantage to which he is not entitled,
is punishable with simple imprisonment for not less than three months, and fine.
- (2) Where the purpose of the breach of duty solicited, the size of the sums or gifts received in consideration, the official capacity or powers of the person corrupted, or the extent of the breach of duty committed renders the case of particular gravity, the punishment shall be rigorous imprisonment not exceeding five years and a fine not exceeding ten thousand dollars.
- (3) In like case, arbitrators, experts, jurors, translators, or interpreters engaged by the public authorities in their technical capacity are liable to the same punishments.

Art. 426. — *Extortion.*

- (1) Any public servant who, with intent to secure profit and with the object of appropriating the profit to himself, exacts, orders to be collected or collects rights, dues, taxes, rates or other moneys due, emoluments, wages, compensation or expenses which he knows to be not due or to exceed the sums, charges or amounts due,
is punishable, without prejudice to his liability to repay, with simple imprisonment and fine.
- (2) In more serious cases the punishment shall be rigorous imprisonment not exceeding ten years and fine not exceeding twenty thousand dollars, in addition to the forfeiture of the profit made by the offender (Art. 90 (2)).

Chapter It. — OFFENCES AGAINST PUBLIC OFFICE BY THIRD PARTIES

Art. 427. — *Contempt of Official Notices and Proclamations.*

Whosoever intentionally removes, damages, destroys or renders illegible notices, proclamations or decisions publicly exhibited by the authorities, is punishable with simple imprisonment not exceeding three months, or fine not exceeding five hundred dollars.

Art. 428. — *Infraction of the 'Rules concerning Compulsory Registration.*

(1) Whosoever intentionally fails within the time-limits fixed by law to make to the competent authorities a declaration required to ensure the due entry in the official registers of marriages or deaths, of property or of commercial or other transactions, of facts and certified statements relating to the status of individuals, to real estate transactions, to the establishment or operation of companies, or to any other like obligation.

is punishable with fine, without prejudice to the invalidation of the act not duly entered in the register where such formalities are material to its validity.

(2) Where the failure to make such declaration is habitual or repeated, or is in defiance of an order or summons issued by the competent authority, the Court may pass sentence of simple imprisonment not exceeding three months.

(3) Nothing in this article shall affect the special provision regarding the failure to register the birth of an infant (Art. 623).

Art. 429. — *Breach of Prohibition to publish Official Debates or Documents.*

Whosoever, not being entitled or expressly authorized ^{BO} to do, publishes in whole or in part deeds, reports, instructions, deliberations or decisions of a public authority, the content of which is required to be kept secret by law or by virtue of an express decision of the competent authority.

is punishable with simple imprisonment or fine.

430. — *Arbitrary Action.*

Whosoever, without authority or contrary to the law:

(a) seizes, against the will of the possessor, a chattel or pledge he has handed over to him, or which is the subject of legal proceedings; or

(b) seizes a chattel belonging to his debtor in order to obtain a payment due to him;
or

(C) in general, arbitrarily exercises a right which he does not possess and which he may not lawfully exercise,

is punishable with simple imprisonment not exceeding six months, or a fine not exceeding five hundred dollars.

Art. 431. — *Usurpation of Powers.*

(1) Whosoever, for an unlawful purpose or to procure an advantage for himself or another, arrogates to himself the power, the insignia, the rank of a commission or an authority, or the power to issue official orders of any kind,

is punishable with simple imprisonment not exceeding six months, or fine not exceeding five hundred dollars.

- (2) Where the purpose of the offence is to harm another or to inflict injury upon him, the punishment shall be simple imprisonment or fine.

Art. 432. — *Breaking of Seals and Misappropriation of Objects.*

Whosoever intentionally and without lawful authority:

- (a) removes, damages or breaks an official seal, mark, or sign affixed by the authorities for the purpose of identifying, closing, preserving or protecting an object, a writing or a document, or for prohibiting access to any place, or nullifies the effect of such seal, mark or sign in any way; or
- (b) purloins, misappropriates, damages or destroys objects, writings or documents seized, sequestered or placed in the hands of or entrusted to the care or safe keeping of the public authorities or of a third party, is punishable with simple imprisonment or fine.

Art. 433. — *Resisting Authority.*

- (1) Whosoever, without proper cause:

(a) offers resistance to a public servant in the exercise of his official duties; or

(b) fails, when summoned to do so by a public servant in the exercise of his duties, to quit an unlawful assembly or a prohibited place, or to take part in measures to combat a public danger caused by a conflagration, floods or any other like happening; or

(c) fails to obey a lawful decision of a competent authority duly notified to him under pain of the penalty prescribed in this Article

is punishable with simple imprisonment not exceeding one month, or a fine not exceeding one hundred dollars.

- (2) Where the resistance to authority or disobedience is accompanied by force, intimidation, violence or assault, the provisions of Art. 434 shall apply.

Art. 434. — *Violence and Coercion.*

- (1) Whosoever:

(a) by use of threats, coercion or violence, prevents a public servant from performing an act which it is his duty to perform or forces him to perform such an act; or

(b) strikes him or his assistants or uses violence or any other act of coercion against him,

is punishable with simple imprisonment not exceeding six months or a fine not exceeding three hundred dollars.

(2) Simple imprisonment and fine may be increased up to the general maximum prescribed by law, according to the gravity of the case and the function of the victim, where the latter has been threatened, coerced or struck by means of instruments or weapons.

(3) Nothing in this Article shall affect the power of the court to increase the penalty where bodily harm or physical injury results.

Art. 433. — *Collective Action.*

Where the intimidation, coercion or violence is the deed of an unlawful assembly or rioting mob, the relevant provisions (Art. 478 and 482) apply concurrently.

Art. 436. — *Traffic in Private Influence.*

Whosoever, not being a public servant and not being liable to the special provision (Art. 424) seeks, exacts a promise of or receives sums of money, gifts, presents or other advantages in consideration for exercising his influence, real or pretended, to procure for another any privilege, benefit or advantage which can only be granted by a public servant,

is punishable with simple imprisonment or fine.

Art. 437— *Soliciting of Corrupt Practices.*

Whosoever, with intent to procure a public servant to commit a breach of the duties imposed upon him by his office or service, offers, promises or hands over to such public servant or causes him to keep, even subsequent to the act expected of him, a sum of money, a gift or an advantage, any kind,

is punishable with simple imprisonment or fine.

TITLE IV

OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE

Chapter I. — OFFENCES AGAINST JUDICIAL PROCEEDINGS

Art.438. — *Failure to inform tile Law.*

(1) Whosoever, without good cause:

- (a) knowing the identity of the perpetrator of, or of the commission of, an offence punishable with death or rigorous imprisonment for life; or
- (b) is by law or by the rules of Ins profession, obliged to notify the competent authorities in the interests of public security or public order, of certain offences or certain grave facts, and docs not do so,

is punishable with fine not exceeding five hundred dollars, or with simple imprisonment not exceeding three months.

(2) Nothing in this Article shall affect the provisions of Art. 267 and 344.

Art. 439. — *Harbouring and Aiding.*

Whosoever knowingly eaves from prosecution a person who has fallen under a provision of criminal law, whether by warning him or hiding him, by concealing or destroying the traces or instruments of his crime, by misleading the investigation, or in any oilier way,

is punishable with simple imprisonment or fine.

Art. 440. — *Misleading Justice.*

(1)Whosoever:

- (a) falsely notifies the authorities of, an offence which has not been committed, or falsely accuses himself of a crime which lie has not committed; or
- (b) knowingly gives the authorities inaccurate information in relation to criminal proceedings,

is punishable with simple imprisonment not exceeding six Months, or fine not exceeding one thousand dollars.

Art. 441. — *False Denunciation or Accusation.*

Whosoever:

- (a) denounces to the authorities as the perpetrator of an offence a person he knows to be innocent; or
- (b) has in any other way, especially by feigning an offence or making an anonymous or innaccurate denunciation, intrigued with the object of causing such proceedings to he taken against an innocent person,

is punishable with simple imprisonment for not less than three months, or where the offence relates to crimes punishable with rigorous imprisonment or death, with rigorous imprisonment not exceeding five years.

Art. 442. — *Refusal to aid Justice.*

(1) Whosoever, having been lawfully summoned to appear in judicial or quasi-judicial proceedings as a witness or accused person, interpreter, assessor or juror;

(a) fails or refuses to appear without lawful excuse; or

(b) having appeared, refuses, contrary to the law, to obey the court or competent judicial tribunal,

is punishable with fine not exceeding five hundred dollars, or in the event of persistent and repeated refusal, with simple imprisonment not exceeding one month.

(2) Where the offender pleads a false excuse, the court shall pass sentence of simple imprisonment within the limit down above, and impose a fine.

(3) Where such person has fraudulently obtained exemption from the obligation placed upon him, simple imprisonment may be increased up to the general maximum prescribed by law, subject to the application of more severe specific provisions under which the fraud may fall, especially those concerning the use of a false certificate or forgery

Art. 443. — *Contempt of Court.*

(1) Whosoever, in the course of a judicial inquiry, proceeding of hearing, in any manner insults, holds up to ridicule, threatens or disturbs the court or any of its members in the discharge of their duties,

is punishable with simple imprisonment not exceeding six months, or with fine not exceeding one thousand dollars.

In flagrant cases, the court may deal with the offence summarily.

(2) Where the offence is not committed in open court, the punishment, except in more serious cases, shall be fine not exceeding five hundred dollars.

(3) In cases of disturbances or unseemly behaviour in court or during judicial proceedings, the relevant provision (Art. 434) shall apply.

Art. 44. — *Breach of Secrecy of Proceedings.*

(1) Whosoever, without lawful authority or excuse, discloses facts, whether secret

or declared secret by the court hearing the case, which have come to his knowledge in the course of the proceedings at which he was present,

is punishable with a fine not exceeding three hundred dollars, or with simple imprisonment not exceeding six months.

(2) Where the disclosure is committed in violation of official or professional secrecy, the relevant provisions shall apply (Art. 405 and 407).

Art.445. — *Publication of Inaccurate or Forbidden Reports of Proceedings.*

(1) Whosoever publishes information, a note, a precis or a report which is inaccurate or distorted concerning judicial proceedings which are pending, proceeding or concluded,

is punishable with a fine not exceeding five hundred dollars, or, in more serious cases, especially those likely to perturb public opinion or to cause injury to another, with simple imprisonment not exceeding three months.

Publication forbidden by law or by order of the court is punishable under the relevant special provision (Art. 429).

Where publication is both unlawful and inaccurate, the court shall increase the sentence in accordance with the provisions relating to concurrence (Art. 82).

Chapter II. — PEBJUBY AND COGNATE OFFENCES

Art. 446. — *False Statements by a Party.*

(1) Any party to proceedings before a judicial or quasi-judicial tribunal who is required to speak the truth knowingly gives a false statement relating to facts material to the issue to be decided by the tribunal,

is punishable, even where the result sought is not achieved, with simple imprisonment not exceeding one year or, where the false statement has been made in the course of criminal proceedings and may cause injustice, with rigorous imprisonment not exceeding three years.

(2) Where the party has been sworn or affirmed to speak the truth, the punishment is rigorous imprisonment which, according to the circumstances, and particularly where the result sought has been in whole or in part achieved, shall not exceed five years.

(3) Mere inaccurate allegations by a party in defence of his interests not subject to these provisions.

Art. 447. — *False Testimony, Opinion or Translation.*

(1) Whosoever being a witness in judicial or quasi-judicial proceedings knowingly makes or gives a false statement whether to the advantage or the prejudice of any party thereto,

is punishable even where the result sought is not achieved, simple imprisonment or in the more serious cases with rigorous imprisonment not exceeding five years.

(2) Where a witness has been sworn or affirmed to speak the truth the punishment is rigorous imprisonment which, according to the circumstances and particularly where the result sought has been in whole in part achieved, shall not exceed ten years.

Where, however, in a criminal case, the convicted person has been wrongly convicted or has incurred a more severe punishment in consequence of the witness's act, the witness may himself be sentenced to the punishment which he has caused to be wrongfully inflicted.

(3) Any translator or interpreter who falsely translates or interprets anything in connection with such proceedings and the translation or the interpretation relates to facts material to the issue to be decided by the tribunal, shall be liable to the same punishments.

(4) Where the false evidence, translation or interpretation is incapable of influencing the decision of the tribunal the punishment shall be simple imprisonment not exceeding two years.

Art. 448. — *Correction or Withdrawal.*

Where the offender has of his own free will corrected or withdrawn his false statement, declaration or translation before it has taken effect, and provided that the proceedings affected have not been finally concluded, the Court may without restriction mitigate the punishment incurred. (Art. 185).

The court *may*, according to the circumstances, impose no other punishment than a reprimand accompanied by a warning for the future, where the offence is not serious, and where the correction or withdrawal is prompted by honesty.

Art. 449. — *Provocation and Suborning.*

Whosoever, by gifts, promises, threats, trickery or deceit, misuse of his personal influence or any other means, induces another to make a false accusation, to give false testimony or to make a false report or translation before a tribunal,

is punishable, even where the act solicited has not been performed, with simple imprisonment not exceeding one year, unless he is punishable for incitement (Art. 35).

Art.450. — Misrepresentation in Proceedings.

Whosoever, apart from the cases provided for above, in the course of judicial or quasi-judicial proceedings, and with intent to deceive the tribunal, to obstruct proof or to pervert the course of justice with the object of securing a material or moral advantage, or of influencing, favourably or adversely, the decision of the tribunal;

a) conceals, purloins, destroys, damages or renders wholly or partly unusable an instrument of title belonging to another, a document in the case, or any exhibit or proof of guilt whatsoever; or

b) hides, modifies or alters the state of places, things or persons,
is punishable, where the offence does not come under a more severe provision of this Code, with simple imprisonment, or, in cases of exceptional gravity, with rigorous imprisonment not exceeding five years.

Art.451. — *Tendentious Publications intended to pervert the Course of Justice.*

Whosoever, in any manner whatsoever, publishes or spreads news, a note, a precis, a criticism, a report or a pamphlet which is inaccurate, or known to be tendentious, or which distorts the facts, and which has been drawn up for the purpose of influencing a judicial decision in a case being or to be tried, whether by informing the accused person or his accomplices or by acting upon the feelings of the court, jurors, witnesses, experts or officers of the court generally,
is punishable with a fine not exceeding five hundred dollars or with simple imprisonment not exceeding three months.

Art. 452. — *Betrayal of Interests.*

(1) Any advocate, attorney, procurator or legal adviser, who knowingly, in litigation of any kind before any judicial or quasi-judicial tribunal, betrays the legal interests he has been instructed to defend, officially or by personal brief, whether by sacrificing the interests of the party for whom he appears or by

acting simultaneously for both parties to the same case,

is punishable with simple imprisonment and fine.

(2) Where the accused person has acted in concert with the opposing party, simple imprisonment shall be for not less than three months;

where he has acted for gain, or to procure material advantage, the fine shall not exceed ten thousand dollars.

Where the offence is to the prejudice of a person charged with an offence punishable with death or rigorous imprisonment, the punishment is rigorous imprisonment not exceeding ten years.

Chapter III — OFFENCES AGAINST EXECUTION OF SENTENCE

Art. 453. — *Non-observance of Secondary Penalties and Preventive Measures.*

Whosoever, having been sentenced to one of the secondary penalties or forfeiture provided for in Art. 122, or to one of the preventive measures provided for in Art. 145 to 158, knowingly breaks the prohibition or obligation imposed upon him by law,

is punishable, where no other provision expressly prescribes a specific punishment, as breaking of bounds (Art. 459), with a fine not exceeding one hundred dollars, or, in more serious cases, with simple imprisonment not exceeding one month.

Art. 454. — *Obstruction of Execution of Sentence.*

Whosoever, in any manner, saves a person from the execution of the punishments or measures to which he has been sentenced by a criminal court,

is punishable with simple imprisonment.

Art. 455. — *Escape of Prisoner.*

Whosoever, being lawfully detained or interned by a judicial authority, escapee from a place where he is under lawful custody, through the use of threats or violence towards persons or property,

is punishable with simple imprisonment not exceeding one year

The punishment shall run consecutively to the sentence being served or to be pronounced.

Art. 456. — *Procuring of, and aiding to. Escape.*

(1) Whosoever, not being a public servant, procures or facilitates, by coercion,

intimidation, trickery, misuse of his personal position or any other means, the escape of a person under lawful arrest, imprisonment of internment, is punishable with simple imprisonment,

(2) The punishment shall be simple imprisonment for not less than three months, and, in more serious cases, rigorous imprisonment not exceeding five years:

- (a) where the escape has been attempted, accomplished or promoted by a number of persons acting together, or with the aid of instruments or weapons; or
- (b) where the assistance is rendered to a person, whether a civilian or a member of the armed forces, sentenced to rigorous imprisonment for twenty years at least, or death.

(3) Where the offenders have had recourse to riot, or have done violence to persons or property, corrupted public employees or prison officers or committed any other concurrent offences to achieve their ends, the provisions relating to increase of sentence in cases of concurrence (Art. 62 and 63) are applicable.

457. — *Escape of Prisoners of War and Military Internees.*

The provisions of Articles 455 and 456 apply also, in identical circumstances, to prisoners of war and military internees detained in camps or institutions set aside for them, even where they are not there confined in consequence of a judicial sentence or decision.

Nothing in this Article shall affect the provisions of Art. 419.

Art. 458. — *Mutiny of Prisoners.*

(1) Whosoever, being lawfully confined in any place, takes part jointly in riots or disturbances with intent:

- (a) to coerce, by force or intimidation, the governor, an official or a warder of the institution, or any other person responsible for its administration or for supervision, to perform or to refrain from performing, contrary to their duty, any act;
- (b) to attack any of the above persons while in the discharge of their duties; or
- (c) to escape, by means of violence to persons or property if necessary,

is punishable with simple imprisonment for not less than three months in addition to the sentence being served or to be pronounced.

(2) The person or persons who have organized or directed the mutiny are punishable with rigorous imprisonment not exceeding three years where no act of coercion or violence has been committed, and not exceeding ten years, subject to the application of more severe specific provisions where appropriate, where such acts have been done.

(3) Where acts of violence or injuries have been done to persons or property, the general provisions relating to increase of sentence in the case of a combination of, or of concurrent, offences (Art. 62 and 63) are applicable.

Art. 459. — *Breaking of Bounds.*

Whosoever, having been sentenced to obligatory residence, local banishment or expulsion, breaks the prohibition imposed upon him,

is punishable, except where there is force majeure, with simple imprisonment not exceeding one year, without prejudice to an increase,

where appropriate, of the measure of restriction of liberty he has infringed. The term of the sentence is not deducted from that of the measure of restriction of liberty.

TITLE V

OFFENCES AGAINST PUBLIC ELECTIONS AND VOTING

Art 460. — *Disturbance and Prevention of Electoral Meetings and Proceedings.*

(1) Whosoever in any way improperly prevents, disturbs, obstructs or interrupts authorized civic or electoral meetings, or polling or elections duly held under the supervision of competent authorities,
is punishable under Art. 484.

(2) Where violence is used against persons or property, or where brawls or riotous disturbances are fomented, the relevant provisions apply concurrently.

Art. 461 — *Interference with the Exercise of the Right of Election.*

(1) Whosoever, by intimidation, coercion, abuse of powers or violence, by fraud, especially by change of name or by concealing or withholding a notice or summons, or by any other trick or method:

(a) prevents a person from exercising his legitimate right of election; or

(b) secures by such means his undertaking to exercise, or induces him to exercise, his right in a particular way, or to abstain from exercising it,

is punishable with simple imprisonment not exceeding six months or fine.

(2) Whosoever does a wrong or an injury to another who has exercised his right in

a particular way, or has abstained from exercising it,

in pursuance of his admitted right to use it as he wishes, is liable to the same punishments.

Art. 462. — *Corrupt Electoral Practices.*

(1) Whosoever, directly or through an intermediary, promises, grants or entrusts a sum of money, a gift or any other advantage whatsoever to an individual or to a group of citizens, in order to persuade them to exercise their right of election in a particular way, to abstain from exercising it, or to persuade others to exercise their rights in like manner or to abstain from so doing,

is punishable with simple imprisonment or fine.

(2) Whosoever possessing the right of election solicits the promise or grant of such gift or advantage, or accepts it, in consideration of casting his vote, of casting it in a particular way, or of abstaining from casting it, is liable to the same punishments.

Art. 463. — *Unfair Practices.*

Whosoever, directly or through an intermediary, fraudulently secures, abuses or misappropriates votes:

(a) the help of false news or rumours circulated by word of mouth or by correspondence, by pamphlets or placards, or by the press, the radio or any other medium of publicity; or

(b) with the help of any other fraudulent, irregular or dishonest practices,

is punishable with simple imprisonment not exceeding six months or fine.

464. — *Fraudulent Registration.*

Whosoever:

(a) causes himself to be entered on an electoral list or register under a false name or in false capacity, or without disclosing an incapacity recognized by law;
or

(b) causes himself to be entered on two or more lists at one and the same time, or improperly accepts or causes to be issued more than one election or voting card;
or

(c) improperly causes third persons, whether living, missing, deceased or fictitious, to be registered, or receives cards in their name,

is punishable with simple imprisonment not exceeding three months or a fine not exceeding three hundred dollars.

Art.465. — *Fraudulent Elections.*

Whosoever, during official elections of any kind, falsifies the true result thereof by acts done before, during or after the proceedings, especially:

- (a) by counterfeiting, falsifying, altering or defacing, or by retaining, destroying or making away with electoral registers, completed electoral lists or deposited ballot papers; or
- (b) by voting more than once in the same election; or
- (c) by adding ballot papers to the ballot boxes, or removing them there from, or by causing or permitting to vote improperly, in any manner whatsoever, persons domiciled outside the constituency, unqualified, disqualified, deceased or non-existent persons, or by depositing or knowingly permitting to be deposited in the ballot boxes invalid, falsified or counterfeit ballot papers; or

(d) by incorrectly counting or deliberately omitting votes, ballot names or signatures, by reading out names or signatures other than those written down or by recording in the summary of proceedings the official return a result other than the true one; or

(e) by withholding, concealing, altering or destroying electoral or documents, or by improperly handing them over to qualified to receive them,
is punishable with simple imprisonment or fine.

Art. 466. — *Aggravated Offences.*

Where the fraud or falsification is carried out by means of intangible or material forgery (Art. 383 and 384) the relevant provision applies currently.

Art. 467. — *Breach of Secrecy of the Ballot.*

A third party who:

- (a) by any unlawful means succeeds in discovering the way in one or more electors have exercised their right and cast their vote or votes; or
- (b) having fortuitously learned of such a fact, intentionally makes public and spreads it, whether by word of mouth, by way of the press or otherwise,
is punishable with simple imprisonment or fine.

Art. 468. — Removal or destruction of Ballot Papers or Boxes.

(1) Whosoever removes, makes away with or destroys ballot boxes containing votes or marked ballot papers not yet counted, or the votes ballot papers contained therein,

is punishable with simple imprisonment or fine.

(2) Where such removal or destruction is carried out by more than one person or is accompanied by violence, the punishment is rigor imprisonment not exceeding ten years, without prejudice to increase of sentence with respect to chiefs or ringleaders (Art. 81 (d)).

(3) Acts of violence or coercion against a polling station or electoral polling officers are punishable in accordance with the general provisions (Art. 433 to 435).

Art. 469. — Additional Penalties.

Where an electoral offence is punished by imprisonment, the Court may at all times order temporary deprivation of civic rights for a definite period (Art. 122 (a)).

Art.470. — Increased Penalties.

Where the person charged with an offence under this title is a public servant or an official member or scrutineer of an electoral or polling station, simple imprisonment shall be from one month to up one and a half times the punishment generally prescribed, where the act does not come under a specific provision such as that relating to abuse of powers (Art. 414) or that relating to breach of official secrecy (Art. 405).

In more serious cases, or where the offence is repeated, the Court may add the fine to the punishment of imprisonment.

TITLE VI

OFFENCES AGAINST LAW AND ORDER; BREACHES OF THE PEACE

Chapter I. — OFFENCES AGAINST LAW AND ORDER

Section I. — *Offences calculated or likely to provoke the Commission of a Crime*

Art.471. — *Dangerous Vagrancy.*

(1) Whosoever, having no fixed abode or occupation and no regular or visible means of support, and being able-bodied, habitually and of set purpose leads a life of vagrancy or disorderly behaviour, or lives by his wits or by mendicancy, refusing to take honest, paid work which he is capable of doing, thereby constituting a threat to law and order,

is punishable with compulsory labour with restriction of personal liberty (Art. 103), or with simple imprisonment not exceeding six months.

- (2) Where the offender is found in possession of weapons or instruments fitted by their nature to the commission of an offence, the punishment shall be simple imprisonment not exceeding three years, without prejudice to the application of the provisions concerning concurrence where the offender has used threats or coercion, or has committed or has attempted to commit violence or assault against individuals.
- (3) The preventive measures of restriction of liberty (Art. 148 to 153) may be ordered, to accompany the penal sentence, wherever the circumstances indicate that they are appropriate.
- (4) Where the offender has already been convicted a number of times, whether for dangerous vagrancy or for another intentional offence, the Court shall order his internment. (Art 128).

Art. 472. — Conspiracy.

- (1) Whosoever conspires with one or more persons for the purpose of preparing or committing serious offences against public security or health, the person or property, or persuades another to join such conspiracy,

is punishable, provided that the conspiracy materialises, with simple imprisonment for not less than three months and fine.

For the purpose of this Article, "serious offences" are offences which are punishable with rigorous imprisonment for five years or more.

- (2) Where the conspirators are numerous, or where they are armed or possess instruments or means fitted by their nature for the commission of an offence, or where the conspirators are found to be carrying weapons, or such instruments or means, the punishment shall be simple imprisonment for six months or a fine of one thousand at least.
- (3) Where the dangerous nature of the conspiracy has been demonstrated by the commission of a serious offence, whether against life or person, public safety or property, by the commission of a series of crimes, whether or not of the same kind, or by acts, such as traffic in arms, narcotic substances or persons, the Court shall pronounce the maximum sentence provided by law, taking into consideration the provisions relating to concurrence (Art. 62 and 63).

Art. 473. — Harboursing and comforting of Evil-doers.

- (1) Whosoever, apart from cases of accomplices punishable under provision

relating thereto (Art. 36) :

(a) knowingly, and not being under duress, harbours, comforts, assists or shelters evil-doers who are members of bands or associations formed to commit offences against the community, individuals property, or provides a meeting place for such evil-doers; or

(b) knowing the existence, plans, whereabouts or meeting places such gangs or associations, and not being compelled to do so by intimidation or otherwise, omits to notify the competent authorities thereof.

is punishable with simple imprisonment or fine.

(2) Simple imprisonment shall be for not less than three months where the band is dangerous, or where the harbouring and comforting are habitual.

(3) Nothing in this Article shall prevent the Court from mitigating the punishment or from imposing no punishment in the case of family relationship (Art. 80).

Art. 474. — *Public Provocation to or Defence of a Crime.*

Whosoever publicly, by word of mouth, writing, image, gesture or other wise:

(a) provokes others to commit acts of violence or grave offences against the community, individuals or property; or

(b) defends or praises such offence or its perpetrator; or

(a) launches an appeal or starts a collection for the payment of pecuniary punishments pronounced by due process of law, with the intention of making common cause with the convicted person or of upholding his deed or of showing disapproval of the authorities, or who knowingly takes part in such activities,

is punishable with simple imprisonment or fine.

Art. 475.— *Prohibited Traffic in Arms.*

Whosoever;

(a) apart from offences against the security of the State (Art. 254), makes, imports, exports or transports, acquires, receives, stores or hides, offers for sale, puts into circulation or distributes, without special authorisation or contrary to law, weapons or munitions of any kind; or

(b) without indulging in trafficking, knowingly sells, delivers or hands over arms to suspect or dangerous persons,

is punishable with simple imprisonment, without prejudice to the imposition of a fine, where he has acted for gain or has made a profession of

such activities, and to confiscation of material seized. Occasional violations of police regulations, and the carrying or use of prohibited weapons, are subject to the penalties for petty offences (Art. 763 and 764).

Section II. — Offences calculated or likely to provoke Public Disturbances

Art.476. — Forbidden Societies and Meetings.

Whosoever;

(a) founds, organizes or commands a society, band, meetings or assemblies forbidden, either generally or from time to time by law, by the Government or by the competent authority; or

(b) knowingly takes part in such. activities; or

(c) knowingly places premises or land at the disposal of forbidden societies, meetings or demonstrations, whether for consideration or free of charge,

is punishable with a fine not exceeding five hundred dollars. Ringleaders, organizers or commanders are punishable with simple imprisonment not exceeding six months. ;

Art. 477. — Secret Societies and Armed Bands.

Where unlawful societies whose activities and meetings are secret, or unlawful armed societies or bands, especially for military training or shooting, or ostensibly sporting in character, are involved, the punishment shall be simple imprisonment and a fine, which may be up to the general maximum in the case of organizers, commanders or active members.

Art. 478. — Forbidden Assemblies.

(1) Whosoever forms, organizes or commands, on the public highway or in a public place, assemblies forbidden by law, or of his own free will takes part in them,

is punishable with a fine not exceeding one thousand dollars. Ringleaders, organizers or commanders are punishable with simple imprisonment not exceeding one year.

(2) Where the unlawful assembly is armed, simple imprisonment shall be for at least three months, and may be increased up to the general maximum in the case of ringleaders, organizers and commanders and those who have carried weapons or knew that weapons were being carried.

Art. 479. — Alarming the Public.

(1) Whosoever spreads alarm among the public:

(a) by threat of danger to the community, or to the life, health or property of individuals, especially that of invasion, assassination, fire, devastation or pillage; or

(b) by deliberately spreading false rumours concerning such happenings or general disturbances, or imminent catastrophe or calamity, is punishable with simple imprisonment or fine.

(2) In more serious cases likely to cause, or having caused, serious disturbances or disorder, the punishment shall be rigorous imprisonment not exceeding three years, subject to the application, as appropriate, of more severe specific provisions where there are criminal consequences.

Art. 480. — *False Rumours and Incitement to Breaches of the Peace.*

Whosoever, apart from offences against the security of the State (Art. 252, 269 (e) and 273 (a)) :

(a) starts or spreads false rumours, suspicions or false charges against the Government or the public authorities or their activities, thereby disturbing or inflaming public opinion, or creating a danger of public disturbances; or

(b) by whatever accusation or any other means foments dissension, arouses hatred, or stirs up acts of violence or political, racial or religious disturbances, is punishable with simple imprisonment or fine.

Art. 481. — *Seditious Demonstrations.*

Whosoever:

(a) makes, utters, distributes or cries out seditious or threatening remarks, or displays images or drawings of a seditious or threatening nature in any public place or meeting; or

(b) publicly incites or provokes others to disobey orders issued by a lawful central or local authority or to disobey laws or regulations duly promulgated,

is punishable with a fine not exceeding five hundred dollars, or with simple imprisonment not exceeding six months.

Art. 482. — *Rioting.*

(1) Whosoever, of his own free will, takes part in an unlawful assembly in the course of which violence is done collectively to person, estate or property,

is punishable with simple imprisonment for at least one month, or fine.

(2) The organizers, instigators or ringleaders are punishable with fine and with

simple imprisonment for not less than six months or, in grave cases, with rigorous imprisonment not exceeding five years.

(3) All persons who have individually committed acts of violence against person or property are punishable with rigorous imprisonment not exceeding three years, where their act does not constitute an offence subject to more severe punishment under any other provision of this Code.

Art. 483. — *Leniency; Submission.*

Those who have taken part in a forbidden meeting, demonstration, unlawful assembly or collective intimidation, and who subsequently withdrew, either of their own accord or when called upon to do so by the authorities, without having themselves done violence or incited others to do so, may be exempted from punishment, after a reprimand or solemn warning for the future, as appropriate (Art. 121).

Chapter II. — BREACHES OF THE PEACE

Art. 484. — *Disturbances of Meetings or Assemblies.*

(1) Whosoever, by word of mouth, by threats, violence or force, or in any other way, unlawfully, invades or disturbs, hinders or disperses a meeting or any assembly duly authorized by law,

is punishable with simple imprisonment not exceeding six months, or with a fine not exceeding one thousand dollars.

(2) Where the offence relates to a meeting or an assembly of a public authority, to an official board or commission, or to the conduct of elections, public auctions or any other lawful public activity, whether political, administrative, executive or judicial, simple imprisonment shall be for not less than three months, and may be, as well as the fine, increased up to the general maximum prescribed by law.

(3) Where the instigator or instigators of the disturbances carry weapons or instruments, or where the disturbance or obstruction is the work of a large band, the punishment may be rigorous imprisonment not exceeding five years in the case of political meetings.

Art. 485. — *Disturbances resulting from Acts committed in a State of Culpable*

Irresponsibility.

Whosoever, being deliberately or through criminal negligence in a state of

complete irresponsibility due to drunkenness, intoxication or any other cause, commits while in such a state an act normally punishable with imprisonment for at least one year,

is punishable with fine or with simple imprisonment not exceeding one year, according to the degree of danger or gravity of the act committed.

Art. 486. — *Outrage on Religious Peace and Feeling.*

Whosoever publicly:

(a) prevents the solemnization of, or disturbs or scoffs at, an authorized religious ceremony or office; or

(b) profanes a place, image or object used for religious ceremonies, is punishable with a fine not exceeding one thousand dollars, or with simple imprisonment not exceeding two years.

Art. 487. — *Outrage on the Repose and Dignity of the Dead.*

(1) Whosoever:

(a) disturbs or profanes a funeral procession or funeral service; or

(b) violates or profanes the resting place of a dead person, degrades or defiles funeral monument, or profanes or mutilates a dead person, whether buried or not; or

(c) publicly defiles or strikes a human corpse,

is punishable with simple imprisonment or fine.

(2) Whosoever carries off, makes away with or scatters a corpse or any part thereof, or the ashes of a dead person, is liable to the same punishments.

TITLE VIT

OFFENCES AGAINST PUBLIC SAFETY

AND THE SECURITY OF COMMUNICATIONS

Chapter I. — OFFENCES AGAINST PUBLIC SAFETY

Art. 488. — *Arson.*

(1) Whosoever maliciously or with the intention of causing danger of collective injury to persons or property, sets fire to his own property or to that of another whether it be buildings or structures of any kind, crops or agricultural products, forests, timber or any other object,

is punishable with rigorous imprisonment not exceeding ten years.

(2) Within these limits, a severe sentence may be passed where the offence

creates substantial danger, or where the risk of injury to persons or property is widespread, especially where public buildings or buildings used by a public service, inhabited houses or houses used for living in, contractors yards or stock yards, stores of provisions or inflammable or explosive substances, forests, mines, oil wells or refineries, ships, aircraft or any other objects particularly susceptible to fire, are affected.

Art. 489. — *Provocation, of Natural Disaster.*

Whosoever maliciously causes a flood or submergence, a landslide, a fall of rock or earth, a collapse or any other like catastrophe, thereby deliberately creating a danger to person or property, is punishable under Art. 488.

Art. 490. — *Damage to installations or protective works.*

Whosoever maliciously damages or destroys electrical or hydraulic installations, or works providing protection against natural forces, especially culverts, dams, reservoirs, dykes, sluices gates or jetties, thereby deliberately creating a danger to person or property, is punishable under Art. 488.

Art. 491. — *Explosions.*

Whosoever maliciously causes gas, oil, petrol, gun powder, dynamite or any other similar dangerous substance to explode, thereby creating a danger to person or property,
is punishable under Art. 488.

Art. 492. — *Offences resulting from Negligence.*

Whosoever by criminal negligence causes arson, natural disasters, damage to installations or protective works or explosions as specified in Art. 488 to 491 (inclusive),

is punishable with *simple* imprisonment or fine according to the gravity of the offence.

The court shall pass sentence of simple imprisonment where the offender has gravely endangered persons or property.

Art. 493. — *Danger caused by the use of Explosive, Inflammable or Poisonous Substances.*

(1) Whosoever, with intent to endanger public safety, knowingly exposes to danger the life, health, person or property of another, by means of explosives, of substances which are spontaneously combustible or highly inflammable or of poisonous gases, is punishable with rigorous imprisonment not exceeding ten years.

Where the offender has exposed property only to minor damage, the Court may pass sentence of simple imprisonment for not less than one month.

(2) Whosoever, knowingly but without intent to endanger public safety, or by negligence, endangers in like manner the life, person, health or property of another,

is punishable with simple imprisonment.

In less serious cases, the Court may substitute for simple imprisonment punishment of compulsory labour, or impose a fine.

Art. 494. — *Illicit Making, Acquisition, Concealment or Transport.*

(1) Whosoever makes «explosive» incendiary or poisonous substances, knowing that they are intended for unlawful use,

is punishable, according to the circumstances, with rigorous imprisonment not exceeding ten years, or with simple imprisonment for not less than six months.

(2) Whosoever, knowing that another wishes to make unlawful use of such substances, furnishes him with means or instructions for making them,

is punishable with rigorous imprisonment not exceeding five years, or with simple imprisonment for not less than three months.

(3) Whosoever, knowing that they are intended for unlawful use, imports, acquires or procures explosive, incendiary or poisonous substances or the materials used in their manufacture, hands them over to or receives them from another, or stores, conceals or transports them, whether for consideration or free of charge,

is punishable with rigorous imprisonment not exceeding five years, or with simple imprisonment for not less than three months.

Art. 495. — *Culpable Infringement of Building Rules.*

(1) Whosoever, in supervising or carrying out the erection of a building or a demolition of any kind infringes the rules laid down by law or disregards normal safety measures based on building practice and thereby endangers public safety or the life, health or person of others, or the safety of the property or estate of another,

is punishable with simple imprisonment for not less than three months and fines.

(2) Where the infringement is due to negligence, the court may pass sentence of simple imprisonment without specific minimum, or impose a fine.

Art. 496. — *Removal or Culpable Omission of Protective Apparatus or Devices.*

(1) Whosoever intentionally:

(a) destroys, removes, damages, renders unserviceable or puts out of commission a device intended to prevent accidents in any undertaking, factory, mine or any other working, whether public or private; or

(b) omits to install any safety measures required by law and thereby endangers the safety of another,

is punishable with simple imprisonment and fine.

(2) Where the offender has acted by negligence, the Court shall impose either of these punishments, according to the circumstances of the case.

Art. 497.— *Culpable failure to give warning of grave public danger.*

Whosoever, where it is possible for him to do so without risk to himself or other, fails to warn the competent authority or fails to take the measures necessary to prevent or to put out a fire, an explosion, a flood or any other accident likely to endanger life, health or property,

is punishable with simple imprisonment not exceeding one year, or fine.

Art. 498.— *Reserved Cases.*

Nothing in this chapter shall affect the provisions regarding destruction or sabotage of installations serving the national defence or sabotage of military installations (Art. 260 (a), 321, 322 and 336 (a)).

Chapter 2. — OFFENCES AGAINST THE FREEDOM AND SECURITY OF COMMUNICATIONS

Art.499 —*Damage to Services and Installations of Public Interest.*

(1) Whosoever intentionally prevents, disturbs or interferes with the efficient working:

(a) of a public service, or of a service operated in the public interest, of land inland waterway, sea or air transport or communications, including auxiliary repair, overhaul, maintenance or construction services; or

(b) of installations, establishments or services intended either for postal, telegraph and telephone communications or telecommunications in general, or for the public supply or distribution of water, light, gas, power or heat,

is punishable with simple imprisonment or fine.

(2) Where damage is caused by a person bound by an agreement, whether legal or contractual, collective or personal, and particularly where work or obligations have been suspended otherwise than as the result of force majeure or as provided for by law or by the operating agreement, the punishment is simple imprisonment for not less than one month and fine, without prejudice to civil penalties and compensation.

(3) Where the offender has acted through negligence, the punishment shall be a fine not exceeding five hundred dollars, or, in more serious cases, simple imprisonment not exceeding three months.

Art. 500. — *Grave endangering or sabotage of Communications or Transport*

(1) Whosoever intentionally paralyzes, sabotages or endangers public transport, whether by road or rail, by water or in the air, at risk of causing a collision, a derailment, a shipwreck -or any other accident likely to endanger the person or property, especially:

(a) by damaging, displacing, destroying or rendering unserviceable bridges, dykes or jetties, installations, or control, protection, signalling or transport equipment, instruments or devices; or

(b) by erecting or setting up obstacles, or by engaging in dangerous works or activities on roads, railways, docks, channels or any other established lines of communication; or

(c) by giving false instructions, signs or signals; or

(d) by failing in his duty or failing to carry out the operating regulations,

is punishable with rigorous imprisonment not exceeding three years.

(2) Rigorous imprisonment shall not exceed five years where, by his act, the offender has knowingly:

(a) committed a breach of a contractual or professional obligation incumbent upon him; or

(b) endangered the life, person or health of others or created a risk of substantial material damage.

(3) Where the offender has acted through negligence, the Court shall pass sentence of simple imprisonment or fine.

Simple imprisonment is justified in cases of negligent discharge of a specific professional or contractual duty, or of substantial danger to person or property.

Art. 501. — *Misuse of Signals and Alarms.*

Whosoever maliciously or without good cause, and with the intention of stopping or disturbing communications, gives an alarm signal or sends out a call for help, either customary or egreed upon by international agreement, sets off a warning or safety device, or makes improper use of the telecommunication danger call, is punishable with fine, or with simple imprisonment not exceeding six months.

Art. 502. — *Irregular Consignment of dangerous goods by public transport.*

Whosoever, contrary to the regulations and directions issued to ensure the safety of traffic, hut without intent to endanger persons or property or to attempt to do so, consigns or knowingly transports by a public means of land, sea or air transport, substances which are inflammable, explosive or directly poisonous, corrosive or harmful on contact or by reason of their emanations, is punishable with fine, or with simple imprisonment not exceeding one month.

TITLE VIII

FFENCES AGAINST PUBLIC HEALTH

Chapter 1. — INFRINGEMENT OF THE GENERAL PROTECTIVE PROVISIONS

Art. 503. — *Spreading of Human Diseases.*

- (1) Whosoever intentionally spreads or transmits a communicable human disease, is punishable with simple imprisonment or fine.
- (2) The court may pass sentence of rigorous imprisonment not exceeding five years, if necessary in addition to a fine:
 - (a) Where the offender has maliciously transmitted a grave disease; or
 - (b) where the disease is not sporadic but epidemic.
- (3) Where the offender has acted through negligence, the punishment is simple imprisonment not exceeding one year, or fine.

Art. 504. — *Spreading of epizootic diseases.*

- (1) Whosoever intentionally spreads an epizootic disease among domestic animals or poultry, game, fish or wild animals the species of which are protected by law,

is punishable with simple imprisonment not exceeding one year, or fine.
- (2) Simple imprisonment shall be from three months to three years:
 - (a) where the offender has acted maliciously; or
 - (b) where he has intentionally caused substantial damage.
- (3) Where the offender has acted through negligence, the punishment shall be simple imprisonment not exceeding six months or fine.

Art. 505. — *Propagation of an Agricultural or Forest Parasite.*

Whosoever, intentionally or by negligence, propagates a parasite or germ harmful to agricultural or forest crops, is punishable under the preceding Article.

Art. 506. — *Contamination of Water.*

(1) Whosoever intentionally contaminates by means of substances harmful to health drinking water serving the needs of man or beast,

is punishable, according to the circumstances and to the extent of the damage, with fine or with simple imprisonment for not less than one month, or, in more serious cases, with rigorous imprisonment not exceeding five years.

(2) In cases of intentional poisoning of wells or cisterns, springs, water holes, rivers or lakes, rigorous imprisonment shall not exceed fifteen years.

(3) Where the offender has acted through negligence, the Court shall pass sentence of simple imprisonment, or, in less serious cases, impose a fine.

Art. 507. — *Contamination of Pastureland.*

(1) Whosoever intentionally and without lawful excuse contaminates pastureland or fields with poisonous or harmful substances so as to endanger the life or health of animals,

is punishable with fine or with simple imprisonment, or, in more serious cases, with rigorous imprisonment not exceeding five years.

(2) Where the offender has acted through negligence, the punishment is simple imprisonment not exceeding six months, or fine.

Art. 508. — *Culpable Infringement of Preventive and Protective Public Health Measures.*

(1) Whosoever intentionally disregards the measures prescribed by law for the prevention, limit or arrest of a communicable human disease, is punishable with simple imprisonment not exceeding two years, or fine.

Where the offender has acted by negligence, simple imprisonment shall not exceed six months, and the fine shall not exceed one thousand dollars.

(2) In cases of intentional infringement of rules for preventing, limiting or arresting the spread of an epizootic disease, or of agricultural or forest parasites or germs, the punishment is simple imprisonment not exceeding one year, or fine.

The punishment shall be simple imprisonment not exceeding three months, or a fine not exceeding one thousand dollars, where the offender has acted through negligence.

Art. 509. — *Creation of Distress or Famine.*

- (1) Whosoever intentionally, directly or indirectly, creates within the country a grave state of misery, want or famine, epidemic or epizootic disease or distress, especially by improperly hiding or hoarding, destroying or preventing the transport or distribution of grain, foodstuffs or provisions, or remedies or products necessary to the life or health of man or domestic animals,

is punishable with simple imprisonment for not less than three months, or, in grave cases, with rigorous imprisonment not exceeding ten years.

- (2) Whosoever, in time of such distress, fails to fail, or to fulfil properly, without justification of force majeure, the obligations or liabilities incumbent upon him, whether as a purveyor, middleman, sub-contractor, carrier or agent, or in any other capacity, in respect to the delivery or handing over of provisions, remedies or any other products to be used to prevent, limit or arrest the distress, is liable to the same punishments.

- (3) Where the offender has acted for gain, the punishment is rigorous imprisonment from three to ten years together with a fine not exceeding twenty thousand dollars.

Art. 510. — *Production, Making or Distribution of Poisonous or Narcotic Substances.*

- (1) Whosoever, without lawful authority, produces or makes, transforms, imports, exports or transports, acquires or receives, stores, offers for sale or distributes, or procures for another, poisons, drugs or narcotic substances,

is punishable with simple imprisonment for not less than three months, and with fine not exceeding twenty thousand dollars.

- (2) The same punishment may be inflicted upon anyone who knowingly places at the disposal of another, even privately, premises where the taking of drugs or narcotic substances is practised.

- (3) The court may pass sentence of rigorous imprisonment not exceeding five years and impose a fine not exceeding thirty thousand dollars:

- (a) where the offence is committed by a hand or association organized for

this traffic, or by a person who makes a profession of such felonious activities; or

(b) where such forbidden toxic substance or access to the premises is furnished knowingly, for gain or for an improper motive, to an infant or young person, a mental defective or a drug addict.

Art. 511. — *Manufacture, Adulteration, and Sale of Injurious or Damaged Products or Foodstuffs.*

(1) Whosoever intentionally:

- (a) manufactures food, provisions, foodstuffs or products unfit for human consumption or goods which contain injurious or damaged ingredients, or who adulterates goods in such a way as to endanger public health; or
- (b) imports, receives, stores, offers for sale or distributes such injurious products,

is punishable with simple imprisonment for not less than three months, or, in grave cases, with rigorous imprisonment not exceeding five years, and fine.

(2) Within these limits a severe sentence shall be passed:

- (a) where the offender discharges special duties of supervision or control in an undertaking of public interest belonging to the State, or let out to concession by the State; or
- (b) in case of the deliberate manufacture, adulteration, sale or distribution of remedies, medicaments, dietetic products or tonics, not poisonous in themselves and procurable without a prescription, the defective manufacture or adulteration of which can have dangerous effects.

(3) Where the offender has acted through negligence, the punishment shall be simple imprisonment not exceeding six months, or fine.

Art. 512. — *Manufacture, Adulteration and Sale of Fodder and Products Injurious to Livestock.*

(1) Whosoever intentionally:

(a) adulterates fodder or natural feeding stuffs, or manufactures injurious forage or other products, intended for domestic animals, thereby endangering the latter's health or life; or

(b) imports or stores, offers for sale or distributes such injurious fodder

or products,
is punishable with simple imprisonment and fine.

(2) Where the offender has acted by negligence, the punishment shall be simple imprisonment not exceeding three months, or fine.

Art. 513. — *Aggravation to the Offence.*

The maximum punishment of deprivation of liberty provided for in the preceding articles (Art. 511 and 512) shall be pronounced, and the fine may be increased up to twenty thousand dollars, where the offender makes a profession of such offences (Art. 90), where his felonious activities relate to large quantities of goods, and where the foreseeable damage is substantial.

Art. 514. — *Endangering the health of another by alcoholic beverages or spirituous liquors.*

Whosoever endangers the health of another, intentionally and unscrupulously, by administering or serving, or by causing or permitting to be administered or served, to minors or to persons already manifestly suffering from excessive consumption thereof, alcoholic beverages or spirituous liquors of such kind or in such quantity as to make their injurious effect certain or probable,

is punishable with simple imprisonment not exceeding three months, or fine, without prejudice to prohibition of professional practice, if necessary, where the offence is repeated. .

Art. 515. — *Endangering by Mental Means or Practices.*

Whosoever knowingly endangers the health of another by inducing in him a state of hypnosis, trance or catalepsy, or any other change or suspension of his conscious faculties, is punishable under Art. 514.

Art. 516. — *Endangering by Philtres, Spells or Similar Means.*

Whosoever, knowing the danger which they imply, prepares, gives, sells, distributes or administers to another a potion, powder, philtre or any other product or ingredient susceptible of impairing his health,

is punishable under Art. 514.

Art. 517. — *Aggravated Cases.*

- (1) Where the offender makes a profession of the practices defined in Articles 515 and 516, simple imprisonment shall not exceed six months and fine shall always be imposed in addition.
- (2) Where the offence is committed against the will of the offender, the special

provision regarding deprivation of powers of decision (Art. 555) may be applied concurrently,

Chapter 2. — INFRINGEMENTS OF CURATIVE PROTECTIVE PROVISIONS

Art. 518. — *Unlawful Exercise of the Medical or Public-Health Professions.*

(1) Whosoever, having neither the professional qualifications prescribed and controlled by the competent authority nor the authorization to set up in official practice required under the relevant regulations, makes a practice of treating sick persons in no matter what form, or does so for remuneration, whether it be by consultations, treatment, the sale of remedies or any other medical or curative activity or practice,

is punishable with simple imprisonment and fine.

(2) The same provision applies to veterinary surgeons or to other persons who make a practice of treating live-stock.

(3) Casual advice, aid or services rendered in cases of urgency or in an emergency; or out of kindness or devotion and free of charge, or the delivery in such conditions of proven and innocuous natural or traditional remedies, do not come under this provision,

(4) Nothing in this Article shall prevent the practice of a system of therapeutics according to indigenous methods by persons recognized by the local community to which they belong, to be duly trained in such practice, provided that no such person shall be authorized to practice except amongst the local community to which he belongs and in such a manner as is neither dangerous nor injurious to the person, health or life.

Art. 519. — *Unlawful delivery of poisonous or dangerous substances.*

Any doctor, pharmacist, dentist, veterinary surgeon or nurse, or any other person authorized to give medical care with the help of poisonous or narcotic substances or substances entailing grave danger to health, or to keep or sell such substances, who makes use of them or delivers them to the public without special' authority and apart from the cases permitted in normal curative practice,

is punishable with simple imprisonment or, in more serious cases, with rigorous imprisonment not exceeding five years, "and fine; where the offender has acted in a grossly culpable manner for gain, the fine shall not exceed twenty thousand dollars.

Art. 520. — *Refusal to provide Professional Services.*

(1) Any doctor, pharmacist, dentist, veterinary surgeon, midwife or nurse, or any other person lawfully entitled to render professional attention and care, who, contrary to his duty and without just cause, refuses to provide his services in a case of serious need, whether from indifference, selfishness, cupidity, hatred or contempt, or for any other similar motive,

is punishable with fine and, in the event of repetition of the offence, with simple imprisonment not exceeding one month, without prejudice to recovery in the civil courts of damages for the injury done.

(2) Nothing in this Article shall affect the more severe provision (Art.547 (2)) punishing failure to lend aid to a person in grave and imminent peril of his life, person or health.

BOOK V

OFFENCES AGAINST INDIVIDUALS AND THE FAMILY

TITLE I

OFFENCES AGAINST LIFE OR PERSON

Chapter 1. — OFFENCES AGAINST LIFE

Section J. — *Homicide and its forms*

Art. 521. — *Principle.*

Whosoever causes the death of a human being intentionally or by negligence, no matter what the means used, commits homicide.

The nature and extent of the punishment awarded to him who commits intentional homicide shall be determined according to whether the homicide is simple, or aggravated or extenuated by the circumstances specified in the following Articles.

Any homicide, whether committed intentionally or by negligence, shall be punished by lawful judicial process and in accordance with the following provisions.

Art. 522. — *Aggravated Homicide - Homicide in the First Degree.*

(1) Whosoever intentionally commits homicide:

(a) with such premeditation, motives or means, in such conditions of commission, or in any other aggravating circumstance, whether general

(Art. 81), or particular duly established (Art, 83), as to betoken that he is exceptionally cruel or dangerous; or

(b) as a member of a band or gang organized for carrying out homicide or armed robbery; or

(c) to further or to conceal another crime;
is punishable with rigorous imprisonment for life, or death.

(2) Death sentence shall be passed where the offender has committed murder in the first degree while serving a sentence of rigorous imprisonment for life.

Art. 523. — *Homicide in the Second Degree.*

Whosoever commits homicide in circumstances other than those specified in Art. 522, or than those specified in Art. 524,

is punishable with rigorous imprisonment from five to twenty years.

Art. 524. — *Extenuated Homicide.*

Whosoever kills another:

(a) in resisting the violation, by force or trickery, of the privacy of his house or outbuildings, there being no true state of necessity or legitimate (elf-defence Art. 71 and 74); or

(b) following gross provocation, under the shock of surprise or under the influence of violent emotion or intense passion made understandable and in some degree excusable by the circumstances,

is punishable with simple imprisonment not exceeding five years.

Art. 525. — *Instigating or Aiding another to commit Suicide.*

(1) Whosoever, for any selfish or base motive, instigates another to commit suicide, or aids and abets him to do so,

is punishable with simple imprisonment where the suicide is attempted but not consummated, and with simple imprisonment from one to five years where it is accomplished.

(2) Where the person who has committed suicide was partially or completely irresponsible, or had not attained the age of eighteen years, the punishment is rigorous imprisonment not exceeding ten years.

Art. 526. — *Homicide by Negligence.*

(1) Whosoever, by criminal negligence, causes the death of another, is punishable

with simple imprisonment or fine.

(2) Simple imprisonment shall not exceed five years where the homicide is caused by a person who has a special professional duty to safeguard life.

Art. 527. — *Infanticide.*

(1) A mother who intentionally kills her infant during her confinement or while still suffering from the direct effect thereof,

is punishable, according to the circumstances, with simple imprisonment from six months to five years.

Where the offence is attempted, the Court may without restriction mitigate the punishment (Art. 185) if no injury has been done to the infant's health.

(2) A mother who kills her child, either intentionally or by negligence, in circumstances other than those specified above shall be tried according to the general provisions.

(3) Third persons, being principals or accomplices in the homicide of a new-born infant, are excluded from the benefits of extenuation. They shall be tried, according to the circumstances and the degree of their guilt, by the general provisions relating to homicide in the first or in the second degree.

Section II. — Offences against Life Unborn Abortion

Art. 528. — *Principle.*

(1) The deliberate termination of a pregnancy, at whatever stage or however effected, is punishable according to the following provisions, except as otherwise provided (Art. 534).

The nature and extent of the punishment awarded for intentional abortion shall be determined according to whether it is procured by the pregnant woman herself or by another, and in the latter case according to whether or not the pregnant woman gave her consent.

Termination of pregnancy by imprudence or negligence does not come under the criminal law.

(2) The advertising for contraceptive or abortive, means is punishable under the Code of petty offences (Art. 802).

Art. 529. — *Abortion procured by the Pregnant Woman.*

(1) A pregnant woman who procures her own abortion is punishable with simple

imprisonment from three months to five years.

- (2) Any other person who procures for her the means of, or aids her in the abortion shall be punished in accordance with the general provisions as an accomplice or co-offender.

In the latter case, the punishment is simple imprisonment from one to five years.

Art. 530. — *Abortion, procured by another.*

- (1) Whosoever performs an abortion on another, or assists in the commission of the offence,

is punishable with rigorous imprisonment not exceeding five years.

- (2) Rigorous imprisonment shall be from three to ten years, where the woman was incapable of giving her consent, or where such consent was extorted by threats, coercion or deceit, or where she was incapable of realizing the significance of her actions, or where the intervention was effected against her will.

Art, 531. — *Aggravated Cases.*

- (1) Where the offender has acted for gain, or where he has habitually made a profession of abortion within the meaning of Art. 90, the punishment prescribed in the preceding article shall apply and a fine shall be imposed in addition.
- (2) Where the offender has improperly practised his or her profession, especially that of doctor, pharmacist, midwife or nurse, the Court shall, in addition, order prohibition of practice, either for a limited period, or, where the offence is repeatedly committed, for life (Art. 122).

Art. 532. — *Attempt to procure an Abortion on a Woman not with Child.*

The general provisions relating to offences impossible of completion (Art. 29) apply in the case of attempt to procure an abortion on a woman wrongly supposed to be pregnant.

Art. 533. — *Extenuating Circumstances.*

Apart from the general extenuating circumstances justifying ordinary mitigation of the punishment (Art. 79), the Court may mitigate it without restriction (Art. 185) where the pregnancy has been terminated on account of an exceptionally grave

state of physical or mental distress, especially following rape or incest, or because of extreme poverty.

Art. 534. — *Termination of Pregnancy on Medical Grounds.*

(1) Termination of pregnancy is not punishable where it is done to save the pregnant woman from grave and permanent danger to life or health which it is impossible to avert in any other way, provided that it is performed in conformity with the following legal requirements.

(2) Except where impossible, the danger shall be diagnosed, and certified in writing, by a registered medical practitioner, after examination of the applicant's state of health.

(3) The termination of the pregnancy shall be conditional upon:

(a) the findings and concurrent opinion, after a prior period of observation where necessary, of a second doctor qualified as a specialist in the alleged defect of health from which the pregnant woman is suffering, and empowered by the competent authority, either generally or in each specific case, to issue the necessary authorisation; and

(b) the duly substantiated consent of the pregnant woman, or where she is incapable under the provisions of civil law or on account of her physical condition of giving it, that of her next of kin or legal representative.

(4) The doctor terminating the pregnancy cannot evade these conditions by invoking his professional duty (Art. 65) ; where he terminates the pregnancy without observing the legal safeguards, he becomes liable to the provisions relating to abortion.

Art. 535. — *Required formalities and penalties for non-observance.*

(1) The doctor who confirms the state of health justifying the termination of the pregnancy and authorizes the intervention, shall keep a duplicate of the findings and decision and transmit them to the competent official department within the period of time fixed by law.

The doctor terminating the pregnancy shall notify that department forthwith.

No doctor may in such a case invoke professional secrecy (Art.407).

(2) In the event of omission to comply with these obligatory formalities, the relevant penalties apply (Art. 790).

In the event of repeated omissions, the offending doctor may be temporarily

deprived of the right to exercise his profession (Art.122).

Art. 536. — *Emergencies.*

- (1) In the case of grave and imminent danger which can be averted only by an immediate intervention, the provisions relating to state of necessity apply (Art. 71).
- (2) The prior consent of the pregnant woman or, in default thereof, that of her next of kin or legal representative where it is possible to secure it, and subsequent notification to the competent official department, are none the less required in all cases of termination of pregnancy, under pain of the penalties prescribed in the preceding article.

Chapter 2. — OFFENCES AGAINST PERSON AND HEALTH

Art. 537. — *Principle.*

- (1) Whosoever intentionally or by negligence, causes bodily injury to another or impairs his health, by any means, is punishable in accordance with the provisions of this chapter.

These provisions embrace all manner of bodily assaults, blows, wounds, maiming, injures or harm, and all damage to the physical or mental health of an individual, where their causal relation to the offender's prejudicial act is established (Art. 24).

- (2) Compensation to the injured party is determined by the court in the light of the gravity of the injury and the position of the parties, in accordance with the relevant general provision (Art. 100).

Art. 538. — *Grave Wilful Injury.*

Whosoever intentionally:

- (a) wounds a person so as to endanger his life or permanently to jeopardize his physical or mental health; or
- (b) maims his body or one of his essential limbs or organs, or disables them, or gravely and conspicuously disfigures him; or
- (c) in any other way inflicts upon another an injury or disease of a serious nature,

is punishable, according to the circumstances and to the gravity of the injury, with rigorous imprisonment not exceeding ten years, or with simple imprisonment for not less than one year.

Art. 539. — Common Wilful Injury.

(1) Whosoever causes another to suffer an injury to body or health other than those specified in the preceding Article,

is punishable, upon complaint, with simple imprisonment or fine.

(2) Proceedings shall be instituted by the Attorney General, and the punishment shall be simple imprisonment for not less than six months, even where there are no serious consequences;

(a) where the offender has used poison, a lethal weapon or any other instrument capable of inflicting injuries; or

(b) where the offender has inflicted the injuries in breach of a duty, professional or other, or where the victim is weak, sick, infirm or incapable of defending himself.

Art. 540. — Consequences not intended by the Offender.

Where the offender has caused grave wilful injury although his intention was to inflict common injury, but could have foreseen the grave consequences of his act, simple imprisonment shall not exceed three years.

Art. 541. — Doubtful Cases: Expert Assessment.

Where there is doubt as to the nature of a case, its consequences or its gravity, the Court shall call for an expert forensic medical assessment to assist it in deciding the case.

Art. 542. — Extenuating Circumstances.

(1) Whosoever intentionally does injury to the person or health of another:

(a) in resisting the violation of the privacy of his house or outbuilding;
or

(b) following gross provocation, or under the abode or influence of a surprise, an emotion or a passion made understandable and in some degree excusable by the circumstances; or

(c) at his request and where the injury is forbidden by law or offends public decency,

is punishable with simple imprisonment not exceeding two years, or fine.

(2) In the case provided for in (c), simple imprisonment shall not exceed four years where the victim was partially or completely irresponsible or of tender years.

Art. 543. — *Injuries caused by Negligence.*

- (1) Whosoever, by criminal negligence, causes another to suffer injury to person or to health,
is punishable, according to the gravity of the injury and the degree of guilt, with simple imprisonment not exceeding six months or fine.
- (2) The punishment shall be simple imprisonment not exceeding one year, or a fine of not less than three hundred dollars, where the injury was caused by a person who had a special duty to safeguard body or health.
- (3) Proceedings shall be instituted upon complaint in the case of common injury and officially, where the injury is grave.

Art. 544. — *Assaults.*

- (1) Whosoever assaults another or does him violence without causing bodily injury or impairment of health,
is punishable, upon complaint, with fine, or, in more serious cases, with simple imprisonment not exceeding three months.
- (2) Simple bruises, swellings or transient aches and pains are not help to be injuries to person or health, and are punishable by the penalties provided for petty offences (Art. 794).
- (3) Where the victim has returned assault for assault, the court may refrain from inflicting any punishment other than a reprimand or warning for the future on either or both of the accused persons.

Chapter 3. — OFFENCES ENDANGERING LIFE, PERSON OR HEALTH

Art. 545. — *Exposure of the Life of another.*

Whosoever intentionally puts another in imminent danger of death,
is punishable, according to the circumstances, with rigorous imprisonment not exceeding three years, or with simple imprisonment for not less than three months.

Art. 546. — *Exposure or Abandonment of another.*

Whosoever, having the custody or charge, on no matter what grounds, of a person incapable of protecting himself, whether on account of his health. his age, his situation or any other circumstance,

- (a) intentionally exposes him, thereby putting him in imminent danger of life or

health; or

(b) abandons him when in like situation,
is punishable with rigorous imprisonment not exceeding five years or with simple imprisonment for not less than six months. The court may in addition deprive the offender of his family rights.

Art. 547. — *Failure to lend aid to another.*

- (1) Whosoever intentionally leaves without help a person in imminent and grave peril of his life, person or health, when he could have lent him assistance, direct or indirect, without risk to himself or to third parties,
is punishable with simple imprisonment not exceeding six month or fine.
- (2) Simple imprisonment shall be in addition to the fine, and shall be from one month to one year, where:
 - (a) the victim has been wounded by the offender himself no matter in what circumstances or by what means; or
 - (b) the offender was under an obligation, professional or contracts medical, maritime or other, to go to the victim's aid or to lend him assistance.

Art. 548. — *Maltreatment of Minors.*

(1) Whosoever, having the custody or charge of an infant or a young person under fifteen years of age, deliberately neglects, ill-treats, over-tasks or beats him in such a way as to affect or endanger gravely physical or mental development or his health,

is punishable with simple imprisonment for not less than one month.

The Court may in addition deprive the offender of his family rights.

(2) The right to administer lawful and reasonable chastisement is not subject to this provision (Art. 64).

Art. 549. — *Brawls.*

- (1) Whosoever intentionally takes part, no matter in what capacity, in any brawl or fight of not less than three persons, from which injury to the person or health, or the death, of one of those present ensues,
is punishable with simple imprisonment not exceeding one year or fine.

No one shown to have confined himself to repelling attack, to defending himself or others, or to separating the combatants is punishable.

- (2) Whosoever takes part in a brawl and is found to be carrying, or makes use of, a weapon or instrument intended to cause or capable of causing wounds or death,

is punishable with simple imprisonment from one month to one year.

- (3) Where the brawl was likely to have grave consequences on account of the attendant circumstances, especially the hatred, state of excitement or drunkenness of the opposing sides, or because they were armed or were provided with instruments, stones or any oilier objects capable of wounding or causing death, these punishment may, where anyone has been wounded or killed, be increased up to the general legal maximum.
- (4) In such case, where those who have caused the injury or death can be discovered, they shall be punishable accordingly and the provisions relating to concurrence (Art. 63) shall apply.

Art. 550. — *Duels.*

- (1) Whosoever takes part in a duel, that is to say in an armed combat regulated in advance by tradition or custom, such as to endanger the life, person or health of the participants,

is punishable with simple imprisonment or fine.

The punishment is applicable whether or not wounds are inflicted.

- (2) Where precautions have been taken to eliminate risk of death, simple imprisonment shall not exceed one year and the fine shall not exceed two thousand dollars.

Where the combat was to last until the death of one of the combatants, the punishment shall be rigorous imprisonment which shall not exceed ten years where death actually ensued.

- (.3) An adversary -who, knowingly, infringes the special rules or usages of combat and, by tins deceit, wounds or kills the other combatant, shall be punished in accordance with the general provisions governing homicide and bodily injuries.

Art. 551. — *Duelling: Challenge, Incitement and Aiding.*

(1) Whosoever challenges another to a duel, transmits such challenge or accepts it,

is punishable with fine.

Where the offence is repeated, the Court may pass sentence of simple imprisonment not exceeding three months.

Where one of the adversaries withdraws from the contest, or prevents it, of his own accord, the Court may exempt him, or both parties, from punishment.

(2) Whosoever incites another to fight a duel with a third person, whether by intimidation, by encouragement, by showing contempt or otherwise,

is punishable with fine, or, where the duel is fought, with simple imprisonment not exceeding one year.

(3) The seconds, witnesses, members of the court of honour, helpers or doctors, appointed to ensure the regularity of the proceeding or to remedy their consequences, are liable to the same punishments only where they encourage or incite the adversaries to fight. The provisions relating to complicity do not apply to them.

TITLE II

OFFENCES AGAINST LIBERTY

Chaplet 1. — OFFENCES AGAINST PERSONAL LIBERTY

Art. 552. — Intimidation.

Whosoever threatens another with danger or injury so serious as to induce in him a state of alarm or agitation,

is punishable, upon complaint, with simple imprisonment not exceeding six months, or a fine not exceeding five hundred dollars.

Nothing in this article shall prevent the court from ordering the convicted person to enter into a recognizance to be of good behaviour (Art. 139)

Art. 553. — Threat of Accusation, or Disgrace.

Whosoever threatens to lodge a complaint or a criminal charge or to disclose a fact such as to injure the honour or reputation of either the victim or a third party tied to him by blood, marriage or affection, and thereby induces or attempts to induce such other to submit to a condition or demand contrary to morality,

is punishable, upon complaint, under the preceding Article (Art. 552).

Art. 554. — Coercion.

Whosoever resorts to violence or to threats of a serious injury to the victim, or to one of his relatives or kin within the meaning of the preceding Article, or by interfering in any other unlawful or improper way with the liberty of action of another, compels him to do a thing or to permit it to be done, or to refrain from doing it or from permitting it to be done,

is punishable, where the offence does not come under a more severe specific provision, with simple imprisonment or fine.

Art. 535. — Deprivation of Powers of Decision.

(1) Whosoever deprives another against his will of his conscious faculties or of his freedom of decision or action, whether by hypnotic suggestion, by the administration of alcohol or narcotic substances, or by any other means,

is punishable, upon complaint, with simple imprisonment not exceeding one year, or fine.

(2) According to circumstances, this article may be applied concurrently with Art. 517.

Art. 556. — Combination of Offences.

Where the intimidation, violence, coercion or deprivation of freedom of decision has been used in the commission of, or for the purpose of committing, an aggravated offence of which such behaviour is an ingredient, such as armed robbery, extortion, blackmail or rape, the more severe provision is applicable.

Art. 557. — Illegal Restraint.

(1) Whosoever, contrary to law or without lawful order, arrests, confines or detains or otherwise restrains the freedom of another, is punishable with simple imprisonment for not less than three months.

(2) Where the offender has detained or illegally restrained another, or has caused him to be detained or illegally restrained, on the false pretext of mental illness or dangerous condition, or where such illegal restraint persists for more than seven days, the punishment shall be rigorous imprisonment not exceeding three years.

(3) Where the offence is committed by a public servant, the special provision (Art.

416) shall apply.

Art. 558. — *Abduction.*

(1) Whosoever carries off a woman by violence, or after having obtained her consent to abduction by intimidation or violence, trickery or deceit,

is punishable with rigorous imprisonment not exceeding three years.

(2) Where the woman carried off is responsible and freely contracts with her abductor a valid marriage, proceedings shall be instituted only where such marriage is subsequently annulled by law.

Art. 559. — *Abduction of an unconscious or defenceless woman.*

'Whosoever knowing her condition, carries off an insane, idiot or feeble-minded woman, one not fully conscious, or one who is incapable or has been rendered incapable of defending herself or of offering resistance, is punishable with rigorous imprisonment not exceeding five years.

Art. 560. — *Abduction of a Minor.*

(1) Whosoever carries off, abducts or improperly detains an infant or a young person in order to deprive his parents or lawful guardians of his custody,

is punishable with rigorous imprisonment not exceeding five years.

(2) Where the offender returns the infant or young person to his parents or lawful guardians, within thirty days, and where none of the aggravating circumstances specified in the following Article has obtained, the punishment shall be simple imprisonment not exceeding one year.

Art. 561. — *Aggravation to the Offence.*

(1) Where the intimidation, the coercion, the deprivation of powers of decision, the illegal restraint or the abduction is committed:

(a) with intent to take unfair advantage of the victim, or to allow another to take advantage of him, or to use him for debauchery or prostitution; or

(b) to exploit him or to hold him to ransom; or

(c) in conditions which are specially cruel,
the offence is aggravated, and the punishment shall be determined by the court in accordance with the following provisions.

(2) The court shall pass sentence:

(a) of simple imprisonment for not less than three months where the offender has used intimidation or violence (Art. 552 to 554) ; or

- (b) of rigorous imprisonment not exceeding five years where there has been deprivation of powers of decision or illegal restraint Art. 555 and 557) ; not exceeding ten years in the case of simple abduction (Art. 558) ; not exceeding fifteen years in the case of the abduction of an unconscious or defenceless woman (Art. 559) ; in the case of the abduction of a minor, rigorous imprisonment shall be from three to twenty years (Art. 560).

Art. 562. — *Failure to produce a Child.*

Whosoever having the custody of an infant or young person refuses to hand him over to the person or institution entitled to his custody either by law or by virtue of a court order,

is punishable with simple imprisonment not exceeding one year or fine.

Art. 563. — *Ascendants; Special Case.*

- (1) Where the offender who abducts or fails to produce an infant or young person is the father or mother, natural or adoptive, or an ascendant of such minor, and where he has acted with the sole intent to secure custody of the child, or from noble motives, proceedings shall be instituted only upon complaint, and the punishment shall be simple imprisonment not exceeding three months, or fine not exceeding five hundred dollars.
- (2) Notwithstanding, where the offence has been committed in defiance of a judicial decision and for the purpose of removing the child to a distance and transplanting him to an environment foreign to his religious convictions or to his deepest feelings, proceedings shall be instituted officially, and simple imprisonment or fine may be increased, according to the circumstances, up to the general maximum.

Art. 564. — *Political Abduction.*

Whosoever:

- (a) persuades another by intimidation, trickery or violence into leaving the country in order to hand turn over to an authority, an organization, a group or a political party, or to endanger his life, person or freedom; or
- (b) orders and organizes such abduction, or knowingly supports it,
- is punishable with rigorous imprisonment not exceeding fifteen years.

Art. 565. — *Enslavement.*

- (1) Whosoever:

- (a) enslaves another, sells, alienates, pledges or buys him, or trades or traffics in or exploits him; or
- (b) keeps or maintains another in a condition of slavery, even in a disguised form,

is punishable with rigorous imprisonment from five to twenty years, and a fine not exceeding twenty thousand dollars.

(2) Those who knowingly carry off, transport or conduct, whether by land, by sea or by air, persons thus enslaved, in order to deliver them at their place of destination, or who aid and abet such traffic, whether within the territory of the Empire or abroad, are liable to the same punishments.

Art. 566. — Default of Supervision or Control.

The Governor-General of a province, the Governor of a district, the local head or a town or village or the chief of a tribe in whose jurisdiction such traffic or exploitation has been carried on,

is punishable, where he has been negligent, with fine which, according to the circumstances, may be increased up to the special maximum specified above.

Art. 567. — Slave Trading: Bands or Associations.

Where the injury to liberty, whether by intimidation, trickery, coercion, abduction, illegal restraint, enslavement, traffic or exploitation in one of the above forms, is the work of an association or band formed to engage in, or engaging in, the slave trade, no matter in what form, such band or association shall be punishable with a fine not exceeding fifty thousand dollars and its dissolution shall be ordered.

This penalty is without prejudice, to the punishment applicable to the offender or offenders on the count of their personal criminal guilt.

Chapter 2. — OFFENCES AGAINST OTHER PERSONS RIGHTS

Art. 568. — Restraint of the Free Exercise of Civil Rights.

(1) Whosoever, by intimidation, violence, fraud or any other unlawful means:

- (a) prevents a person from exercising his civil rights, especially his rights as a father or a guardian, his right to bring a legal action or to appear before the courts; or
- (b) compels him to exercise such rights in a particular way, is punishable with simple imprisonment or fine.

(2) The restraint of the free exercise of political rights is punishable under the special provision of this Code (Art. 461).

Art. 569. — Violation of the Right of Freedom of Movement.

(1) Whosoever, not being authorized by law so to do prevents another from moving freely within the Empire,

is punishable with simple imprisonment or fine.

(2) Where the offender is a public servant, he shall be punished under the relevant provision (Art. 414).

Art. 570. — Violation of the Right of Freedom to Work.

(1) Whosoever, by intimidation, violence, fraud or any other unlawful means, whether alone or with others, compels another:

(a) to accept a particular employment or particular conditions of employment, or to refuse or withhold his labour, with the object of imposing on an employer by force the acceptance or modification of terms of employment; or

(b) to join a group or association having as its aim the objects mentioned in (a); or anyone who prevents another from freely leaving such a group or association,

is punishable, upon complaint, with simple imprisonment or fine.

(2) Where the person or persons causing intimidation or violence were carrying weapons or instruments, or where the prevention or coercion are the work of a large group, the court shall impose both simple imprisonment and fine.

Art. 571. — Violation of Privacy of Domicile.

(1) Whosoever, in contravention of the law:

(a) forcibly enters, against the wishes of the lawful occupant, a house, premises, boat or any other place used for living in, or outbuildings, a compound, a courtyard or a garden abutting on a house or dwelling and forming part thereof; or

(b) forcibly enters the premises, offices, storehouse or yards of an undertaking, company or body corporate, even though not inhabited; or

(c) having entered premises, without opposition from or with the agreement of the lawful occupant, remains there when called upon by him to leave,

is punishable with simple imprisonment or fine.

(2) Where the violation is committed by a member of the police force who is not authorized to take such action, or who does so in violation of legal safeguards and formalities, the special provision (Art. 415) shall apply.

Art. 572, — Aggravation to the Offence.

The punishment for violation of protected premises shall be rigorous imprisonment not exceeding five years:

- (a) where the offender was armed, made use of threats or resorted violence; or
- (b) where the violation was committed by a member of persons acting in common; or
- (c) where the offence was committed by a person holding himself out to be a public servant.

Art. 573. — Violation of the Privacy, Interception or Appropriation of Correspondence or Consignments.

(1) Whosoever, without lawful authority:

(a) deliberately opens a closed letter or envelope, whether it be correspondence, telegrams, business papers or private communications, or a packet, parcel or consignment of any kind; or

(b) having learned of certain facts by opening, even by mistake, inadvertence or negligence, such a closed envelope or parcel not addressed to him, divulges such facts or derives a gain therefrom,

is punishable, upon complaint, with a fine not exceeding one thousand dollars, or, according to the circumstances, with simple imprisonment not exceeding three months.

(2) Whosoever intentionally and unlawfully intercepts, retains or divert from their true destination such correspondence or packages, is liable to the same punishments, where his act does not constitute a specific offence punishable more severely.

(3) Nothing in this article shall affect the stricter provisions relating to breach of secrecy, and to the unlawful disposal or appropriation of correspondence or packets, by public servants (Art. 405, 421 and 422).

TITLE III

OFFENCES AGAINST HONOUR

Chapter 1. — GENERAL PROVISIONS

Art. 574. — Principle.

(1) Offences against honour or reputation, committed in one of the forms specified in the following Articles, are punishable no matter what the rank or

social status of the offender or of the injured party.

They may be committed against individuals, or corporate bodies or institutions. In the case of individuals, they may be committed equally against living persons, against deceased persons or against persons declared missing.

(2) In determining the punishment for the different offences, the court shall take into account the gravity of the offence, the position of the injured party or institution and the extent of the publicity or circulation involved in the offence.

Art. 575. — *Means of Commission.*

Injury to honour, direct or indirect, is punishable whether committed by word of mouth or by sound, in writing, by image, drawing, sign or other means, by gesture or behaviour, or in any other way whatsoever.

Indirect means of offence or circulation by any process of recording reproduction, emission, communication or projection, graphical, visual or aural, rank with natural and direct means.

Art. 576. — *Offences committed by Body Corporate.*

(1) Where the offence is committed by a body corporate, a public body or an institution, the pecuniary penalty is inflicted thereupon.

The penalty or deprivation of liberty is replaced by measures of legal suspension, prohibition or dissolution (Art. 147), which shall in each case be specified in the judgment.

(2) The penalty inflicted upon a body corporate whose officers have committed an injury to the honour or reputation of another, does not prevent the punishment of its directors, managers, inspectors, agents, proxies or members who have committed an offence of the same kind.

Art. 577. — *Compensation.*

(7) Damages for the injury done to the injured party, and in particular for the moral wrong suffered, shall be fixed by the court in accordance with the general provisions (Art. 100), having regard to the gravity and extent of the offence and to the positions of the offender and the injured party.

(2) The moral reparation ordered by the court, especially in the form of publication of the judgment, of a part thereof or of its operative part (Art. 159), shall be determined in the light of the same considerations, and shall be adapted to the degree of protection called for in each specific case.

Such moral reparation may be effected by the same means, in the same forms and in the same places as those used to effect or circulate the injury to honour especially through the Press, by placarding, or through the cinema, the radio, television or any other means of mass diffusion

Art. 578. — *Immunity.*

Members of the legislature the executive or the judges are not susceptible to legal proceedings on the ground of injury to honour done by information or statements, correct as to form, given or made by them in conformity with their duties and in the regular discharge of their duties.

Art. 579. — *Non-punishable Comment and Averments.*

The following are not punishable as injury to honour;

- (a) considered opinions and reasoned or well-founded criticism, couched in proper and moderate terms, concerning personal aptitudes or artistic, literary, scientific, professional or social activities, creations or productions; or
- (b) averments, statements or comments uttered or repeated by a public servant or by an advocate or attorney, by an expert or witness, by a journalist or by any other person acting in good faith in the discharge of his duties, especially by way of investigations, reports or depositions, in the defence before court or before the administrative authorities. or by way of authorized public information service, where the alleged facts are germane to and remain within the confines thereof and where they are not uttered with express intent to discredit .

Chapter 2. — SPECIFIC PROVISIONS: INJURY TO HONOUR

Art. 580. — *Defamation and Calumny.*

- (1) Whosoever, addressing a third party or parties, imputes to another an act, a fact or conduct such as to injure his honour or reputation, is punishable for defamation.

The offence is completed by direct imputation or charge or by spreading of defamatory allegations.

Statements concerning an offence or sentence duly served or pardoned are also punishable under this Article.

The author of the defamation is punishable with simple imprisonment not exceeding six months, or fine.

- (2) Where the defamatory imputations or allegations constituting the injury to

honour or reputation are false and are uttered or spread with knowledge of their falsity, the offender is punishable for calumny with simple imprisonment for not less than one month and fine.

Where the offender has acted with deliberate intent to ruin the victim's reputation, simple imprisonment shall be for not less than three months.

(3) False accusation or denunciation to the authorities is punishable under the special provision (Art. 441) and is not liable to any concurrent penalty.

Art. 581. — *Truthful Assertions and Safeguarding of Higher Interest Excepted.*

(1) A person charged with defamation cannot in general plead in defence that he acted without intent to injure, or that he confined himself to repeating even though not believing them, allegations emanating from another, or that it was a matter of common knowledge, or that he uttered suspicions or conjectures.

(2) However, he shall not be liable to punishment if he can prove:

(a) that the allegations deemed injurious to the honour or reputation of another accord with the truth, and that he had definite and sound grounds for believing them in good faith to be true; or

(b) that he acted in the public interest, or that he was actuated by a moral aim.

Proof of truth or good faith may be adduced by any evidential means admissible under the Code of Criminal Procedure.

(3) Where the offender is convicted of calumny he may in no case exculpate himself by invoking a lawful or higher interest.

Art. 582. — *Protection of Private Life.*

A person charged with defamation shall not be permitted to provide proof of the truth of his allegations or of the fact that he acted in good faith, and is accordingly punishable, where the allegations referred solely or mainly to the victim's private or family life and were not dictated by the need to safeguard a lawful higher interest, but were principally inspired

with a mind to gain or scandal, by a desire to harm or to take revenge, or by any other similar feeling.

Art. 583. — *Insulting Behaviour and Outrage.*

Whosoever, directly addressing or referring to the victim, offends him in his honour

by insult or injury, or outrages him by gesture or blows or in any other manner, is punishable with simple imprisonment not exceeding three months, or a fine not exceeding three hundred dollars, except where the act is of

such little account as to justify the application of the relevant provision of the Code of Petty Offences (Art. 798).

Art. 584. — *Provocation and Retaliation.*

(1) The court may impose no punishment where a person charged with insulting behaviour or outrage has been provoked or carried away by an attitude, conduct or acts, even towards a third party, which are manifestly so shocking, offensive or reprehensible as to make his act excusable.

(2) Where the injured party has at once replied to an insult or outrage whether verbal or physical, in kind, the court may, according to the circumstances, exempt from punishment both offenders or the retaliator alone.

Art. 585. — *Withdrawal.*

(1) Where, during the proceedings, a person charged with an injury to honour withdraws his allegations and expresses his regrets, either in writing or orally before the court or before witnesses testifying thereof, the court may mitigate the penalty (Art. 184).

(2) The court shall in all cases deliver formal attestation of the withdrawal to the interested party, for all appropriate purposes.

Art. 586. — *Aggravation to the Offence and Special Cases.*

(1) Where the defamation or calumny, insult or outrage, have been deliberately committed against a public servant in the discharge of his duties, the offender is punishable:

(a) with simple imprisonment not exceeding six months or a fine not exceeding five hundred dollars, in cases of insult or outrage;

(b) with simple imprisonment from one month to one year and fine in cases of defamation; or

(c) with simple imprisonment for not less than three months in cases of calumny. Where, in such cases, the offender has acted with deliberate intent to ruin the victim's reputation, simple imprisonment shall be for six months at least, and a fine shall be imposed in addition.

(2) Nothing in this article shall affect the special provisions relating to injury to the

honour of the Emperor or the constitutional authorities (Art. 256), to insults to foreign States and inter-State institutions (Art. 276 and 278), to insults to a military superior (Art. 310) and to contempt of court (Art. 443).

Art. 587. — *Common Proceedings end Complaints.*

Proceedings shall be taken in respect of insulting behaviour and outrage, defamation and calumny, and such offences shall be punished, only upon complaint by the individual or body corporate injured.

Art. 588. — *Proceedings in respect of Injury to the Honour of Missing or Deceased persons.*

(1) Where any of the injuries to honour punishable under this chapter relates to a deceased person, to a person who has disappeared, or to a person legally declared absent, the right to lodge a complaint and demand a conviction lies exclusively with his descendants, natural or adopted, and with his spouse, or, in their default, with his brothers, natural or legal, and with his brothers and sisters.

(2) Limitation of the action, in respect of injury to private honour, is regulated by the general provisions.

Where the allegations constituting the injury to the memory of the person affected refer to a public activity of any kind which has passed into the historical, artistic, literary or scientific domain, the complaint shall not be admissible if, at the time when the incriminating act is committed, thirty years or more have elapsed since the death of the injured person or since he was legally declared missing.

TITLE IV

OFFENCES AGAINST MORALS AND THE FAMILY

Chapter I. — OFFENCES AGAINST MORALS

Section I. — Injury to Sexual Liberty and Chastity

Art. 589.— *Rape.*

(1) Whosoever compels a woman, to submit to sexual intercourse outside wedlock, whether by the use of violence or grave intimidation, or after having rendered her unconscious or, incapable of resistance,

is punishable with rigorous imprisonment not exceeding ten years. rigorous imprisonment shall not exceed fifteen years where the rapt is committed:

- (a) on a child under fifteen years of age: or
- (b) on an inmate of a hospital, alms-house or asylum, or any establishment of education, correction, internment or detention, who is under, the supervision or control of or dependant upon the accused person; or
- (c) by a number of persons acting in concert.

Art.590. — *Sexual outrages accompanied by violence.*

Whosoever, by the use of violence or grave intimidation, or after having in any other way rendered his victim incapable of offering resistance, compels a person of the opposite sex, outside wedlock, to perform or to submit to an act corresponding to the sexual act, or any other indecent act,

is punishable with rigorous imprisonment not exceeding eight years, or with simple imprisonment for not less than six months.

Art.591. — *Sexual outrages on unconscious or deluded persons, or on persons incapable of resisting.*

(1) Whosoever, knowing of his victim's incapacity, but without using violence or intimidation, has sexual intercourse, or commits a like or any other indecent act, outside wedlock, with an idiot, with a feeble-minded, insane or unconscious person, or with a person who is for any other reason incapable of understanding the nature of the act,

is punishable, according to the gravity of the case, with rigorous imprisonment not exceeding five years, or with simple imprisonment for not less than three months.

(2) The same punishments apply to anyone shown to have committed such an act by misrepresentation.

Art. 592. — *Sexual outrages on persons in hospital, interned or under detention.*

Whosoever, by taking advantage of his position, office or state, has sexual intercourse or performs an act corresponding to the sexual act or any other indecent act with an inmate of a hospital, an alms-house or an asylum, or any establishment of education, correction, internment or detention, who is under his direction, supervision or authority,

is punishable, according to the seriousness of the case, with rigorous imprisonment not exceeding five years, or with simple imprisonment for not less than one month.

Art. 593. — *Taking advantage of the distress or dependance of a woman.*

Whosoever, apart from the cases specified in the preceding article, procures from a woman sexual intercourse or any other indecent act by taking advantage of her material or mental distress or of the authority he exercises over her by virtue of his position, function or capacity as protector, teacher, master or employer, or by virtue of any other like relationship,

is punishable; upon complaint, with simple imprisonment.

Art. 594. — *Sexual outrage on infants or young persons.*

- (1) Whosoever causes an infant or young person under fifteen years of age, other than his own child, to have sexual intercourse, or to perform an act corresponding to the sexual act, with him,

is punishable with rigorous imprisonment not exceeding five years.

- (2) Whosoever commits any other indecent act upon an infant or young person, induces him to perform such an act, or deliberately performs such an act in his presence,

is punishable, according to the circumstances, with rigorous imprisonment not exceeding five years or with simple imprisonment for not less than three months.

- (3) The punishment shall be rigorous imprisonment and shall not exceed eight years, where the victim is:

(a) ,the pupil, apprentice, school boarder or domestic servant of the offender, or is in any other way directly dependant upon or subordinate to him; or

(b) the offender's adopted child, the child of his spouse, his ward or a child entrusted to his custody or care.

Art. 595. — *Sexual outrages on minors between fifteen and eighteen years of age.*

- (1) Whosoever has sexual intercourse or performs an analogous act with a minor of the opposite sex of more than fifteen and of less than eighteen years of age,

is punishable with simple imprisonment.

- (2) .Where the minor is the adopted child of the offender, the child of his spouse, or his ward, pupil, apprentice, school hoarder or domestic servant, or has been entrusted to his custody or care or is in any other way dependant upon him or

under his authority, the punishment shall be rigorous imprisonment not exceeding five years or simple imprisonment for not less than three months.

- (3) Where the offender performed or induced his victim to perform any other indecent act the punishment shall be simple imprisonment for not less than one month.

Art. 596. — Seduction.

Whosoever, by taking unfair advantage of the inexperience or trust of a female minor between fifteen and eighteen years of age, induces her to have sexual intercourse with him, whether by promise of marriage, trickery or otherwise,

is punishable, upon complaint, with simple imprisonment.

Art. 597. — Immunity from punishment of infants or young persons seduced or led astray.

- (1) In all cases of sexual outrage, the infant or young person seduced or victim of the actions of an adult accused person is not liable to punishment.

Appropriate measures of re-education and supervision may be ordered in respect of the infant or young person.

- (2) Where the infant or young person's behaviour has encouraged or provoked the accused person to commit the offence, the relevant extenuating circumstance (Art. 79 (d)) may be applied.

Art. 598. — Aggravations to the Offence.

In all cases involving a charge of sexual outrage, the punishment shall be rigorous imprisonment from three to ten years where the relevant provision does not prescribe a more severe penalty:

- (a) where the offender *uses* violence, intimidation or coercion or in any other way renders the victim incapable of resisting (Art. 591-595) or subjects his victim to acts of cruelty or sadism; or
- (b) where he makes her pregnant or transmits to her a venereal disease with which he knows himself to be infected; or
- (c) where the outrage drives the victim to commit suicide from distress, shame or despair.

Art. 599. — Non-prosecution in the event of subsequent marriage.

Where the victim of rape, indecent assault or seduction, or abuse of her state of distress or dependance upon another, freely contracts a marriage with the

offender, and where such marriage is not declared null and void, no prosecution shall follow.

Where proceedings have already taken place and have resulted in a conviction, the sentence shall terminate forthwith.

Section II. — Sexual Deviations

Art. 600. — Unnatural Carnal Offences.

- (1) Whosoever performs with another person of the same sex an act corresponding to the sexual act, or any other indecent act, is punishable with simple imprisonment.
- (2) The provisions of Art. 597 are applicable where an infant or young person is involved.

Art. 601. — Aggravation to the Offence.

- (1) The punishment shall be simple imprisonment for not less than three months, or, in grave cases, rigorous imprisonment not exceeding five years, where the offender:
 - (a) takes unfair advantage of the material or mental distress of another or of the authority he exercises over another by virtue of his position, office or capacity as tutor, protector, teacher, master or employer, or by virtue of any other like relationship, to cause such other person to perform or to submit to such an act; or
 - (b) makes a profession of such "activities within the meaning of the law (Art. 90).
- (2) The punishment shall be rigorous imprisonment from three to ten years, where:
 - (a) the offender uses violence, intimidation or coercion, trickery or fraud, or takes unfair advantage of the victim's inability to offer resistance or to defend himself or of his feeble-mindedness or unconsciousness; or
 - (b) the offender subjects his victim to acts of cruelty or sadism, or transmits to him a venereal disease with which he knows himself to be infected; or
 - (c) the offender, being an adult, commits the offence with which he is charged on an infant or young person under fifteen years of age; or
 - (d) the victim is driven to suicide by distress, shame or despair.

Art. 602. — Other Unnatural Acts.

Whosoever has sexual intercourse with an animal, is punishable with simple imprisonment.

Art. 603. — Demonstrable Pathological Deviations reserved.

Nothing in this section shall prevent the application of curative or protective measures (Art. 134 and 135) in pathological cases where, according to expert opinion, the offender is partially irresponsible.

Section III. — Exploitation of the immorality of others

Art. 604. — *Habitual Exploitation for Pecuniary Gain.*

Whosoever, for gain, makes a profession of or lives by procuring or on the prostitution or immorality of another, or maintains, as a landlord or keeper, a disorderly house,

is punishable with simple imprisonment and fine.

Art. 605. — *Traffic in Women, Infants, and Young Persons.*

Whosoever, for gain, or to gratify the passions of another:

(a) traffics in women or infants and young persons, whether by seducing them, by enticing them, or by procuring them or otherwise inducing them to engage in prostitution, even with their consent; or

(b) keeps such a person in a disorderly house or to let her out to prostitution,

is punishable with rigorous imprisonment not exceeding five years and a fine not exceeding ten thousand dollars, subject to the application of more severe provisions, especially where there is concurrent illegal restraint.

Art. 606. — *Aggravation to the Offence.*

In cases of professional procuring or traffic in persons, rigorous imprisonment shall be from three to ten years, and the fine shall not exceed twenty thousand dollars:

(a) where the victim is under fifteen years of age; or

(b) where the victim is the wife or a descendant of the offender, his adopted child or the child of his spouse, his brother or his sister, or his ward, or where the victim has been entrusted, on any grounds whatsoever, to his custody or care; or

(c) where the offender has taken unfair advantage of the physical or Mental distress of his victim, or of his position as protector, employer, teacher, landlord or creditor, or of any other like situation; or

(d) where the offender has made use of trickery, fraud, violence, intimidation or coercion, or where he has misused his authority over the victim; or

(e) where the victim is intended for a professional procurer, or has been taken abroad or where the victim's whereabouts or place of abode call not be

established; or

(f) where the victim has been driven to suicide by shame, distress or despair.

Art. 607.— Organisation of Traffic in. Persons.

whosoever makes arrangements or provisions of any kind for the traffic in women or infants and young persons,

is punishable with simple imprisonment or, according to the circumstances of the case, especially where a professional procurer is involved or where the arrangements are fully made and intended to apply to many victims, with rigorous imprisonment not exceeding three years, and a fine which shall be for not less than five hundred dollars in grave cases.

Section IV. — Offences tending to corrupt Morals

Art. 608. — Public Indecency and Outrages against Morals.

(1) Whosoever, in a public place or in sight of the public, deliberately performs the sexual act or any other obscene act or gesture grossly offensive to decency or morals,

is punishable with simple imprisonment not exceeding six months, or a fine not exceeding one thousand dollars.

(2) Where the offender has knowingly performed the act complained of in the presence of infants or young persons, simple imprisonment shall not exceed the general legal maximum.

Art. 609. — Obscene or Indecent Publications.

(1) Whosoever:

(a) makes, imports or exports, transports, receives, possesses, display in public, of fern for sale or hire, distributes or circulates writing images, posters, films or other objects which are obscene or grossly indecent, or in any other way trafficks or trades in them; or

(b) advertises, indicates or makes known, by any means, how or from whom such objects may be procured or circulated, either directly or indirectly,

is punishable with simple imprisonment or fine, without prejudice to the forfeiture and destruction of the incriminating material.

(2) Simple imprisonment shall be for not less than one month, and the fine, according to the circumstances, shall not exceed ten thousand dollars, where the offender:

(a) habitually engages in or carries on such traffic; or

(b) knowingly exhibits, hands over or delivers such objects to an infant or

young person for a consideration.

Art. 610. — *Obscene or Indecent Performances.*

The punishments specified in the preceding Article are applicable to anyone who organizes or gives public auditions or performances, in a theatre or in a cinema, by projection or by broadcast, or in any other way, which are obscene or grossly indecent.

Art. 611. — *Lawful Works.*

Works or objects purely artistic, literary or scientific in character which are not calculated to inflame erotic feelings or lust, are not held to be obscene or indecent.

Art. 612. — *Indecent Publicity and Advertisements.*

Whosoever advertises, -exposes to public view or sends to the homes of persons not having solicited them or having no professional interest in them, indecent or immoral objects, products or works,

is punishable, upon complaint, with a fine not exceeding five hundred dollars.

Art. 613. — *Protection of Infants or Young Persons.*

Whosoever, for gain or to provoke:

(a) publicly displays in a shop window, in a booth or in any other place visible from without, writings, images or objects such as to stimulate unduly, to pervert or to misdirect the sexual instinct, or to arouse or to stimulate unduly brutal or bloodthirsty instincts, or anti-social feelings or feelings which are inimical to the family spirit, in infants or young persons; or

(b) knowingly offers, lends, gives or sells such objects, images or writings to an infant or young person,

is punishable with fine, or, in more serious cases, with simple imprisonment not exceeding three months, without prejudice to the forfeiture of the incriminating material where appropriate.

Chapter II. — OFFENCES AGAINST THE FAMILY

. Section I. — *Offences against the Institution of Marriage*

Art. 614. — *Fraud and Deceit in Marriage.*

(1) Whosoever intentionally, in contracting or in order to contract a marriage, conceals from his spouse a fact that would annul or invalidate the marriage on

one of the grounds specified by civil law, is punishable, upon complaint, with simple imprisonment or fine.

(2) No proceedings may be instituted unless the marriage has been annulled.

(3) Whosoever procures a marriage by means of intentional misrepresentation, error, fraud or deceit, is punishable, upon complaint, with simple imprisonment not exceeding one year, or fine.

Art. 615. — Solemnization of an Unlawful Marriage.

Whosoever intentionally lends his offices, religious or civil, to the solemnization of a marriage forbidden by law,

is punishable with simple imprisonment or fine.

Art. 616. — Bigamy.

(1) Whosoever, being tied by the bond of a valid marriage, intentionally contracts another marriage before the first union has been dissolved or annulled,

is punishable with simple imprisonment, or, in grave cases, and especially where the offender has knowingly misled his partner in the second union as to his true state, with rigorous imprisonment not exceeding five years.

(2) Any unmarried person who marries another he knows to be tied by the bond of an existing marriage, is punishable with simple imprisonment.

(3) Limitation of criminal proceedings is suspended until such time as one of the two marriages shall have been dissolved or annulled.

Art. 617. — Exception.

The preceding Article shall not apply in cases where polygamy is recognized under civil law in conformity with tradition or moral usage.

Art. 618. — Adultery.

(1) A spouse bound by a union recognized under civil law who commits adultery, is punishable, upon complaint by the injured spouse, with simple imprisonment or fine. The same punishment is applicable to the partner.

Where the complainant has provoked the adultery, consented to it, condoned it or derived profit from it, no proceedings shall follow.

(2) The court may without restriction mitigate the punishment (Art, 185) where, at the time at which the adultery was committed, the two spouses had already ceased to cohabit, or where the complainant him-self has committed adultery or has been

guilty of any other conduct constituting legal ground for divorce or separation. Where the offender, being of the Christian faith, installs a concubine in the conjugal home while not divorced or separated from or abandoned by his wife, simple imprisonment shall be for not less than three months.

Art. 619. — *Death of Complainant.*

The death of the complainant extinguishes the criminal proceedings. Where these have been instituted and sentence pronounced, the court may, by a decision stating the reasons thereof, order the termination of the punishment of deprivation of liberty where the circumstances, especially the convicted person's liabilities, as head of a family or as the person supporting it, justify such a course.

Art. 620. — *Aggravation to the Offence.*

Where adultery is committed with an infant or young person, the protective provisions relating to sexual outrages on infants and young persons (Art. 594) apply concurrently.

Section It. — Sexual Offences between Relatives

Art. 621. — *Incest.*

- (1) Performance of the sexual act, knowingly and intentionally, between ascendant and descendant, between brother and sister, or between any persons whose marriage is forbidden by the civil law on grounds of blood relationship,

is punishable with simple imprisonment for not less than three months, or, according to the circumstances, with rigorous imprisonment not exceeding three years. The court may in addition deprive the offender of his family rights.

- (2) Where the offender has committed incest with an infant or young person, the punishment is rigorous imprisonment not exceeding ten years.

The infant or young person shall not be subject to punishment where he has been seduced by a person of full age. The necessary measures of protection, supervised education or correction shall be ordered in his regard.

Art. 622. — *Indecent behaviour between relatives.*

Where they constitute an unnatural carnal offence or are practised with or committed upon an infant or young person, acts corresponding to the sexual act and other indecent acts between ascendant and descendant or between brother and sister, are punishable, where they cause a public scandal, with simple

imprisonment for not less than six months, or, in more serious cases, with rigorous imprisonment not exceeding eight years.

Section III. — Offences against Compulsory Registration and Family Duties

Art. 623. — Omission to register the Birth of an Infant.

(1) Relatives, doctors, midwives or the directors or administrative officers of medical institutions or clinics who fail to register the birth of a new-born infant with the appropriate civil authority,

are punishable with a fine not exceeding five hundred dollars, or with simple imprisonment not exceeding one month.

(2) Whosoever, finding a new-born infant abandoned, fails to report it to the civil authority, is liable to the same punishment.

Art. 624. — False Registration, Supposition and Substitution of Infants.

Whosoever suppresses or falsifies the civil status of another, especially:

(a) by falsely registering the birth of an infant to a woman who has not been delivered, or by making false statements concerning the birth; or

(b) by deliberately substituting one infant for another,
is punishable with simple imprisonment, or, in cases entailing or likely to entail grave foreseeable consequences, especially in cases of substitution, with rigorous imprisonment not exceeding five years.

Art. 625. — Failure to Maintain.

Whosoever, without good cause:

(a) refuses or omits to provide the allowances, necessities of life or maintenance which he owes, by virtue of family rights or of a judicial decision, to his ascendants or descendants, or to his spouse, even where divorced; or

(b) fails to meet the financial obligations he has incurred, by virtue of law, of a judicial decision or of a formal undertaking, towards a woman whom he has made pregnant out of wedlock or towards his natural child,

is punishable, upon complaint, with fine, or with simple imprisonment not exceeding six months.

Art. 626. — Failure to bring up.

(1) A parent or the person exercising paternal authority, who, for gain or in

dereliction of his duty:

(a) grossly neglects the children under his charge and abandons them without due care and attention or to moral or physical danger; or

(b) entrusts a child for a long time to a person, an organization or an institution with whom or where he knows, or could have foreseen, that it will be reduced to physical or moral destitution, or will be physically or morally endangered,

is punishable with simple imprisonment or fine. In grave cases, the Court may in addition deprive the offender of his family rights.

(2) Where the child has suffered injury, whether foreseen or calculated, whether by abuse of the right to administer chastisement or through ill-treatment, the relevant provision shall apply concurrently with this article (Art. 63).

BOOK VI OFFENCES AGAINST PROPERTY

TITLE I

OFFENCES AGAINST RIGHTS IN PROPERTY

Chapter I. — GENERAL PROVISIONS

Art. 627. — *Principles.*

- (1) Any interference with property and economic rights or rights capable of being calculated in money forming a part of the estate of another shall be punished in accordance with the following provisions, except where the interference is of such minor importance as to be subject to the provisions and sanctions regarding petty offences.
- (2) Both public and private estates are protected. Damage to rights in property within the meaning of this Code is constituted by any injury or prejudice suffered in comparison with the normal situation in the absence of the offence.

Art. 628. — *Unlawful or Unjustifiable Enrichment.*

- (1) Where the law requires, in order that there be an offence, that the offender shall have acted with intent to procure the unlawful enrichment of himself or of a third person, there is a presumption that the act was done in order to obtain a benefit or an unjustifiable advantage.
- (2) In such event, the offence is completed from the time when such special intent, joined to the material elements, is proved, notwithstanding that the

intended enrichment has not taken place.

Repayment or the *making* good of the damage, even if unsolicited, after such time, does not vitiate the offence, but the court may take account thereof in determining the sentence (Art. 79 (e)).

Art. 629. — *Proceeding in the event of on offence within the family.*

(1) Except in the case of offences involving violence or coercion, such as robbery, extortion or blackmail, where an offence has been committed;

(a) by an ascendant or descendant, natural or adoptive, by a spouse not separated, by a guardian or a person holding paternal authority or a ward, or by brothers or sisters of the whole blood or of the half blood, or

(b) by relations living with the victim,
proceedings may only be taken and sentence awarded upon the complaint of the victim.

In the event of a complaint, the court shall assess the punishment in accordance with the general provisions, taking into account the special circumstances and the degree of guilt of the offender.

(2) The absence of a complaint against a relative or relation as defined above shall not act as a bar to proceedings, in normal circumstances, against accessories not *enjoying* the same personal situation (Art.40).

Chapter II.— OFFENCES AGAINST PROPERTY

Section I.— Offences against Movable Property

Art. 630. — *Theft.*

Whosoever, with intent to obtain or to procure to a third person an unlawful enrichment, abstracts a movable or a thing detached from an immovable, the property of another, whether by taking and carrying or by direct appropriation, or by having it pass indirectly to his own estate.

is punishable with simple imprisonment, or, according to the gravity of the case, with rigorous imprisonment not exceeding five years.

Art 631— *Abstracting Power.*

Whosoever, with intent to enrich himself or a third person, abstracts power, whether gas, steam, electrical or other energy, from an installation or conduit belonging to another,

is punishable for theft under Art. 630.

Art. 632. — *Abstraction of Things jointly aimed.*

(1) Whosoever, with intent of enrichment as defined above, abstracts a thing which he owns jointly with another, whether as co-owner, partner or heir.

is punishable, on complaint, with simple imprisonment or fine.

(2) The offender may, however, not be convicted where consumable things are abstracted in an amount not exceeding that due to him.

Art. 633. — *Abstraction to the detriment of a Deceased Person.*

Whosoever, with intent of enrichment as defined above, abstracts from a tomb or vault objects buried with a deceased person, is punishable for theft under Art. 630.

Art. 634. — *Petty Abstraction.*

Petty abstraction of the property of another, in particular petty theft, raiding and pilfering, is liable to the provisions regarding petty offences (Art. 806 and 807).

Art. 635. — *Aggravated Theft.*

Simple imprisonment shall be of not less than three months, and rigorous imprisonment, if to be ordered, shall not exceed ten years, according to the gravity of the offence, in the following cases where the act is aggravated by the object, the personal status or the circumstances surrounding the theft:

(1) Where the offence relates to:

(a) sacred or religious objects, or objects of scientific, artistic or historical value, in churches or museums or other public buildings or buildings open to the public; or

(b) objects, implements, animals or crops without special protection, or objects, goods or consignments in deposit or in a firm or public office, in particular post offices or transport offices.

(2) Where the offence has been committed:

(a) by a member of the armed forces, against the person with whom he is lodged or billeted, against his fellows or superiors, or against the army and objects belonging to or destined to the army; or

(b) by a public servant, or by a business man, banker, attorney, notary, advocate, agent, representative or manager in the exercise of their functions and relating to public or private objects available to them by

reason of their special status ,or

(c) by an innkeeper, landlord, carrier, porter or other similar person, against a client, or

(d) by a servant, employee or apprentice taking advantage of his status to the detriment of the employer.

(3) Where the offender:

(a) is a habitual thief or habitually commits other offence against property, or

(b) has acted as a member of a group formed to commit similar offences, or

(c) in any other circumstances showing that he is especially dangerous. in particular where he carries arms or house-breaking instruments, of assault or defence, where he has usurped the status of a public servant, where he has acted at night, by climbing over or breaking in, with a group, or under cover of an emergency, public disturbance or a disaster, such as a riot, a fire or a flood.

Art. 636. — Robbery.

Whosoever, with intent to commit theft, or taken in the act of committing theft, uses violence or direct and grave intimidation towards a person or otherwise renders such person incapable of resisting, is punishable with rigorous imprisonment not exceeding fifteen years.

Art. 637. — Aggravated Robbery.

(1) Where, in any of the circumstances provided in Article 636, the offender who is charged for an act of robbery:

(a) is a member of a gang formed in order to commit acts of violence against persons or property; or

(b) habitually commits acts of robbery or other offences against property; or

(c) has directly and seriously threatened his victim with death, in particular by means of arms or of a dangerous weapon, or by submitting him to suffering or grave bodily injury, or

(d) in any other circumstances showing that he is particularly dangerous,

the offender is punishable with rigorous imprisonment from five to twenty years.

(2) The court may order rigorous imprisonment for life, or in the most serious cases,

the death penalty, where the offender has acted together with a gang, used dangerous weapons, means imperilling collective security or means of particular cruelty, or where the acts of violence committed have resulted in permanent disability or death.

Armed robbery committed habitually by a gang is punishable with death.

Art 638. — *Looting.*

Whosoever commits acts of looting:

- (a) particularly of food, provisions, supplies, machines or property of special value to the life of the population or the economy or progress of the country; or
- (b) on the occasion of disasters on land, at sea or in the air, such as collision, forced landing or shipwreck,

is punishable, according to the circumstances of the case for ordinary or aggravated robbery (Art. 636 or 637).

Art. 639. — *Piracy.*

Whosoever, at sea, commits an act of piracy, is punishable, according to the circumstances of the case, for ordinary or aggravated robbery (Art. 636 or 637).

Art. 640. — *Special Law.*

Robbery, looting or piracy committed in wartime in breach of the law of nations, are dealt with in accordance with the special provisions relating thereto (Art. 285).

Art. 641. — *Breach of Trust.*

- (1) Whosoever, with intent to obtain or to procure to a third person an unjustifiable enrichment,
 - (a) appropriates, in whole or in part, a thing which is the property of another and which had been entrusted to him for a specific purpose, or
 - (b) unlawfully uses to his own benefit or that of a third person a sum of money or an unascertained consumable thing, whether a liquid, grain or timber or any other similar substance, entrusted to him,

is punishable with simple imprisonment, or, according to the gravity of the case, with rigorous imprisonment not exceeding five years.

- (2) Property of another includes sums received by the offender in consideration of

a thing entrusted to him for sale, exchange or other specific purpose, as well as property obtained by him through a sum of money or a thing entrusted to him with a view to the exercise of such a specific act.

- (3) The Court may hold the intent to unlawfully dispose or appropriate as proven where the offender is unable upon call, to produce or repay the thing or sum entrusted, or at the time when he should have returned it or accounted therefor.

Alt. 642. — *aggravated Breach of Trust.*

Punishment shall be simple imprisonment for not less than three months, and rigorous imprisonment, if ordered, shall not exceed ten years where:

- (a) the offender has improperly exercised a full power entrusted to him, in order to create an obligation, discharge or any other act capable of imperilling the rights in property of the signatory; or
- (b) the breach of trust was aggravated by the special status of the offender, in particular where he has acted as -an official or member of a public authority, or as a guardian or curator, director, liquidator, legal or financial adviser, attorney, agent, administrator of estates, advocate or in the exercise of a profession subject to the approval of the public authorities; or
- (c) the offence has been committed by a person making an offer to the public to subscribe in order to obtain for himself or on behalf of a banking, commercial or industrial company or undertaking, the transfer of funds or securities for deposit, on commission or in hypothecation; or
- (d) the offender has misappropriated or made away with funds, assets, securities, documents, arms, ammunition, supplies, equipment, provision, or any thing whatsoever the property of or intended for the Armed forces, or a national public service, and which were entrusted to him.

Art. 643. — *Misappropriation,*

Whosoever, with intent to obtain or to procure to a third person an unjustifiable enrichment, appropriates:

- (a) either a thing the property of another and of which he has come into possession by mistake, accident, the operation of natural forces such as wind or water or in any other manner independently of the will of the owner; or
- (b) an animal, the property of another, which has strayed into his possession,

is punishable, upon complaint, with simple imprisonment or fine.

Art. 644. — *Unlawful use of the Property of another.*

Whosoever, without intent to enrich himself or a third person removes a thing from the owner, in order to deprive the owner thereof or to defraud him, or to make temporary use thereof for his own benefit or that of a third person,

is punishable, upon complaint, with a fine not exceeding five hundred dollars or, in cases of exceptional gravity, with simple imprisonment not exceeding one year.

Art. 645. — *Misappropriation of Lost Property.*

(1) Whosoever, without notifying the authorities or taking the necessary steps to trace the lawful holder, appropriates lost property which he has found,

is punishable, upon complaint, with a fine not exceeding five hundred dollars, or according to the gravity of the case, with simple imprisonment not exceeding one year.

(2) Whosoever finds a treasure and appropriates it without making the necessary declaration with a view to its assignment to the State as provided by the law, or the assignment of a part thereof to the property owner, is liable to the same punishments.

Art. 646. — *Misappropriation of Things without Owner or of Natural Resources.*

(1) The ownership of tilings without an owner, such as natural resources, minerals, antique coins or things, as well as the taking on land, in the air or on water of wild animals not the property of another, is governed by the provisions of civil and public law.

The misappropriation of such things in violation of the provisions of the law governing acquisition of ownership in such cases is punishable under the Code of Petty Offences (Art. 803 and 804).

(2) The misappropriation or abstracting, with intent to obtain an unlawful enrichment, of historical, archaeological or artistic objects being the property of the State, is punishable under the ordinary provisions regarding theft or breach of trust, according to the nature of the offence.

Art. 647. — *Receiving.*

(1) Whosoever receives a thing, which he knows or has reason to believe is the

proceeds of an offence committed against property by another, or acquires the thing, or receives it on loan, as a gift, in pledge or in any manner whatsoever, or consumes it, retains or hides it, resells it or assists in its negotiation,

is punishable with simple imprisonment, or, according to the gravity of the case, with rigorous imprisonment not exceeding five years, and fine.

(2) Whosoever, knowingly, within the meaning of sub-section (1), receives a sum or a thing arising out of the realisation or replacement of a thing obtained through the commission of an offence, is liable to the same punishments.

(3) The sentencing of the accused is without prejudice to the sentencing of the original offender.

(4) The provisions permitting the discharge of a party aiding or abetting the principal offender, by reason of parental ties or close affection (Art. 80), do not apply to a receiver.

Art. 648. — *Aggravated Receiving.*

The punishment shall be rigorous imprisonment not exceeding ten years, and the fine shall not exceed ten thousand dollars where the offender has committed an act of receiving:

(a) as an associate in a group of criminal formed to commit offences against persons or property; or

(b) where he is an habitual receiver; or

(c) where he conceals and carries on his acts of receiving by wrongfully exercising a profession or trade for which he has received the authorization of the public authorities; or

(d) where he receives objects which he knows come from acts of looting robbery, piracy, extortion or blackmail, or objects taken from the armed forces or any public service.

Section II. — *Offences against Immovable Property*

Art. 649. — *Damage to Property of another caused by Herds or Flocks.*

(1) Whosoever intentionally and unlawfully brings or permits his herds or flocks to pasture or stray on the property of another, whether in pasturages, fields, gardens, woods, forests or any other land,

is punishable, upon complaint, with a fine not exceeding *tin* run-dred dollars or with simple imprisonment not exceeding one year.

(2) In minor cases or where the offender has been negligent, in particular in failing to exercise proper custody, the provisions regarding petty offences shall apply (Art. 805 (b)).

Art. 650. — *Disturbance of Possession.*

- (1) Whosoever unlawfully, with intent to procure a profit or a benefit,
- (a) encroaches on or occupies public or private land or buildings, the property of another, or
 - (b) in any other manner, interfere! with the property or quiet possession of another,
- is punishable upon complaint, with fine or simple imprisonment.
- (2) Proceedings shall be instituted by the Attorney General and the punishment shall be rigorous imprisonment not exceeding five years, where the disturbance has involved violence, threats or the assistance of a large number of persons, or has been committed by persons carrying arms or dangerous weapons.

Art. 651. — *Disturbance of another's Holdings.*

- (1) Whosoever unlawfully, with intent to obtain or to procure to a third person a profit .or unlawful benefit,
- (a) modifies the condition of another person's property or the fixtures appurtenant thereto, or
 - (b) draws off public or private waters,
- is punishable with simple imprisonment for not less than three months and fine.
- (2) In serious cases the punishment may be rigorous imprisonment not exceeding five years.

Art. 652. — *Displacing and Removal of Boundary Marks.*

- (1) Whosoever, with intent to disturb the rights or property of another, or to obtain or to procure to a third person an unlawful benefit, removes, displaces, misplaces, falsifies or obscures a boundary mark or any other mark of demarcation of property,
- is punishable with rigorous imprisonment not exceeding five years, or in less serious cases, with simple imprisonment for not less than three months.

(2) Where the act has been committed in the absence of the foregoing intent, the punishment shall be simple imprisonment not exceeding three months or fine.

Section III. — *Damage u Property*

Art. 653. — *General Provisions.*

Whosoever, apart from the cases punishable under Art. 649, intentionally destroys, damages, depreciates or renders useless the property of another, whether objects, implements, animals, trees, crops or any things whatsoever ever, or landed or immovable property,

is punishable, upon complaint, with simple imprisonment or fine.

Art. 654. — *Aggravated Cases.*

Proceedings shall be instituted by the Attorney General and the punishment may be rigorous imprisonment not exceeding five years and fine:

(a) Where the offender has acted through malice or with intent to cause harm and has so caused considerable damage, or where even with out that particular intent, he has intentionally caused considerable damage to private objects, undertakings, installations or plantations, or

(b) where ho has destroyed or seriously damaged an important object of religious veneration or worship, an object of valuable historical, scientific or artistic nature, a public building or a monument entrusted to the public, a historical rite or any objects, machinery, installations or plantations of public utility or necessary for a service or the national interest, or

(c) where the act *was* accompanied by threats or violence, or accomplished by several persons, particularly by employers or employees during conflicts or strikes.

Art. 655. — *Aggravated Means.*

Where the offender, with particular intent to destroy, damage, depreciate or render useless the property of another, has employed means endangering public security, such as landslide, flooding, explosion or fire, the punishment provided in the relevant provision shall apply concurrently.(Art. 63).

Chapter III. — OFFENCES AGAINST RIGHTS IN PROPERTY

Section I. — Offences involving Fraud

Art. 656. — *Fraudulent Misrepresentation.*

Whosoever, with intent to obtain or to procure to a third person an unlawful fraudulently causes a person to act in a manner prejudicial to his rights in property, or those of a third person, whether such acts are of commission or omission.

- (a) either by misleading statements, or by misrepresenting his status or situation, or by concealing facts which he had a duty to reveal; or
- (b) by taking advantage of the person's erroneous beliefs,
is punishable with simple imprisonment ,or, according to the gravity of the case, with rigorous imprisonment not exceeding five years, and fine.

Art. 657. — *Drawing of cheque without cover.*

- (1) Whosoever intentionally draws a cheque without cover or knows that there will not be full cover at the time of presentment for payment,
is punishable for fraudulent misrepresentation.
- (2) 'Where the offender acted negligently, he is punishable with a fine not exceeding five hundred dollars.

Art. 658. — *Aggravated Fraudulent Misrepresentation.*

The punishment shall be rigorous imprisonment not exceeding ten years and the fine shall not exceed ten thousand dollars:

- (a) where the offender habitually commits the offence of fraudulent misrepresentation; or
- (b) where the offender enjoys a position of trust as defined in Art. 642(b); or
- (c) where the offender issues an offer for public subscription of shares, debentures, bonds or any security of any kind in an industrial or commercial firm or banking organization; or
- (d) where the offence is committed against public administrations or services.

Art. 659. — *Misrepresentation in Insurance*

Whosoever, with intent to obtain or to procure to a third person an unlawful enrichment, deceives a public or private insurance company,

- (a) by creating the risk insured; or
- (b) by concealing or falsely pretending or affirming a fact of any kind go as to influence the payment of the benefits provided by the contract, in kind, in amount, in duration, or to a particular beneficiary,

is punishable with simple imprisonment or, according to the gravity of the case, with rigorous imprisonment not exceeding five years, and fine.

Art 660. — *Aggravated Misrepresentation.*

Where there is misrepresentation, of any kind, committed by means of a forgery, the relevant provisions shall apply concurrently.

Art. 661. — *Fraudulent Exploitation of Public Credulity.*

(1) Whosoever, for gain, knowingly deceives another by means such as invoking spirits, magic or sorcery, consulting horoscopes or astrology, by interpretation of dreams, soothsaying, chiromancy, divining or by any other means of exploiting human credulity,

is punishable, upon complaint, with fine, and, in the event of repetition of the offence, with simple imprisonment, where the case does not fall under the provisions regarding petty offences (Art. 815).

(2) Where the deceit is such as to constitute fraudulent misrepresentation, Art. 656 shall apply.

Art. 662. — *Petty Fraud.*

Petty deceit in order to obtain an unjustifiable enrichment, such as filching and the fraudulent obtaining of benefits is liable to the punishments regarding petty offences (Art. 812 and 813).

Provided that where the offender, in order to accomplish his act, has committed fraudulent misrepresentation, the provisions relating thereto shall apply.

Art. 663. — *Mismanagement of Private Interests.*

(1) Whosoever is legally or contractually bound to watch over the property rights of another, and who intentionally causes prejudice thereto by misusing his powers or by failing in his duties, is punishable with simple imprisonment or fine.

(2) Where the offender has acted with intent to obtain or to procure to a third party a benefit in property, the punishment shall be simple imprisonment for not less than six months and a fine not exceeding ten thousand dollars.

Art. 664. — *Aggravated Mismanagement.*

(1) The punishment shall be rigorous imprisonment not exceeding ten years and a fine not exceeding twenty thousand dollars:

(a) where the offence has been committed in the exercise of his duties by a curator, an attorney, a notary, or a banker, a director or advocate, an official liquidator, or by' any other person invested with an official status, or deserving a special confidence; or

(b) where it has been committed against the army or against a public administration or a national service.

(2) *In the case of mismanagement of public interests committed by a public servant, the special provision (Art. 420) shall apply.*

Art. 665. — *Incitement to Speculation.*

Whosoever, with intent to obtain or to procure for a third person a benefit in property takes advantage of the carelessness, the confidence or the manifest business inexperience of a person in order to incite him to speculate, whether on securities or goods, while he knew or ought to have known that the transaction was flagrantly not in proportion to the holding of the speculator and would expose him to serious risk,

is punishable, upon complaint, with simple imprisonment or fine.

Art. 666. — *Incitement of Minors or Persons Legally Incapable to carry out Prejudicial Assignments.*

(1) Whosoever, with the intent specified in the preceding Article, takes advantage of the carelessness, confidence or inexperience of an infant or young person or a person who is legally incapable,

(a) in order to obtain a grant, promise or guarantee in his own favour or in favour of a third person, of sums of money, loans, acknowledgments of debt or other benefits in property; or

(b) in general, to obtain or avoid an assignment so as to prejudice the estate or that of a third person,

is punishable, upon complaint, with simple imprisonment or fine.

(2) Whosoever, with a similar intent, obtains such a promise, claim or guarantee and sets it up against or assigns it to another, is liable to the same punishments.

Section II. — *Offences involving Moral or Material Intimidation*

Art. 667. — *Usury.*

(1) Whosoever, by exploiting a person's reduced circumstances or dependency,

material difficulties, or carelessness, inexperience, weak character or mind:

- (a) lends him money at a rate exceeding the official rate, or
- (b) obtains a promise or assignment of benefits in property in exchange for pecuniary or other consideration, which is in evident disproportion,

is punishable with simple imprisonment or, according to the gravity of the case, with rigorous imprisonment not exceeding five years, and fine.

- (2) Whosoever, with a similar intent, acquires a usurious claim and sets it up against or assigns it to another, is liable to the same punishments.

Art. 668. — *Extortion.*

Whosoever, in cases not amounting to robbery (Art. 636), uses violence or grave threats against a person, or in any other manner renders such person unable to resist, in order to obtain or to procure to a third person an unjustifiable benefit in property, whether by an assignment of funds or securities, documents or writing executing or evidencing the transaction, disposition or discharge, or any other similar benefit,

is punishable with simple imprisonment for not less than three months, or according to the gravity of the case, with rigorous imprisonment not exceeding five years and fine.

Art. 669. — *Blackmail.*

Whosoever causes a person to purchase silence to the detriment of his estate or that of another, by threatening to publish, divulge or denounce a fact, even if true, the knowledge of which is damaging to himself or to a third person with whom the victim has close ties of relationship or affection, is liable to the same punishments.

Art. 670. — *Aggravated Cases.*

The punishment shall be rigorous imprisonment not exceeding ten years and the fine shall not exceed ten thousand dollars, where a person accused of usury, extortion or blackmail,

- (a) is a habitual offender or wrongfully exercises a profession, duty or trade for which he has received a licence or permission from the public authorities; or
- (b) offends against infants or young persons, or persons who are of feeble mind, or incapable of understanding; or

(c) having so foreseen, has induced his victim to ruin or suicide by his acts of their repetition.

TITLE II

ECONOMIC AND COMMERCIAL OFFENCES

Chapter I.— OFFENCES AGAINST INTANGIBLE RIGHTS

Art. 671. — *Attack on another's Credit.*

(1) Whosoever, maliciously or with intent to cause damage, seriously injures or compromises the credit of another by statement or imputations he knows to be false,

is punishable, upon complaint, with simple imprisonment or fine.

(2) The provisions regarding calumny (Art. 580 (2)) may not be applied concurrently with the provisions of this article.

Art. 672. — *Harmful False Information.*

Whosoever, being in a position to know the state of affairs of an undertaking, a commercial firm or a cooperative, whether as founder, member, manager, director, attorney, member of a board of directors or audit, or a liquidator, intentionally gives or causes to be given essential and untrue information, whether in notices to the public, or in proposals or reports to a general meeting,

is punishable, upon complaint, with simple imprisonment or fine.

Art. 73. — *Unfair Competition.*

Whosoever intentionally commits against another, an abuse of economic competition by means of deceit or any other process contrary to the rules of good faith in business, in particular:

- (a) by discrediting another, his goods or dealings, his activities or business or by making untrue or false statements as to his own goods, dealings, activities or business in order to derive a benefit therefrom against his competitors; or
- b) by taking measures such as to create confusion with the goods, dealings or products or with the activities or business of another; or
- (c) by using inaccurate or false styles, distinctive signs, marks or professional titles in order to induce a belief as to his particular status or capacity; or
- (d) by granting or offering undue benefits to the servants, agents or assistants of another, in order to induce them to fail in their duties or obligations in their work or to induce them to discover or reveal any secret of manufacture, organization or working; or
- (e) by revealing or taking advantage of such secrets obtained or revealed in any

other manner contrary to good faith,

is punishable, upon complaint, with simple imprisonment or fine.

Art. 674. — *Infringement of Marks, Declarations of Origin, Designs or Models.*

(1) Whosoever intentionally,

- (a) infringes, imitates or passes off, in such manner as to deceive the public, another's mark or distinctive signs or declarations of origin on any produce or goods or their packing, whether commercial, industrial or agricultural; or
- (b) sells or offers for sale, imports or exports, distributes or places on the market produce or goods under a mark which he knew to be infringed, imitated, passed off or improperly affixed; or
- (c) refuses to declare the origin of produce or goods in his possession under such marks,

is punishable, upon complaint, with simple imprisonment or fine.

(2) Whosoever unlawfully so acts with respect to industrial designs or models, or patented inventions or processes, duly registered and protected by existing orders or agreements, national or international, is liable to the same punishments.

Art. 675. — *Infringement of Literary or Artistic Copyright.*

Whosoever intentionally:

- (a) counterfeits or reproduces, even in part, by print, lithography, photography, engraving or photogravure or by other copying process, a literary, musical pictorial or plastic composition, or any other intellectual work protected by author's copyright; or
- (b) sells offers for sale, imports or exports, distributes or places on the market infringements of such works,

is punishable, upon complaint, with simple imprisonment or fine.

Art. 676. — *Forbidden performance or execution.*

Whosoever intentionally causes to be shown or performed publicly literary, musical, cinematographic, radiophonic or other works, protected by copyright, without the permission of the holder of the copyright, is punishable under Article 675.

Art. 677. — *Right of Complaint.*

Any complaint with a view to the institution of proceedings and the repression of

the offences defined in the preceding Articles may be brought either by the persons or by the professional associations injured.

Art. 678. — *Aggravated Cases.*

Where one of the offences provided in this Chapter is committed to father the commission of a fraudulent misrepresentation, the punishment provided for the latter offence shall apply concurrently.

Art, 679. — *Related Sanctions.*

Apart from the penal sanction and any civil claim, the court shall order the seizure of the objects, goods or works which are infringements as well as of the proceeds of sale or performance.

The judgment shall be given the necessary publicity by the court.

**Chapter IT. — OFFENCES RELATING TO ROCEEDINGS OF DEBT,
EXECUTION AND BANKRUPTCY**

Art. 680. — *Fraudulent Insolvency.*

Whosoever intentionally conceals the fact that he is insolvent and contracts an obligation .knowing that he is unable or unwilling to execute it,

is punishable, upon complaint, with a fine not exceeding five hundred dollars, or with simple imprisonment not exceeding one month.

Art. 681. — *Irregular Bankrupcy.*

(1) A debtor who has caused his own insolvency or who has intentionally aggravated it by acting with culpable lack of foresight, or with gross negligence or mismanagement, in the exercise of his profession, whether by failing to keep proper books or accounts, by incurring excessive expenditure or by hazardous speculation or in any other manner,

is punishable with simple imprisonment.

(2) Proceedings may only be taken against a debtor not registered in the commercial registry upon a complaint by the creditor, such complaint to be brought within three months from the delivery of the declaration of default.

A creditor who caused a debtor to act with lack of foresight or negligence, resulting in insolvency, or who acted towards him with usury, may not bring a complaint against such debtor.

Art. 682. — *Fraudulent Bankruptcy.*

(1) A debtor adjudged bankrupt who has intentionally disposed of his assets to the prejudice of his creditors,

(a) either materially, whether by assigning or by destroying, damaging, depreciating or rendering useless certain property forming a part of such assets; or

(b) fictitiously, whether by removing or concealing property, by relying on or recognizing non-existent debts or claims or by inciting a third person to make fictitious claims, or in any other manner pretending that his estate is less than it is in fact, in particular by means of incorrect accounting, falsified correspondence or a false balance sheet,

is punishable with simple imprisonment from six months to five years.

In serious cases where the damage was of particular gravity or was imposed upon the armed forces, or a public undertaking or service, the punishment shall be rigorous imprisonment not exceeding eight years.

(2) A third party who has committed such acts to the prejudice of the creditors is punishable with simple imprisonment. Where the acts of the offender amount to fraud, the relevant provisions shall apply concurrently.

Art. 683. — *Fraud in Execution.*

(1) A debtor subject to proceedings by way of execution against whom a declaration of default has been delivered, and who with intent to prejudice his creditors has reduced his assets, whether materially or fictitiously as provided in Art. 682,

is punishable with simple imprisonment, or in grave cases, with rigorous imprisonment not exceeding five years.

(2) A third person who has so acted to the prejudice of the creditor is punishable with simple imprisonment.

Art. 684. — *Misappropriation or destruction of property subject to pledge or lien.*

(1) A debtor who, with intent to obtain a benefit or to procure a benefit to a third person, or to cause damage to his creditor, removes, assigns damages, depreciates or renders useless his property, whether movable or immovable, and which was held by the creditor by way of pledge, usufruct or lien,

is punishable with simple imprisonment.

- (2) A third person who so acts with the same intent to the prejudice of the creditor is punishable with simple imprisonment or fine.

Art. 685. — *Misappropriation or destruction of Property subject to a Court Order.*

(1) Whosoever, to the prejudice of his creditors, arbitrarily disposes of property under seizure or sequestration, listed in a bankruptcy, or in a document evidencing a Ben, or destroys, damages, depreciates or renders such property useless, is punishable with simple imprisonment.

(2) A third person who so acts to the prejudice of the creditors, is punishable with simple imprisonment or fine.

(3) Where the acts punished under this article are performed solely to the detriment of the creditors, Art. 432 of this Code may not be applied concurrently.

Art. 686. — *Unjustifiable Preference.*

A debtor who, having been adjudged bankrupt or having given a declaration of default, and knowing himself to be insolvent, has preferred certain of his creditors to the prejudice of the others, in particular:

- (a) by paying debts not due or by paying debts at maturity other than in cash or by the customary securities; or
 - (b) by giving on his own account security for a debt when not bound so to do; or
 - (c) in any other similar manner,
- is punishable with simple imprisonment.

Art. 687. — *Purchase of votes.*

(1) A debtor who, in order to obtain a favourable vote of one of his creditors or a composition by the court, grants or promises particular advantages:

- (a) to that creditor or to his representative in a general meeting; or
- (b) to a member of the administration or winding-up in a bankruptcy,

is punishable with simple imprisonment.

(2) A third person who so acts in favour of the debtor, or any person who with the same intent causes such an advantage to be granted or promised to him, is liable to the same punishments.

Art. 688. — *Fraudulent Composition.*

(1) A debtor who, in order to obtain a scheme of arrangement or the ratification

of a composition by the court, misleads his creditors, the commissioner in bankruptcy or the competent authority, as to his financial position, in particular by means of incorrect or falsified accounts, correspondence or a balance sheet, is punishable with simple imprisonment.

- (2) A third person who so acts in favour of the debtor is liable to the same punishment.

Art. 689. — *Offences in the Management of a Body Corporate.*

(1) Where any of the offences provided in this Title is committed in the management of a body corporate, sentence shall be awarded against the managers, attorney, members, directors or members of the controlling or winding up authority having committed such offence.

- (2) Nothing in this article shall affect the provisions of Art. 147.

**PART III
CODE OF PETTY OFFENCES**

**BOOK VII
GENERAL PART**

TITLE I

**RULES GOVERNING LIABILITY TO PUNISHMENT
Chapter I. — SCOPE OF THE LEGAL PROVISIONS**

Art. 690. — *Reference to General Principles.*

In all cases where the provisions of this Book are either silent or contain no contrary indications or do not provide exceptions, the principles and rules of the General Part of the Penal Code shall apply to petty offences (Art. 3, par. 2), due regard being had to the nature of the case, as well as to the spirit and purposes of the law.

Art. 691. — *Petty Offences.*

A person commits a petty offence when, by an act or an omission, he infringes the mandatory or prohibitive provisions of a regulation, order or decree lawfully issued by a competent authority, and such infringement is subject to one of the penalties provided below (Art. 702-732).

Art. 692. — *Application as to Offences.*

- (1) In accordance with the principle of legality (Art. 2. (1) and (2)), petty

offences of the aforesaid nature which are expressly penalized by the provisions of this Code or by a special provision are alone liable to punishment and the penalties applicable shall be those which are expressly prescribed in respect thereof.

Such provisions are enforceable only if the act does not fall under an express provision imposing a more severe penalty. One and the same act cannot be punished both under the provisions of the Penal Code and the Code of Petty Offences (Art. 2 (3)).

- (2) Petty offences shall always be punished under the provisions in force at the time of their commission, and there shall be no retrospective effect as to their application (Art. 5).

Upon the coming into force of this Code, its provisions shall apply to all petty offences mentioned in the Special Part of this Code.

Art. 693. — Application as to Persons.

The provisions relating to petty offences shall apply to all offenders alike without discrimination (Art. 4).

Art. 694. — Application as to Place.

- (1) Petty offences shall be deemed to have been committed at the place where the offender acted or had the legal obligation to act.

They shall be governed as a rule by the principle of territoriality (Art. 11).

- (2) Petty offences committed in Ethiopia shall always be tried in accordance with Ethiopian law when the offender is in Ethiopia. They shall give rise neither to delegation (Art. 12) nor to extradition (Art. 21),

- (3) Petty Offences committed in a foreign country by an Ethiopian or against an Ethiopian subject (Art. 18) shall not be punished in Ethiopia;

Petty offences committed in a foreign country by an Ethiopian enjoying immunity (Art. 14) shall not be punished in Ethiopia.

- (4) Petty offences of a purely military character provided by Ethiopian military law or regulations (Art. 747) shall always be tried by the military authority and punished according to Ethiopian law whether they were committed in Ethiopia or in a foreign country.

If, however, the offender was already tried for the same act by a foreign Court a fresh penalty may be dispensed with.

Art. 695. — Foreign Sentences.

Sentences passed in a foreign country by a foreign Court shall not be taken into consideration as regards antecedents and the various legal consequences resulting therefrom in the case of the more serious offences (Art. 22).

The Court, when trying a petty offence shall not inquire into the offender's conviction in a foreign country.

Chapter II — LIABILITY TO PUNISHMENT

Art. 696. — Punishable Acts and Persons.

- (1) In the matter of petty offences preparatory acts and attempts at their various stage shall not be punishable. Completed offences alone shall be punishable.
- (2) Likewise, incitement, complicity and being accessory after the fact are not liable to punishment. The offender or co-offender (Art. 32) shall alone be punishable.

Each offender shall be punished for his own act irrespective of the participation of another.

- (3) The provisions relating to petty offences shall apply also to young persons within the meaning of the Penal Code (Art. 52).
- (4) Participation in press offences or offences relative to publications in general is governed by the relevant provisions applicable to such offences (Art. 41 to 47).

Art. 697. — conditions for Liability to Punishment.

- (1) Persons who are irresponsible (Art. 48) shall not be punishable.
- (2) Any other offender shall be liable to the punishments prescribed by law. He shall be punishable whether he contravened the law intentionally or negligently (Art. 57 to 59) save in cases where the law expressly exempts from liability to punishment in respect of negligence.
- (3) Responsibility and liability to punishment for petty offences shall always be individual. Collective prosecution and penalties are prohibited.

Art. 698. — Measures for Purposes of Clarification.

Measures for the taking of expert advice and the carrying out of enquiries provided in respect to ordinary criminal offences (Art. 51 and 55) shall be ordered only if questions as to the offender's responsibility cannot otherwise be decided by the court.

Art. 699. — Justification and Excuses.

(1) The provisions governing lawful acts and the performance of a legal, official or professional duty (Art. 64 and 65) as well as those relating to absolute coercion, necessity and self-defence (Art. 67, 71, 73 and 74) shall apply to petty offences.

In cases of resistible coercion or excess of necessity or self-defence the offender shall be punishable but the court shall reduce the penalty within the limits authorized by law (Art. 723).

(2) In the case of a hierarchical order the subordinate shall not be punishable if he obeyed a person of higher rank acting within his authority and did not exceed the order received. The person who gave the order shall be fully responsible therefor but not for acts in excess of his order (Art. 69).

The subordinate shall be responsible for any conscious and intentional excess in the performance of the order received .

(3) In cases where the law expressly prescribes the punishment of a petty offence the consent of the aggrieved party (Art. 66) does not relieve the offender of punishment.

Art. 700. — *Mistake.*

He who committed a petty offence may not plead as justification ignorance of the law or a mistake as to right (Art. 78).

If he acted under a proven mistake of fact which excluded knowledge or intention to commit an offence he shall not be liable to punishment (Art. 76).

Art. 701. — *Extenuating and Aggravating Circumstances.*

(1) Where a person guilty of a petty offence acted in extenuating circumstances as provided by the Penal Code (Art. 79 and 80), the court may take such circumstances into account by reducing the penalty or altering its nature as provided hereafter (Art. 723).

(2) Where the offender acted in aggravating circumstances as provided by the Penal Code (Art. 81 and 82) the court shall increase the penalty as provided hereafter (Art. 724).

(3) In determining the penalty the court shall have due regard to the combination of aggravating and extenuating circumstances (Art. 84).

TITLE II

RULES GOVERNING PENALTIES

Chapter I. — PENALTIES AND MEASURES APPLICABLE

Section I. — Principal Penalties

Art. 702. — *Exclusion of Ordinary Criminal Penalties.*

- (1) Petty offences shall not be punished with corporal punishment, imprisonment or internment prescribed for ordinary offences. Petty offences differ from ordinary offences by reason of the different penalties they merit.
- (2) The only penalties which may be imposed for petty offences are those specified in the following provisions subject to the special forms of punishment applicable to military offenders or young persons.
- (3) In cases where protective or therapeutic measures should be prescribed in the general interest, in particular in respect to recidivists (Art.128) or irresponsible persons (Art. 134 and 135), the court shall inform the competent administrative authority (Art. 158).

Art. 703. — *Arrest.*

- (1) Arrest is the only penalty involving deprivation of liberty which may be imposed in the case of petty offences.

The duration of such arrest shall be of one day at least and of three months at most, subject to cases of recidivism (Art. 726) and cases where the law provides a higher maximum.

The court shall determine the penalty taking into account the degree of guilt of the offender (Art. 86, (1)). It shall be bound by the special minimum and maximum periods in cases where such periods are fixed by law.

- (2) Anticipated conditional release (Art. 206-212) shall not apply to arrest.

Art. 704. — *Ordinary or Police Arrest.*

- (1) Ordinary arrest shall be undergone in special premises for detention attached to courts or police stations. Prisoners shall be separated according to sex.

No person sentenced to arrest shall be detained in penitentiary or corrective institutions nor confined with prisoners sentenced for more serious offences to imprisonment or internment (Art. 702).

- (2) A person sentenced to arrest shall not be compelled to work nor be entitled to remuneration (Art. 110).

He may receive food, mail and visitors from outside to the extent compatible with the tranquillity and general good order of the place of detention.

Art. 705. — *Home Arrest.*

(1) When personal or local conditions seem to justify such a measure the court may order that arrest shall, subjects to adequate control or safeguards, be undergone either in the home of the person sentenced or in the home of a reliable person or in a lay or religious community designed for the purpose.

(2) Permission to leave home may, apart from cases of force majeure, be granted exceptionally and by decision of the court only for the performance of religious duties, the consultation of a physician, or for receiving indispensable medical care or appearing before a judicial authority, and then only for such time as is strictly necessary.

A person sentenced to home arrest shall provide for his own upkeep.

Art.706. — *Methods of Enforcement: Special Case of Members of the Armed Forces and Young Persons.*

(1) Arrest imposed upon members of the Armed Forces by reason of failure to discharge their military duties (Art. 747) shall be determined in accordance with military regulations and undergone under military discipline and control in the premises used for this puposes.

(2) Young persons sentenced to arrest shall undergo their punishment either by school or home arrest under the conditions provided for their ease (Art. 165) or, when this is impracticable, under the supervision of an institution, a charitable organization or a reliable person appointed by the court.

Arrest in their case may be served at different times: Provided that no period of arrest shall be for less than three hours and the total period shall not exceed fifteen days

Art. 707. — *Compulsory Labour in Substitution for Arrest.*

(1) In cases where the penalty of arrest can be pronounced the court may, if the circumstances or the conditions of enforcement so justify, replace this penalty by'a term of compulsory labour of equivalent duration, with or without restriction upon liberty, coupled with a deduction from the offender's earnings for the benefit of the State .(Art. 102 and 103).

The amount of this deduction shall be fixed by the court.

(2) These provisions shall not apply to members of the Armed Forces on active service, nor to young presons.

Art. 708, — Fine; Ordinary Case.

- (1) Fines may be between one dollar and three hundred dollars, except in cases of recidivism (Art 726) and where the law provides a higher maximum.

Where the offender acted for gain the fine may be increased to five hundred dollars, without prejudice to aggravation in cases of recidivism.

The court shall take into account the financial state of the offender, as well as the gravity of the offence and the degree of guilt (Art.88).

- (2) A fine may be imposed in addition to arrest, where circumstances justify, in particular where the law provides these penalties as alternative penalties or where the offender acted for gain (Art. 89 and 90).

- (3) The court may grant the convicted person time for payment not exceeding three months (Art. 91), and may allow payment by instalments. When circumstances go justify, the court may extend the period up to a maximum period of one year.

A person sentenced to pay a fine may be permitted to pay the fine by performing work of an equivalent monetary value (Art. 92).

Art. 709. — Non-payment; Conversion

- (1) In the event of non-payment of the fine within the fixed period of time, the court shall order the conversion of the fine, or of such part of the fine as remained unpaid, into either arrest in one of the forms provided above or compulsory work performed freely or with restriction on liberty, together with a deduction for the benefit of the state.

- (2) The court shall determine the duration of the compensatory term on the basis of the relevant general provisions (Art. 94 and 102).

Art. 710. — Recovery of Fine; Special case of members of the Armed Forces and Young Persons.

- (1) Where members of the Armed Forces have committed an offence under the ordinary law the court may, to recover a fine or part thereof, order that deductions be made for a specified period from the member's pay to cover the fine or part thereof remaining unpaid.

The deduction may not exceed one month's pay except with the consent of

the person concerned. It shall be fixed by the court in consultation with the responsible military authority of the convicted person.

(2) In the case of a young offender the fine shall be fixed by the court within appropriate limits, taking into special account the gravity of the offence, his material circumstances and the greater or lesser need for the warning constituted by the penalty.

Where the fine cannot be paid by the young offender, his parents or family shall be answerable for the payment in accordance with the ordinary rules of civil law. Where the young offender has neither next-of-kin nor sureties who can answer for him the court shall convert the fine into arrest for young persons on such terms and conditions as it shall consider appropriate in the circumstances.

Art. 711. — *Reparation of the Damage.*

Nothing shall affect the reparation of the moral or material damage caused by the offence and the award of damages to the injured party (Art. 100 and 101), where the circumstances of the case justify.

Section II, — Secondary Penalties

Art. 712. — *Warning and Reproof.*

- (1) A warning, reproof, reprimand or the making of amends (Art. 121) may be imposed by the court either orally or in writing, in addition to the penalty of arrest, compulsory work or fine.
- (2) The court may substitute the above mentioned penalty for the principal penalty in the case of extenuating circumstances or minor offences.

Art. 713. — *Exclusion of Forfeiture of Rights.*

- (1) In the case of petty offences forfeiture of civic or family rights or rights to discharge an office or exercise a profession (Art. 122) may not be ordered.
- (2) No order may be made for redaction in rank and exclusion from the Armed Forces (Art. 126).
This period cannot be exceeded.

Section III. — *Safely Measures*

Art. 714. — *Guarantee.*

- (1) A guarantee for good behaviour (Art. 139) can only be ordered in cases of repeated petty offences against public order or tranquillity, or the safety of persona or things, and only where the commission of further offences is probable.

The guarantee shall not exceed one year.

(2) Where an offender refuses to provide a guarantee, arrest (Art. 704) shall be ordered not exceeding fifteen days and where necessary military arrest (Art. 706).

Art. 715. — *Confiscation.*

(1) Confiscation of objects or material means endangering public faith, safety or decency, or intended to facilitate, or to be used for the commission of an offence, or which have been used for the commission of an offence (Art. 144) may be ordered by the court if such confiscation appears to be justified in addition to the principal penalty.

It may be ordered as a preventive measure where public safety so requires (Art. 145).

(2) Forfeiture to the State of such objects and means (Art. 99) may be ordered.

Art. 716. — *Prohibition and Suspension of a Material Nature.*

Withdrawal of a licence (Art. 146), closing of an establishment and suspension, whether total or partial, of a social or corporate activity (Art. 147) may be ordered only as a temporary measure in the case of repeated offences connected with the use of a licence or the management of an establishment.

In no case may these measures be imposed for a period exceeding six months.

The court shall determine their duration and scope.

Art. 717. — *Principal cases of application.*

The measures of confiscation and withdrawal of a licence, suspension and closing of an establishment shall be ordered in cases of:

- (a) fiscal or administrative matters (Art. 740-746);
- (b) press and publication matters (Art. 759 and 767) ;
- (c) control of firearms and ammunition, fire, explosive or dangerous substances (Art. 763 and 784);
- (d) control of inns and places of entertainment (Art. 775 and 776);
- (e) control of public health such as unlawful making or sale of toxic or narcotic substances, drugs and medicines, alcohol, beverage, stuffs or goods in general (Art. 773 and 786-789).

Art. 718. — *Prohibitions and Restrictions upon liberty affecting Persons.*

(1) A prohibition from resorting to certain places conducive to the commission of an offence or further offences (Art. 149) may be ordered by the court in cases where such prohibition appears to be justified, in particular where there has been recidivism or where recidivism is likely.

Such prohibition may be ordered for a maximum period of six months. Its duration shall be fixed in the judgment.

(2) Other measures restrictive of personal liberty, such as prohibition reside in a place, obligatory residence, placing under withdrawal of official papers or expulsion (Art. 150-154) be ordered in respect to a person who committed a petty offence.

Section IV. — Measures for purposes of Information

Art. 719. — Notice to the authority concerned and Publication.

(1) Notice shall be given by the court to the competent authority (Art.158) whenever such a notice seems to be Justified.

(2) Judgments shall be published (Art. 159) when a public interest so requires.

Art. 720. — Entry in Police Record.

(1) Entry in the police record (Art. 160) shall be ordered in sentences for petty offences which are finale •p that the courts may be fully informed of the antecedents of an accused person.

(2) Such communications are subject to the same rules and restrictions as in the case of other offences.

Chapter II. _ENFORCEMENT OF THE PENALTY

Art. 721. Prosecution.

(1)The prosecution of violations of the provisions of this Code or of special laws or regulations shall be governed by the following rules:

(a) Offences against the person of another, his freedom or honour, of against private property, shall be prosecuted and punished only on a complaint lodged by the injured party, his representative or those having rights from him, duly authorized by law.

(b) Breaches of decrees, orders, regulations and rules of administrative or executive authorities shall be prosecuted and punished on complaint by the Ministry, Office or other Authority concerned, duly represented in accordance with the ordinary provisions of public law and internal regulations.

(c) Other breaches shall be prosecuted ex officio by the Public Prosecutor in accordance with the rules of criminal procedure

(2) The prosecution of purely military offences shall be governed by military law.

Art. 722. — *Exclusion of Suspension.*

The violation of legal provisions, whether mandatory or prohibitory, shall entail the application of the penalties provided by law whenever the general conditions as to the liability to punishment of the offender are fulfilled (Art. 693 and 694).

The provisions concerning the suspension of the sentence or the enforcement of the penalty (Art. 194-205) shall not apply to petty offences by reason of their formal nature and the fact that the punishment imposed should be uniformly and rapidly enforced.

Art. 723. — *Reduction of the Penalty.*

- (1) Where circumstances warrant a reduction of the penalty (Art. 701(1)) the court may, instead of arrest, impose compulsory work or a fine; it shall be bound by the ordinary minimum provided by law.

The extent or amount shall be determined according to: the degree of guilt of the offender.

- (2) In cases of minor gravity, where the offence committed appears trifling, and notably in cases of a first offence or mere imprudence, the court may confine itself to inflicting a reproof or a reprimand, and a warning for the future.

Art. 724. — *Ordinary Aggravation of the Penalty.*

In the case of general aggravating circumstances (Art. 701 (2)) the penalty shall be fixed in a more severe manner within the limits provided by law.

The court shall pass sentence of arrest or a fine up to the legal maximum when permitted by law.

Art. 725. — *Aggravation in Case of Concurrence.*

- (1) In case of material concurrence of petty offence the particular penalties provided in respect of each of them shall be pronounced and cumulated and the rules applicable in the case of more serious offences shall not be applied (Art. 189-191).

Where the penalties are cumulated they may in the aggregate exceed the ordinary legal maximum provided that such maximum was observed in fixing each particular penalty.

- (2) In the case of notional concurrence, the court may increase the penalty as provided by the general rule (Art. 192).

Art. 726. — *Aggravation in case of Recidivism.*

(1) Recidivism shall be taken into account only where, at the time of the offence to be tried, a period of a maximum of one year has elapsed since the total or partial enforcement or remission of the penalty imposed for the previous offence whatever its nature.

Foreign sentences shall not be taken into account. (Art. 695).

(2) In the case of recidivism the court shall not be bound by the ordinary maximum of the penalty prescribed for the new offence. When circumstances and the degree of guilt so justify and, in, particular, in cases of persistent repetition of the same offence it may impose a penalty up to double the legal maximum provided for the various penalties (Art. 703 and 708).

Art. 727. — *Recidivism sad Concurrence.*

When there is at die same time recidivism and concurrence of offences the fines shall be fixed in accordance with the two preceding provisions arrest may be imposed far a maximum period of two years.

Chapter III. — SUSPENSION AND EXTINCTION OF THE PENAI TT

Art. 728. — *Conditions as to Complaint.*

Where a provision of the law requires dial a complaint be lodged a condition precedent to the prosecution of a petty offence (Art. 721) the general provisions governing conditions, time-limit and right to lodge such a complaint, shall apply (Art. 216-222).

Art.729. — *Death of the Accused Person.*

- 1) In case of petty offences, death shall stay the right to prosecution and judgment against the offender.
- 2) When the sentence was passed prior to death the penalty lapses in all cases.

Art. 730. — *Limitation.*

In the case of petty offences of any nature whatsoever the right to prosecution shall be statute-barred after one year, and the sentence passed after two years. These time-limits are absolute.

The general provisions relating to the beginning, suspension and interruption of the limitation periods (Art. 228-232 and 235-238) shall apply.

Art. 731. — *Pardon and Amnesty.*

A sentence may be remitted or an amnesty granted in respect of petty offences on

the usual conditions (Art. 239-241).

Art. 732. — Reinstatement.

Reinstatement of the offender with removal of the entry of the sentence from his police record and full reinstatement in the suspended rights may be requested from and ordered by the court on the usual conditions after a probation period of five years (Art. 242-247).

Reinstatement may be pronounced only at the request of the person concerned or of his legal representative.

BOOK VIII

SPECIAL PART

TITLE I

**PETTY OFFENCES AGAINST PUBLIC INTERESTS
AND THE COMMUNITY**

Art. 733. — General Clause.

'Whosoever, save in the cases specially provided in this Title, contravenes the regulations, orders, rules or measures lawfully issued by the appropriate authority with a view to protecting, maintaining or restoring:

- (a) the credit of the State, the currency, and public confidence; or
- (b) public order, peace, tranquillity, safety, health and decency; or
- (c) the freedom, regularity and safety of means of communication by land, air, river or sea, as well as postal, telephonic and telegraphic correspondence and communications,

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or, generally, in regard to fiscal, customs, economic, food, health, forestry or policy matters,

shall, if his act is not punishable under a specific provision of the Penal Code or of special legislation, be punishable with fine or arrest to be determined in accordance with the rules laid down herein before,

Chapter I.— PETTY OFFENCES AGAINST STATE OR PUBLIC INTERESTS

Section I. — Petty Offences against Public Credit and Confidence

Art. 734. — Refusal of Legal Tender.

Whosoever without lawful excuse refuses to accept national money or currency,

whether in coins or notes, at the value for which they are legal tender, is punishable with fine or arrest.

Art. 735. — *Failure to Report the possession of counterfeit money.*

Whosoever having received spurious, counterfeit or debased coinage or notes does not report the fact to the appropriate public authority or hand them over to such authority, indicating the origin thereof if he know it, as soon as may be after he has become aware of their spurious nature or alteration, is punishable with fine or arrest.

Art. 736. — *Use of Illicit Weights and Measures.*

Whosoever, apart from the cases punishable under the Penal Code (Art.375),

- (a) makes use in his relations with third parties of seals, weights or measures which were not officially controlled or which are not in conformity with the relevant roles and regulations; or
- (b) generally, contravenes the regulations or roles issued for the stamping, control and use of official weights and measures,

is punishable with fine or arrest without prejudice to confiscation when justified.

Art.737. — *Use of Expired or Falsified Transport Titles.*

Whosoever makes use, as if it were genuine or still valid, of a public transport ticket or voucher which is falsified, has expired or has already been used, is punishable with fine or arrest.

Art.738. — *Fraudulent Securing and Use of Degrees and Certificates.*

Whosoever, apart from the cases punishable under the Penal Code (Art.393), with a view to securing an undue moral or material advantage,

- a) commits a fraud in official examinations, competitions or entries for the purpose of obtaining a licence or a certificate of professional capacity, a diploma or a degree, a post or employment in a public office or department; or
- b) avails himself of a certificate, diploma or degree which, he does not possess or to which he is not entitled, is punishable with fine or arrest not exceeding one month.

Art. 739. — *Unlawful making of, trafficking in, and wearing of, civilian decorations and Insignia.*

Whosoever

- (a) makes or falsifies civilian decorations, medals or insignia, stores, distributes, sells or offers them for sale; or
- (b) uses or wears decorations, medals or insignia to which he is not entitled, is punishable with fine or arrest without prejudice to confiscation.

Section II. — Petty Offences of a Fiscal, Administrative or Financial Nature

Art. 740. — Violation of Provisions dealing with Fiscal Rights.

Whosoever, apart from the cases punishable under the Penal Code (Art.354-356), contravenes the provisions or rules issued by the competent authority regarding:

- (a) the sources of the national income, in particular taxes, customs, post and telegraph, hunting and fishing rights, the use of the natural resources of the soil or sub-soil, or any other similar rights or sources of income; or
- (b) the collection of official dues in respect of stamp and placarding duty, registrations, transfers of ownership and other fiscal charges of the same nature,

is punishable with fine or arrest.

Art. 741. — Violation of Provisions on Precious Metals.

Whosoever, apart from the cases punishable under the Penal Code (Art.358), contravenes the provisions, rules or regulations on the control, acquisition or sale of precious metals and minerals, is punishable with fine or arrest.

Art. 742. — Violation of regulations regarding Negotiable Instruments.

Whosoever, apart from the cases punishable under the Penal Code (Art.357), contravenes the provisions, rules or regulations regarding negotiable instruments, cheques, bills of exchange, as well as shares or bonds of commercial or industrial companies,

is punishable with fine or arrest.

Art. 743. — Violation of Provisions Concerning Swings and Banks.

Whosoever contravenes the rules or regulations concerning the creation, opening, management and control of banking establishments or companies, establishments, companies or funds for the granting of loans or credit or any other public or private offices issuing invitations to the public for the deposit of funds or savings or for banking or Stock Exchange transaction.

is punishable with fine or arrest.

Art. 744. — Violation of Provisions Regarding Lotteries, Gambling and

Betting.

- (1) Whosoever:
 - (a) publicly organizes for profit lotteries, professional betting or gambling without having obtained an authorization from the competent authority; or
 - (b) without authorization organizes for profit in a public place or a place open to the public or in a private club gambling or betting or any other officially prohibited games of chance, or participates in each. games or betting; or
 - (c) in any other way contravenes the relevant rules or regulations, u punishable with fine or arrest.
- (2) Lotteries and games of chance permitted by law and organized far public or charitable purposes are not punishable.

Art. 745. — *Violation of Provisions on Price Control.*

Whosoever:

- (a) sells metals, goods, products or objects of any nature whatsoever, whether subject to a monopoly or not, at a price higher than the price fixed in an official pricelist and duly published; or
- (b) demands a higher price than that prescribed or authorized by law, in particular in regard to leases and rents; or
- (c) in any other way contravenes the relevant rules or regulations,
is punishable with fine or arrest.

Art. 746. — *Violation of regulations regarding organization, exercise and control of trades and professions.*

- (1) Whosoever, apart from the cases punishable under the Penal Code, contravenes the rules or regulations regarding the licensing, qualifications, registration, exercise or control of commercial and industrial undertakings, artisans, professional persons, temporary or seasonal employments, or professional associations and societies of any kind,
is punishable with fine or arrest.
- (2) Nothing in this Article shall affect the special provisions imposing particular conditions on the exercise of professions such as the banking, commercial, maritime or medical professions.

Chapter II— BREACHES OF MILITARY DUTIES AND CONTRAVENTIONS AGAINST THE ARMED AND POLICE FORCES

Art. 747. — *Determining of Military Contraventions.*

Breaches of military duties and offences against military discipline, other than those mentioned in the provisions of the Penal Code dealing with military offences (Art. 296-3S4) are specified in the Orders and Regulations issued by the appropriate authorities of the Armed Forces.

Art. 748. — *Military Disciplinary Penalties.*

(1) A member of the Armed Forces of any rank or any other person in the service of the Armed Forces, a prisoner or a military internee who has been guilty of a military offence shall be punished by the authority under which he serves with the disciplinary penalties provided by the appropriate Armed Forces Regulations.

(2) As regards ordinary offences committed by them, the said persons shall be liable to the ordinary provisions and penalties, with the exceptions specially provided for in their case (Art. 328 and 710).

Art. 749. — *Contraventions against the Armed Forces.*

Any- criminal activity directed against a member of the Armed Forces or against the Armed Forces or the Auxiliary Services and any violation of Orders, Rules or Regulations issued by the appropriate military authority which are not punishable under the Penal Code shall be deemed to be petty offences against members of the Armed Forces and the Armed Forces and shall be punishable with fine or arrest on the usual conditions.

Art. 750. — *Application to the Police Forces.*

(1) The same principles shall apply as regards the punishment of the violation of Orders, Rules or Regulations regarding the duties of the Police Forces and the security which they are entitled to while on duty.

(2) Nothing in this Article shall affect the provisions regarding the acts performed by members of the Police Force acting in the capacity of public servants.

**Chapter III. — OFFICES AGAINST THE DUTIES OF A PUBLIC OFFICE
OR A PUBLIC AUTHORITY**

Section I. — Offences against the Duties of a Public Office

Art. 751. — *Misuse of Authority in the discharge of a Public Office.*

Any public servant who, apart from the cases punishable under the penal Code (Art. 414), exceeds the authority conferred upon him or misuses such authority, is punishable with fine or arrest not exceeding one month.

Art. 752. — *Misuse of the Right of Constraint.*

Any public servant lawfully empowered to effect a house search or a sequestration, the application or removal of seals, or to effect a personal search or inspection, an arrest, a detention or placing under surveillance, an interrogatory or any other similar act who, apart from the cases punishable under the Penal Code (Art. 415-417), misuses his authority, in particular by having recourse to vexatious, offensive, indiscreet or incorrect methods,

is punishable with fine or arrest.

Art. 753. — *Lack of Honesty.*

Any public servant is liable to the punishments prescribed in the preceding Article who, apart from the cases punishable under the Penal Code (Art. 420-422 and 426), takes undue advantage of his position to commit dishonest acts.

Art. 754. — *Undue Favouring.*

Any public servant who, apart from the cases punishable under the Penal Code (Art. 423-425), unduly favours, for a motive of personal interest, a person having recourse to his office, or placed under his authority, or for whose care and custody he is responsible,

is punishable with fine or arrest not exceeding one month.

Art. 755. — *Careless Handing over of Official Papers.*

Any public servant is liable to the same punishment when:

(a) he issues or causes to be issued or handed over a passport, an identity card, a permit, an extract from a police record, a certificate of good conduct or as to poverty, or in general any document or official attestation of a personal nature, to an unknown person without having previously ascertained by all usual means of checking the identity of the said person and his right to receive the document or instrument in question; or

(b) he allows a person freely to use such a document or instrument although he knows that he is neither the true holder thereof, nor has the right to use it.

Art. 756. — *Cases of Minor Importance; Disciplinary Punishments.*

In the case of petty offences committed by a public servant in the discharge of his official duties, the court *may*, when the offence appears to it merely to justify disciplinary measure, waive the penalty provided by this Code and, on stating the reasons for its decision, refer the offender to the administrative authority to which

he reports so that it may impose such punishment as it deems appropriate.

Section II. — Offences against a Public Authority

Art. 757. — *Damage to Official Publications.*

Whosoever, apart from the cases punishable under the Penal Code (Art. 427), removes, lacerates, impairs, obliterates, intentionally damages or soils official notices or placards publicly posted up,
is punishable with fine not exceeding one hundred dollars or arrest not exceeding fifteen days.

Art. 758. — *Failure to Make Compulsory Official Statements or Entries.*

(1) Whosoever, apart from the cases punishable under the Penal Code (Art. 428) or a special provision, omits or fails to make, within the time limits prescribed by law or regulations, an official statement or entry of any nature whatsoever which he is bound to make,

is punishable with fine or arrest not exceeding fifteen days.

(2) Nothing in this Article shall affect, the special provisions dealing with compulsory professional declarations in health matters (Art.790).

Art. 759. — *Undue Publications.*

Whosoever, apart from the cases punishable under the Penal Code (Art.429 and 445), contravenes any official rules, regulations or orders prohibiting the disclosure of acts, deliberations or decisions as an authority, is punishable with fine or arrest.

Art. 760. — *Abuse of Right.*

Whosoever, apart from the cases punishable under the Penal Code (Art.430), knowingly continues to exercise a right which he has lost by law or has assigned, or of which he has been debarred or deprived, whether permanently or temporarily, by the declaration of a judicial authority,

is punishable with fine or arrest.

Art. 761. — *Refusal to Lend Assistance to a Public Authority.*

Whosoever, apart from the cases punishable under the Penal Code (Art.433), on being duly requested or summoned by a representative of a public authority acting in the discharge of his official duties to lend him indispensable help or assistance, with a view in particular to preventing a breach of the peace, the commission of an offence or the escape of the offender, refuses so to do without any reason of force majeure or the risk of a serious danger to his person or property,

is punishable with fine not exceeding one hundred dollars or arrest not exceeding one month.

Art. 762. — *Refusal to Obey an Injunction.*

A person shall be liable to the same punishment who, apart from the cases punishable under the Penal Code (Art. 433), on being duly requested or ordered by a public servant acting in the discharge of his duties. refuses:

- (a) to supply his name or identity, his occupation, residence, address or any other particular relating to his personal status, or gives inaccurate information in respect thereto; or
- (b) to stop or move on, to free a public thoroughfare, to allow his papers. luggage or any suspicious things he carries about him to be examined, or to comply with any other order of a similar nature.

Chapter IV. — OFFENCES AGAINST PUBLIC SAFETY, PEACE AND SECURITY

Section 1. — Offence against Public Safety

Art. 763. — *Control of Arms and Ammunition.*

Whosoever, apart from the cases of traffic punishable under the Penal Code (Art. 475) :

- (a) contravenes the rules and regulations concerning the making and declaration, the trade in, possession or delivery, control or use of fire arms or other weapons, and ammunition; or
- (b) knowingly sells or delivers to persons not entitled to receive them, and in particular to infants or young persons, arms or ammunition or allows them to dispose of them without supervision,

is punishable with fine or arrest.

Art. 764. — *Carrying and Use of Prohibited Arms.*

Whosoever is found carrying in a public place an arm which he was not authorized to acquire or entitled to carry, or makes use of an arm, even though authorized, at a time when or in a place where such we is prohibited,

is punishable with fine not exceeding: one hundred dollars or arrest not exceeding eight days.

Art.— 765. — *Control of Aliens.*

Whosoever contravenes the rules and regulations concerning the transit, declaration, residence, establishment of aliens or their control, is punishable with fine or arrest.

Art.— 766. — *Unauthorized Change or Assumption of Another Name.*

(1) Whosoever with the intention of concealing his identity or of evading control by a competent authority unlawfully assumes a fictitious surname, changes his true name, adds another name thereto or assumes the name of another,

is punishable with fine or arrest.

(2) The lawful use of a professional, literary or other pseudonym or of a recognized nick-name does not fall under this Article.

Section II. — *Offences against Public Peace, Tranquillity and Order*

Art. 767. — *Protection in Regard to the Press and Publications.*

(1) Whosoever contravenes the rules or regulations concerning printed documents, publishing, public advertisements and posters, as well as the declaration, deposit, sale, distribution and control of printed documents or posters of any nature whatsoever,

is punishable with fine or arrest.

Art. 768. — *Alarming Announcements, News or Publications.*

Whosoever, apart from the cases punishable under the Penal Code (Art.479 and 480), announces, spreads, publishes or reports to the authorities false, exaggerated or biased news intended to or capable of perturbing public order or tranquillity,

is punishable with fine or arrest.

Art. 769. — *False Alarm.*

Whosoever, by knowingly launching or addressing them unwarranted summons for help, or by conveying them false communications, sets in motion:

(a) the services of public authorities or public relief departments, transportation, hospitalization or rescue services, police, fire brigade or other similar services; or

(b) physicians or persons exercising a therapeutic activity,

is punishable with fine or arrest not exceeding fifteen days.

Art. 770. — *Disturbance of Work or Rest of Others.*

(1) Whosoever disturbs the work, rest or tranquillity of others, in particular by brawls and wrangles, shouts, songs, vociferations or uproars. signals, calls or the ringing of bells, or by the abuse of noisy instruments, apparatus, machines or other noise-producing articles, is punishable with fine not exceeding one hundred dollars.

(2) If the noise or disturbance is caused at night as defined in the police regulations or by custom, or is wilfully caused in the vicinity of hospitals, schools or similar institutions or, generally, if it is caused in a deliberately wicked or mischievous manner, the court may impose a fine or arrest not exceeding one month.

Art. 771. — *Blasphemous or Scandalous Utterances or Attitudes.*

Whosoever, apart from the cases punishable under the Penal Code (Art.486 and 487), in a public place or in a place open to the public or that can be viewed by the public, by gestures or words scoffs at religion or expresses himself in a manner which is blasphemous, scandalous or grossly offensive to the feelings or convictions of others or towards the Divine Being or the religious symbols, rites or religious personages,

is punishable with fine not exceeding one hundred dollars or arrest not exceeding eight days.

Art. 772. — *Observance of Official Holidays.*

Whosoever contravenes the rules or regulations concerning compulsory holidays, is punishable under Art .771.

Art. 773. — *Measures against Alcoholism.*

Whosoever, apart from the cases punishable under the Penal Code:

(a) contravenes the rules or regulations concerning the manufacture of and trade in alcohol and distilled beverages; or

(b) sells, buys or consumes alcohol in a public establishment outside the lawful hours; or

- (c) sells, offers, serves or allows to be served in a public place alcohol in substantial quantities to infants or young persons, persons who are irresponsible, or are manifestly drunk or dangerous; or
- (d) intentionally induces another to become inebriated, inebriates another or himself in a public place or in a place open to the public or that can be viewed by the public,
- is punishable with fine or arrest not exceeding one month.

Art. 774. — *Cawing Public Scandal while drunk or intoxicated.*

Whosoever, being drunk or intoxicated, causes scandal or disorder or utters threats in a public place,

is punishable with fine not exceeding one hundred dollars or arrest not exceeding eight days without prejudice to safety measures of an administrative nature that may seem justified.

Art. 775. — *Supervision of Inns.*

The owner, manager or keeper who contravenes the rules or regulations concerning inns, eating-houses, hotels and public houses, in particular as regards:

- (a) the right to run such an establishment and the requirements and safeguards applying thereto; or
 - (b) the opening and closing hours or any other police or control regulation,
- is punishable with fine or arrest.

Art. 776. — *Supervision of Theatrical Performances and Entertainments.*

The owner, organiser, director, manager or agent who contravenes the rules or regulations concerning theatrical performances and entertainments of any kind whatsoever, in particular in regard to:

- (a) the permission to organize or offer them to the public or the conditions of their management and safeguards relating thereto other than those specified in Art. 781; or
- (b) censorship and the prior requirements imposed in the interests of decency, public order or the protection of infants and young persons; or
- (c) opening and closing times or authorized time of performance, or any other police regulation or measure of supervision applying to places or establishments used for public or private theatrical performances or

intertainments,
is punishable with fine or arrest.

Art. 777. — Scandalous Treatment of Animals.

A person shall be liable to the same punishments:

- (a) if, in a public place or a place open to the public or which can be viewed by the public, and without justification, he commits acts of cruelty towards animals or inflicts upon them ill-treatment or revolting violence or brutality; or
- (b) organizes shows or entertainments in which animals are treated with cruelty, are mutilated or killed, whether it be fights between animals or with animals, shooting of captive animals or other offences of a similar kind.

Section III. — Offences against public Security

Art. 778. — Offences against other Persons' Safety.

Whosoever endangers the safety of another person:

- (a) by setting against him dogs or dangerous animals or by not restraining them to the best of his ability; or
- (b) by throwing at him stones, hard or cutting objects or any other things or substances capable of causing harm, wounds or injury; or
- (c) by placing or setting, without previously obtaining permission from the Police or giving public notice, traps, alarm appliances or any other dangerous devices,

is punishable with fine not exceeding one hundred dollars or arrest not exceeding one month.

Art. 779. — Failure to Exercise Proper Supervision over Dangerous Persons or Animals.

Whosoever:

- (a) contravenes the rules or regulations, or fails to take the necessary precautions, concerning the custody of or supervision over lunatics, irresponsible persons, as well as dangerous or ferocious animals; or
- (b) intentionally omits to warn the competent authority of the escape or running away of such persons or animals.

is punishable under Art. 778.

Art. 780. — Control of Traffic at Night.

Whosoever fails to comply with orders issued by local authorities regarding curfew and the prohibition or restriction of traffic at night without permission, is punishable under Art. 778.

Art. 781. — Supervision of Buildings.

Whosoever, apart from the cases punishable under the Penal Code (Art.495), contravenes the rules or regulations relating to:

- (a) the erection, upkeep, repair or demolition of buildings of any kind whatsoever, whether public or private; or
- (b) the safety of public places, halls, places or installations used for theatrical performances and entertainments or the holding of meetings, or premises for habitation, trade or industry, is punishable with fine or arrest.

Art.782.—Control of Streets and Public Places.

Whosoever impairs public safety, in particular:

- (a) by depositing, suspending, unloading or throwing at a crossing or a public place or a place accessible to the public materials, garbage, refuse, objects or things of any nature whatsoever capable of causing an appreciable risk or nuisance without observing the relevant rules or taking the necessary precautions; or
- (b) by neglecting to place a warning notice or light the materials or objects thus exposed or deposited, or the excavations, erections or works affected in such a place, or by removing or interfering with, without necessity or adequate reasons, lights placed in the interests of the public,

is punishable under Art. 781.

Art. 783. — Endangering Safety of Communications.

Whosoever, apart from the cases punishable under the Penal Code (Art.499 - 502), contravenes the rules or regulations relating to the licensing, conditions and supervision of the traffic of pedestrians, animals or vehicles of all kinds, as well as the declaration, equipment, upkeep and use of the latter,

is punishable under Art. 781.

Art. 784. — Control of Fire, Explosive and Dangerous Substances.

Whosoever, apart from the cases punishable under the Penal Code (Art. 488-494):

- (a) contravenes the preventive, protective and safety provisions concerning fires and

fire control, in particular in relation to installations, whether electric or other, and to the obligation to insulate, maintain and repair chimneys, furnaces, boilers or apparatus in which fire is used: or

(b) contravenes the prohibition against exploding in certain places, or without taking the requisite precautions, mines, bombs, mortars, fireworks or squibs or against launching lighted balloons or against making any similar use of explosive or inflamed materials; or

(c) contravenes the rules regulating the manufacture or preparation, possession, handling, transport, sale, purchase or use of oils and petroleum and their derivatives, gunpowder and all explosive, inflammable toxic, corrosive or dangerous substances,

is punishable with fine or arrest.

Chapter V. — OFFENCES AGAINST PUBLIC HEALTH AND HYGIENE

Art. 785. — *Control of Public Health and Salubrity.*

Whosoever, apart from the cases punishable under the Penal Code (Art.503-508), contravenes the rules or regulations regarding:

(a) the cleanliness, salubrity and hygiene of water and water installations. public places and establishments, houses and habitations, factories plants and industrial and commercial premises; or

(b) the prevention, declaration, prophylactic treatment and control of diseases, in particular mental and contagious diseases, epidemics and epizootic diseases,

is punishable with fine or arrest.

Art. 786. — *Control of Toxic Substances and Drugs.*

Whosoever, apart from the cases punishable under the Penal Code (Art.510):

(a) manufacturers or prepares, sells, offers for sale, delivers or gives without lawful permission or an express medical prescription, where such are required, substances or products which are narcotic, toxic, poisonous, noxious or dangerous for the health; or

(b) in defiance of rules prescribed by law or the rules dictated by commons prudence wilfully sells, offers for sale or delivers such substances or products, even when their delivery is not expressly prohibited without an authorization, to persons who are irresponsible, to infants or young persons, sick persons or individuals for whom they

are manifestly dangerous or unsuitable; or

(c) keeps or handles such substances or products without taking the precaution required by official or professional regulations, custom or the dictates of common prudence, in particular when there is a risk of mistake or confusion; or

(d) fails to warn other persons of the danger of poisoning or intoxication known to him, when it is his duty and he is able to do so, is punishable with fine or arrest.

Art.787. — *Rendering another Person unconscious or Stupefied.*

1) A person shall be liable to the same penalties when, apart from the cases punishable under the Penal Code (Art. 515 and 516), he subjects another person to a treatment or practices of any nature whatsoever abolishing or altering the faculties of consciousness or free determination without being authorized so to do by his professional status and in conformity with generally accepted medical or pharmaceutical practice.

(2) Medical experiments or hypnotic passes or exercises in hypnotism or transmission of thoughts or conduct from a distance duly authorized and carried out by way of mere entertainment shall not be punishable.

Art. 788. — *Control of Foodstuffs, Beverages and other Commodities.*

Whosoever, apart from the cases punishable under the Penal Code (Art.511 and 512), contravenes the rules or regulations regarding:

(a) the permission for the keeping or sale, the transport, preservation, sale and control of foodstuffs, meat, milk, beverages, whether alcoholic or not, commodities and fodder; or

(b) the opening and closing, running and control of market places, is punishable with the fine or arrest.

Art. 789. — *Regulation of the Medical and Therapeutic Professions and Hospitals.*

Whosoever, apart from the cases punishable under the Penal Code (Art. 518 and 519), contravenes the rules or regulations regarding:

(a) the permission to practice, and the practice of, the medical, pharmaceutical and veterinary professions and auxiliary professions of any kind whatsoever, including physio-therapy, natural therapeutics and chiropractice; or

(b) the sale or delivery of drugs and medicines; or

(c) the opening, declaration, management or running of places or establishments for cures, whether for outdoor or in-door patients, of any nature whatsoever,

is punishable with fine or arrest.

Art. 790. — *Failure to Make compulsory Notifications.*

Physicians, dentists, chemists, midwives, veterinary-surgeons and all persons officially authorized to attend patients, who fail to bring to the notice of the competente authority facts which, under law, they are obliged to notify, in particular with a view to preventing the spread of contagious diseases, drug-addiction, or epizootics, or activities of a criminal nature or dangerous for the community as a whole, are punishable with fine not exceeding fire hundred dollars or, in more serious cases or cases of recidivism, with arrest.

Art. 791. — *Failure to Afford Attendance.*

Physicians, chemists, veterinary-surgeons, midwives or any other persons authorized to practise a therapeutic profession who, apart from the cases punishable under the Penal Code (Art. 520 and 547), fail without lawful cause to attend professionally shall be liable to the penalties stipulated in the preceding Article, when such failure to act entails a danger or a risk for another person.

Art. 792. — *Regulation of Burials and Cremations.*

Whosoever contravenes the rules and regulations regarding the exposure of the dead, burials and cremations,

is punishable with fine or arrest.

TITLE II

PETTY OFFENCES AGAINST PERSONS AND PROPERTY

Art. 793. — *Principle, General Provision.*

Whosoever, a part from the cases provided by this Code, contravenes the regulations, orders, rules or measures issued for the protection of persons or property shall be punishable, if his act is not otherwise punishable under the Penal Code or special legislation, with fine or arrest to be fixed in accordance with the general provisions of this Code.

Chapter I. — PETTY OFFENCES AGAINST PERSONS

Section I. — *Offences Relating to the Protection of Persons*

Art. 794. — *Assault and Minor Acts of Violence.*

Whosoever, apart from the cases punishable under the Penal Code (Art. 544) :

- (a) commits an assault or minor acts of violence against another person, without striking or wounding the said person, or
 - (b) deliberately or negligently throws at another person filth or an object or liquid likely to inconvenience or soil him,
- is punishable with fine not exceeding one hundred dollars or arrest not exceeding eight days.

Art. 795. — *Concealment of a Corpse.*

Whosoever,

- (a) has hidden, buried, drowned, cremated or caused to disappear in any other manner a still-born child or a child alleged to have been still born, or a human corpse, without notifying the fact to the competent authority, or has failed to notify to the said authority of the discovery of a corpse; or
 - (b) having wounded or killed another in self defence or in a state of necessity, failed to notify the fact forthwith to the competent authority,
- is punishable with fine or arrest.

Art. 796. — *Offences against Personal Liberty.*

Whosoever, apart from the cases punishable under the Penal Code (Art.557), causes an infant, or young person, an irresponsible or mentally deficient person, or a person placed under his authority either by law or otherwise, to be admitted to or detained in a public or private institution, or admits to or detains such a person in such an institution contrary to the regulations or safeguards laid down by law,

is punishable with fine or arrest.

Art. 797. — *Infringement of the Right to Private Secrecy.*

Whosoever, in cases of minor importance or cases of negligence not deserving to be punished under the Penal Code (Art. 573), violates the right to the secrecy of private life, correspondence or personal matters for whatever motive,

is punishable with fine or arrest not exceeding fifteen days.

Art. 798. — *Slight Offences against Honour.*

In cases of slight insult or offensive behaviour not deserving to be punished under the Penal Code (Art. 583), in particular in, the absence of publicity or when the significance of the insult or offensive behaviour was not understood by third parties or by the aggrieved party, the Court shall impose a fine not exceeding one

hundred dollars or arrest not exceeding eight days, subject to the general provisions relating to exemption from penalty in cases of retaliation or retractation.

Section II. — Offences against Morality

Art. 799. — Offences against Decency and Morality.

Whosoever, apart from the cases punishable under the Penal Code (Art. 608-610), intentionally offends morality or decency in a public place or a place within the view of the public,
is punishable with fine or arrest.

Art. 800. — Immoral Soliciting and Debauchery.

Whosoever in the street or in a public place or in a place accessible to the public:

- (a) with an intent contrary to decency or morality molests a person who is not soliciting; or
- (b) by improper soliciting incites another person to sexual intercourse or to committing acts contrary to decency or acts of debauchery of any kind whatsoever; or
- (c) by engaging in prostitution or debauchery, is a nuisance to the occupiers of the dwelling or the inhabitants of the neighbourhood,

is punishable with fine or arrest not exceeding eight days.

Art. 801. — Advertising for debauchery.

Whosoever, with a view to encouraging debauchery or satisfying the sexual urge of others, publicly advertises by any means that debauchery may be enjoyed in a particular place,

is punishable with fine or arrest not exceeding one month,

Art. 802. — Publicity relating to Contraception, and Abortion.

Whosoever,

- (a) advertises or displays in public, or sends to persons who did not so them or are not, by reason of their profession, interested therein, contraceptive publications, or contraceptive samples; or
- (b) advertises or offers for sale means or products designed to cause abortion, or publicly offers his services to perform abortion, is punishable with fine or arrest not

exceeding one month.

Chapter II. — PETTY OFFENCES AGAINST PROPERTY

Section I. — Protection of the National Wealth

Art. 803. — *Protection of the Historical, Artistic and Natural Riches.*

Whosoever, apart from the cases punishable under the Penal Code, contravenes the rules or regulations:

- (a) protecting the national historical, archeological and artistic wealth or the natural sites, springs or riches of any nature whatsoever; or
- (b) rendering compulsory the declaration of the discovery of historical, archeological, geographical or natural riches of national interest, or prohibiting, limiting or controlling the trade in, or export of, antiquities or precious or protected objects of any nature whatsoever; or
- (c) punishing anyone who impairs the value, defaces or places in jeopardy an historical or archeological monument, a natural *site* or a specifically protected place,
is punishable with fine or arrest.

Art. 804. — *Protection of the Flora and Fauna,*

Whosoever contravenes the rules or regulations for the protection and safeguard of the national arborescent species, flora and fauna, is punishable under Art. 803.

Section II. — Petty Offences against Property,

Art. 805. — *Protection of Public and Private Property.*

Whosoever, apart from the cases punishable under the Penal Code (Art. 649-651), contravenes the rules or regulations protecting public or private property and in particular;

- (a) removes, without due authorization, from a public or private place, earth, stones, wood, sand or materials, grass, badges, plants or seeds; or
- (b) enters or goes over without being entitled thereto, in any season whatever, enclosed or sown land, or land bearing crops or fruit, or causes or allows his cattle or his mounts to go over such land or pasture thereon; or

(c) unlawfully enters reserved hunting or fishing land.

is punishable with fine or arrest.

Art. 806. — *Petty theft.*

(1) Whosoever, prompted by need or desire or by lack of conscience, takes a thing of small value belonging to another for his immediate consumption or use,

is punishable with fine not exceeding fifty dollars or arrest not exceeding fifteen days.

The court may impose no punishment when the offender was urged by hardship or need duly proven.

(2) A petty theft committed to the prejudice of an ascendant, a descendant or a spouse not legally separated shall not be punishable.

(3) According to the circumstances of the case, custom and the object of the theft, the court shall appreciate whether the stolen thing must be regarded as of small value and whether an intention to secure an illicit enrichment, which is the constituent element of theft, must not be admitted.

Art. 807. — *Pilfering and Gleaning.*

Whosoever in any season of the year:

(a) without leave takes or gathers in order to eat them on the spot, fruit, berries, grains, vegetables and other agricultural or horticultural products belonging to another person; or

(b) gleam, rakes or picks in fields, orchards or land owned by another and from which crops have not yet been fully gathered, or does so at any time comprised between sunset and sunrise,

is punishable under Art. 806.

Art. 808. — *Unjustified possession of Suspicious Articles.*

Whosoever is found in possession of keys, hooks, pincers, instruments or weapons, or securities, articles or objects the origin of which he cannot explain satisfactorily or the use of which he cannot justify, is punishable with fine or arrest not exceeding one month.

Art. 809. — *Failure to Notify the Competent Authority and Concealment of*

Property.

Whosoever omits to notify the competent authority, as soon as circumstances and material conditions enable him so to do,

(a) upon his finding an object mislaid or lost by another person, or a treasure (Art. 645); or

(b) upon acquiring or receiving in any capacity whatsoever objects of any nature originating, without his knowledge, from a theft or another offence against another person's property, the felonious origin of which he subsequently suspected, knew or ascertained,

is punishable under Art. 808.

Art. 810. — *Defacement or Depreciation of another person's property.*

Whosoever, apart from the cases punishable under the Penal Code (Art. 653 and 654), defaces or depreciates another person's property, whether by inadequate maintenance of houses, buildings or walls for the upkeep of which he is responsible, by works effected on another person's land, by its obstruction or the obstruction of its ways of access, by the discharge thereon of materials or objects, by the diversion or defective upkeep of water or drains, by bad driving or excessive speed or loading of vehicles or beasts of draught or burden or mounts, by the unskillful or careless use of arms or instruments, or by any other fault or negligence of which he may be guilty,
is punishable with fine or arrest.

Art. 811. — *Damage to Public Monuments.*

Whosoever, apart from the cases of substantial damage to property punishable under the Penal Code (Art. 654), soils or defaces monuments, buildings, statues or other objects intended for public use or enjoyment,
is punishable under Art. 810.

Section III. — *Petty Offences against Property in General*

Art. 812. — *Malicious Injury to Another Person's Interests.*

Whosoever, without any intent to secure an illicit enrichment, causes another person to do acts detrimental to his proprietary interests or those of a third party by resorting to deceptive or fraudulent methods, whether out of malice, intent to injure or for any other reason,

is punishable with, fine or arrest not exceeding one month.

Art. 813. — *Filching.*

Whosoever, knowing that he is unable to pay, orders or obtains foodstuffs,

beverages, accommodation or benefits of any kind whatsoever in establishments such as boarding houses, eating houses, inns or hotels catering for the public,

is punishable under Art. 812.

Art. 814. — *Fraudulent obtaining of other Benefits.*

Whosoever fraudulently obtains without payment benefits which he knew: to be obtainable only against remuneration, in particular:

- (a) conveyance by public or private means of transport of any kind whatsoever, on land, by air or by water; or
- (b) admittance to a show, entertainment, performance, exhibition or any other similar function organised for profit; or ; :
- (c) obtaining goods supplies by an automatic machine operated by the introduction of coins,

is punishable under Art. 812.

Art. 815. — *Quackery.*

Whosoever, apart from the cases punishable under the Penal Code (Art.661):

- (a) obtains money by taking advantage of the credulity of others by soothsaying in any form whatsoever, by calling upon spirits, by indicating means for finding a treasure, or in any similar manner; or
- (b) publicly offers, by advertising or otherwise, to resort to such practices for gain,

is punishable under Art. 812.

Art. 816. — *Unauthorized Collections.*

Whosoever publicly collects funds or appeals for money without being authorized so to do by law or the competent authority, is punishable with fine or arrest.

This Article shall not apply to collections made in buildings dedicated to the practice of religion, or in private, professional, sporting or other clubs, societies or circles, in particular if made for purposes of charity or upkeep.

Chapter m. — ECONOMIC, TRADE OR MAEITIME OFFENCES

Art. 817. — *Breach of the Provisions Concerning the Keeping of Books and Accounts.*

Whosoever, in violation of a duty resulting from law, a regulation or articles of

association, fails or neglects to keep regularly and in good order books and accounts, or to keep his correspondence, invoices and other business papers for the prescribed time,

is punishable with fine or arrest not exceeding one month.

Art. 818. — *Resistance to Compulsory Execution.*

A debtor or a third party who, apart from the cases punishable under the Penal Code (Art. 683-685), disobeys an express and legitimate injunction addressed to him by the prosecuting or liquidation authority, in particular as to his duty:

- (a) of announcing, declaring or producing objects forming part of the assets, even though they are no longer in his possession, or credits, claims, debts, mortgages or any other obligations of the same kind; or
- (b) of answering a regular summons to be heard or appear in the presence of others, attend a meeting, participate in a vote, or exercise any other activity prescribed by the legal provisions relating to proceedings for debt or compulsory execution,

is punishable with fine or arrest not exceeding eight days.

Art.819. — *Violation of Regulations regarding the Merchant Service.*

Whosoever contravenes the rules or regulations regarding the merchant service relating to:

- (a) security measures imposed upon the captain, the officers or the crew of a ship in respect of the signalling, inspection, revision or control of the ship; or
- (b) the keeping of logbooks, registers or other documents; or
- (c) the carrying of freight, cargo, mail or passengers, embarkation and disembarkation, loading and unloading, or movement at sea and in ports; or
- (d) hygiene or health,

is punishable with fine or arrest, if no other provision of the Penal Code or of special legislation is applicable.

Art. 820. — *Offences Committed in the Management of a Body Corporate.*

The general provisions of the Penal Code (Art. 689)' relating to the imposition of penalties of a personal nature and the enforcement of material measures shall also be applicable in the case of petty offences.

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- Art. 785. — *Control of Public Health and Salubrity.*
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- Art. 790. — *Failure to make compulsory Notifications.*
- Art. 791. — *Failure to Afford Attendance.*
- Art. 792. — *Regulation of Burials and Cremations.*

CORRIGENDA

- Page 5, Art. 17 (1), line 1: read "in a foreign country"
- Page 11, Art. 32 (1) (c), line 1: read "employs"
- Art. 33, heading: read "Incitements"
- Page 12, Art. 38 (1), line 2: read "offence or the person who"
- Page 17, Art. 55 (3), line 2: read "as to the"

Page 18, Art. 59 (1), line 1: read *"negligent"*
Page 22, Art. 72, line 5: read *"the Court shall"*
Page 27: read *"Sub-paragraph 1. Fine. Confiscation. Sequestration" before*

Art. 88

Page 29, Art. 93, line 2: read *"as are sufficient"*
Page 33, Art. 104, line 4: read *"shall be converted"*
Page 34, Art. 107 (1), line 6: read *"confinement"*
Page 35, Art. 110 (1), line 6: read *"suitable"*

.Art. III (2), line 5: read "as possible"

Page 36, Art. 112 (2), line 2: read *"lay down"*
Page 38, Art. 120 A (2), line 2: read *"eighteen"*
Page 39, Art. 122 (a), line 3: read *"expert"*
Page 40, Art. 126 (1), line 3: read *"or his dismissal"*
Page 44, Art. 137 (2), line 9: for *"internment"* read *"confinement"*

,Art. 139 (3), line 4: read *"offender"*
line 5; read *"The recognizance and"*
Page 46, Art. 145 (1), line 3: read *"threatens the peace"*
Page 48, Art. 153, line 4: read *"duration"*

,Art. 154 (1), line 6: read *"a habitual"*
lines 7-8: read *"recognized"*
Page 49, Art. 156, line 3: read *"from resorting to or residing in"*
Page 50, Art. 159 (1), line 2: read *"judgment"*

line 4; read *"matter"*

Page 52, Art. 166, line 2: read *"are bad"*

,Art. 167 (1), line 5; read *"applied"*

Page 53, Art. 168, line 1: read *"institution or of the supervising authority..."*

preceding Articles"

Page 54, Art. 173 (1) (a), lines 1-2: read *"measures"*
Page 55, Art. 174, line 5; read *"punishments"*
Page 57: read *"Chapter I"*

,Art. 183, line 2: read *"with the general"*

,Art. 184, line 1: read *"the court may mitigate"*

Page 58, Art. 185, line 1: read *"provides"*

Page 61, Art. 195, line 3: for *"for less"* read *"for not more"*

CORRIGENDA

Page 63, Art. 207 (c), line 2: read *"expect"*

,Art. 209, line 6: for *"two"* read *"three"*

Page 66, Art. 211 (1), line 1: read *"released"*

,Art. 212 (1), line 2: read *"to practise"*

Page 67, Art. 213, line 8: read *"an organization"*

,Art. 214 (1), line 10; read *"direct"*

,Art. 215 (1), line 1: read *"associations"*

Page 69, Art. 222, line 6: read *"shall benefit all to the extent"*

Page 71, Art. 228 (1), line 6: read *"calculated"*

,Art. 230, line 3: read *"offender"*

Page 74, Art. 242 (1), line 4: read *"fulfils"*

Page 79» Art. 257, line 5; read *"not less than"*

Page 80, Art. 262, heading: read *"Diplomatic treason"*

Page 82, Art. 264 (d), line 3: read *"rigorous"*

Page 87, Art. 282 (b), line 2: read *"systematic"*

Page 91, Art. 296 (1), line 1: read *"recruitment"*

Art. 297 ,(1), line 1: read *"recruitment"*
line 3: read *"recruitment"*

Art. 298 (1), line 2: read *"his own action or that"*

Page 94, Art. 307 (2), line 2: read *"withholds"*

Page 96, Art. 316 (1) (b), line 2: read *"relieved"*

Page 99, Art. 324 (1), line 8: for *"not exceeding"* read *"for not less than"*

Page 103, Art. 339, flooding: read *"wearing"*

Page 105, Art. 345 (1), line 6: read *"punishable"*

Page 108, Art. 357, line 5: read *"dealings in"*

Page 110, Art. 364 (1) (c), line 2: read *"whether of"*

(d), line 7: read *"forfeiture"*

Page 111, Art. 366, line 4: read *"rigorous"*

Page 113, Art. 373 (1) (a), line 3: read "identity"

Art. 374 (1) (a), line 4: read "*postage*"

Page 114, Art. 377 (1) (a), line 1: read "*counterfeits*"

(b), line 1: read "*counterfeits*"

Page 115, Art. 379 (1), line 3: read "*means*"

Art. 380 (3), line 3: read "*preceding Chapters*"

Art. 381 (1), line 3: read "a habitual"

Page 117, Art. 383 (a), line 1: read "*as a writing*"

(d), line 1: read "falsifies"

CORRIGENDA

Page 120, Art. 393 (2), line 3: for "*benefitting himself*" read "*injuring rights of another*"

Page 122, Art. 402 (1), line 1: read "*a habitual*"

Page 123, Art. 407 (1) (b), line 2: read "*translators*"

Page 126, Art. 414 (2), line 1; read "*In cases*"

Page 127, Art. 419 (1), line 3: read "*rigorous*"

Page 128, Art. 421, heading: read "*objects*"

Art. 422 (a), line 4: read "*distrain*"

Page 130, Art. 426 (1), line 3: read "*ponies*"

Page 131, Art. 432 (b), line 3: read "*safekeeping*"

Page 132, Art. 434 (1), line 3: read "*perform*"

Page 134, Art. 441 (b), line 2: read "*inaccurate*"

Art. 442 (2), line 2: read "*limit laid down*"

Art. 443 (1), line 1: read "*proceeding or hearing*"

Page 142, Art. 465 (e), line 1: read "*withholding*"

Art. 468 (2), line 3: read "*prejudice*"

Page 143, Art. 470, line 7: read "*serious*"

Page 145, Art. 475 (1); (a), line 3: read "*or 'distributed*"

[(b), line 5: read "of the 'material"

Page 147, Art. 483, line 5: read "*exempted*"

Page 149, Art. 488 (1), line 2: read "*his own*"

Page 151, Art. 495, *heading*: read *"Infringement"*

Page 152, Art. 500 [(1)] (d), *tee 2s* read *"regulations. or to observe obvious rules of
prudence"*

Page 153, Art. 501, *line 3*; read *"agreed"*

Page 156, Art. 511 (2) (b), *line 5*: read *"dangerous effects"*

Page 157, Art. 515, *line 2*: read *"catalepsy"*

Page 158, Art. 517 (2), *line 1*; for *"offender"* read *"victim"*
, Art. 518 (4), *line 5*: read *"practise"*

Page 160, Art. 522 (I) (c), *line 2* read *rigorous*

Page 162, Art. 534 (2), *line 1*: read *"certified"*

(3) (a), *fine 2*: read *"qualified"*

Page 164, Art. 537 (1), *line 5* read *"injuries"*

.Art. 538 (c), *line 5*: read *"not less"*

CORRIGENDA

Page 165, Art. 542 (2), *line 3*: for *"of tender years"* read *"under age"*

, Art. 544 (2), *line 1*: read *"not held"*

Page 168, Art. 552, *line 1*: read *"with an unlawful danger"*

Page 170, Art. 558 (1), *line 2*: read *"trickery"*

Page 171, Art. 563 (2), *line 6*: read *"according"*

, Art. 564 (b), *line 1*: read *"or knowingly"*

Page 172, Art. 566, *line 2*: read *"of a town"*

Page 174, Art. 572 (b), *line 1*: read *"a number of persons"*

Page 175, Art. 574 (2), *line 2*: read *"shall"*

, Art. 575, *line 4*: read *"circulation"*

, Art. 576 (1), *line 3*: read *"penalty of"*

, Art. 577 (1), *line 3*: read *"having regard"*

Page 178, Art. 584 (2), *line 1*: read *"the injured party"*

.Art. 586 (1) (b), *line 1*: read *"month"*

Page 181, Art. 595 (1)', *line 1*: read *"analogous"*

Page 182, Art. 598 (c), *line 1: read "distress"*

Page 185, Art. 612, *line 3: read "objects"*

,Art. 613 (a), line 6: read "young persons"

Page 186, Art. 016 (2), *line 1: read "he knows"*

,Art. 618 (1), line 2: read "with"

Page 187, Art. 618 (1), *line 4: for "partner" read "co-rcspondent"*

Page 189, Art. 626 (2), *line 2: read "through"*

Page 190, Art. 629, *heading: read "Proceedings"*

Page 199, Art. 660, *line 1: read "misrepresentation"*

Page 201, Art. 667 (2), *line 1: read "an usurious"*

Page 202, Art. 670 (c), *line 2: read "or their repetition"*

Page 203, Art. 675, *heading: read "Infringement"*

Page 206, Art. 684 (1), *line 4: read "pledge"*

Page 210, Art. 699 (1)', *line 5: read "necessity"*

Page 212, Art. 703 (1), *line 1: read "Arrest is"*

,Art. 704 (1), line 4: read "No person"

,Art. 705 (1), line 2: read "subject to"

Page 213, Art. 706 (1), *line 4: read "purpose"*

,Art. 707 (2), line 2: read "persons"

CORRIGENDA

Page 218, *mad "Chapter III"*

Page 223, Art. 747, *heading: read "Determining"*

,Art. 749, line 5: read "against"

.Art. 750 (1), line 1: read "apply"

Page 225, Art. 755 (a), *line 5: read "identity"*

,Art. 758 (1), line 3: read "prescribed"

,Art. 759, line 3: read "of ore authority"

Page 226, *read: "Section 1 —. Offences against Public Safety"*

Page 229, Art. 774, *line 2: read "public"*

,Art. 776 (c), line 4: read "entertainments"

Page 232, Art. 786 (a), *line 1: read "manufactures"*

(b), *line 2: read "common prudence"*

(c). Zinc 2: *read "precautions"*

Page 236, Art. 803 (a), *line 1: read "archaeological"*

,(b), *line 2: read "archaeological"295*

(c), *line 2: read "archaeological"*

Page 237, Art. 850 .(a), *line 2: read "hedges"*

(b) *line 4: read "thereon"*