

LAWS OF FIJI

CHAPTER 17

PENAL CODE

ARRANGEMENT OF SECTIONS

PART I-GENERAL PROVISIONS

CHAPTER I-PRELIMINARY

SECTION

1. Short title.
2. Saving of certain laws.

CHAPTER II-INTERPRETATION

3. General rule of construction.
4. Definition of certain expressions and terms.

CHAPTER III-TERRITORIAL APPLICATION OF THIS CODE

5. Extent of jurisdiction of Fiji Courts.
6. Offences committed partly within and partly beyond the jurisdiction.

CHAPTER IV-GENERAL RULES AS TO CRIMINAL RESPONSIBILITY

7. Ignorance of law.
8. *Bona fide* claim of right.
9. Intention and motive.
10. Mistake of fact.
11. Presumption of sanity.
12. Insanity.
13. Intoxication.
14. Immature age.
15. Judicial officers.
16. Compulsion.
17. Defence of person or property.
18. Use of force in effecting arrest.
19. Compulsion by husband.
20. Person not to be punished twice for same offence.

CHAPTER V-PARTIES TO OFFENCES

21. Principal offenders.
22. Offences committed by joint offenders in prosecution of common purpose.

23. Counselling another to commit an offence.

CHAPTER VI-PUNISHMENTS

24. Sentence of death.
25. Persons under 18 not to be sentenced to death.
26. Record and report to be sent to Governor General.
27. Procedure where woman convicted of capital offence alleges she is pregnant.
28. Imprisonment.
29. Suspended sentences of imprisonment.
30. Power of court on conviction of further offence to deal with suspended sentence.
31. Court by which suspended sentence is to be dealt with.
32. Discovery of further offences.
33. Minimum period on sentence of imprisonment for life.
34. Corporal punishment.
35. Fines.
36. Distress.
37. Suspension of execution of sentence of imprisonment in default of fine.
38. Commitment in lieu of distress.
39. Payment after commitment.
40. Payment after issue of warrant but before commitment.
41. Security for keeping the peace.
42. Security for coming up for judgment.
43. Provisions of Criminal Procedure Code relating to recognisance to apply.
44. Absolute and conditional discharge.
45. Issue of warrants and errors in orders or warrants.
46. Police supervision.
47. General punishment for misdemeanours.
48. Escaped convicts to serve unexpired sentences when recaptured.
49. Forfeiture,

PART II-CRIMES

Division I-Offences against Public Order

CHAPTER VII-TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN'S AUTHORITY

50. Treason by the law of England.
51. Instigating invasion.
52. Misprision of treason.
53. Treasonable felonies.
54. Limitations as to trial for treason, misprision of treason, or treasonable felonies.
55. Inciting to mutiny.
56. Aiding soldiers or policemen in acts of mutiny.
57. Inducing soldiers or policemen to desert.
58. Aiding prisoners of war to escape.
59. Definition of overt acts.

60. Definitions for purposes of sections relating to sedition, etc.
61. Power to prohibit importation of publication.
62. Offences in relation to publications, the importation of which is prohibited.
63. Delivery of prohibited publication to police station.
64. Power to examine packages.
65. Seditious intention.
66. Seditious offences.
67. Suspension of newspaper containing seditious matter.
68. Power of Court to prohibit circulation of seditious publications.

CHAPTER VIII-GENOCIDE

69. Genocide.

CHAPTER IX-OFFENCES AFFECTING RELATIONS WITH FOREIGN STATES AND EXTERNAL TRANQUILLITY

70. Defamation of foreign princes.
71. Foreign enlistment.
72. Piracy.
73. Hijacking.
74. Other offences committed in the course of hijacking.
75. Aircraft operated by joint or international organisation.
76. Aircraft sabotage.
77. Prosecution of offences.
78. Definition of State.

CHAPTER X-UNLAWFUL ASSEMBLIES, RIOTS AND OTHER OFFENCES AGAINST PUBLIC TRANQUILLITY

79. Unlawful society.
80. Managing unlawful society.
81. Being member of unlawful society.
82. Prosecutions under sections 80 and 81.
83. Power of entry, arrest, search, etc.
84. Declaration by Minister.
85. Forfeiture of insignia, etc.
86. Definition of unlawful assembly and riot.
87. Punishment of unlawful assembly.
88. Punishment of riot.
89. Making proclamation for rioters to disperse.
90. Dispersion of rioters after proclamation made.
91. Rioting after proclamation.
92. Preventing or obstructing the making of proclamation.
93. Rioters, demolishing buildings, etc.
94. Rioters damaging buildings, machinery, etc.
95. Riotously interfering with railway, vehicle or vessel.
96. Prohibition of the carrying of offensive weapons without lawful authority or reasonable excuse.

97. Prohibition on manufacture, sale, etc. of flick knives, gravity knives and knuckle dusters.
98. Going armed in public.
99. Forcible entry.
100. Forcible detainer.
101. Affray.
102. Challenge to fight a duel.
103. Threatening violence.
104. Assembling for the purpose of smuggling.
105. Throwing or projecting objects.

Division II-Offences Against the Administration of Lawful Authority

CHAPTER XI-CORRUPTION AND THE ABUSE OF OFFICE

106. Official corruption.
107. Extortion by public officers.
108. Public officers receiving property to show favour.
109. Officers charged with administration of property of a special character or with special duties.
110. False claims by officials.
111. Abuse of office.
112. False certificates by public officers.
113. Unauthorised administration of oaths.
114. False assumption of authority.
115. Personating public officers.
116. Threats of injury to persons employed in public service.

CHAPTER XII-PERJURY AND FALSE STATEMENTS AND DECLARATIONS

117. Perjury.
118. False statements on oath made otherwise than in a judicial proceeding.
119. False statements, etc. with reference to marriage.
120. False statements, etc. as to births or deaths.
121. False statutory declarations and other false statements without oath.
122. False declarations, etc. to obtain registration, etc. for carrying on a vocation.
123. Aiders abettors, suborners, etc.
124. Corroboration.
125. Fabricating evidence.
126. Inconsistent or contradictory statements.
127. Proof of certain proceedings on which perjury is assigned.
128. Forms and ceremonies of oath immaterial.

**CHAPTER XIII-OTHER OFFENCES RELATING TO THE
ADMINISTRATION OF JUSTICE**

129. Deceiving witnesses.
130. Destroying evidence.
131. Conspiracy to defeat justice and interference with witnesses.
132. Compounding felonies.

- 133. Compounding penal actions.
- 134. Advertisements for stolen property.
- 135. Corruptly taking a reward.
- 136. Offences relating to judicial proceedings.

CHAPTER XIV-RESCUES AND ESCAPES AND OBSTRUCTING OFFICERS OF COURT OF LAW

- 137. Rescue.
- 138. Escape.
- 139. Aiding prisoners to escape.
- 140. Removal, etc. of property under lawful seizure.
- 141. Obstructing court officers.

CHAPTER XV-MISCELLANEOUS OFFENCES AGAINST PUBLIC AUTHORITY

- 142. Frauds and breaches of trust by persons employed in the public service.
- 143. False information to public servant.
- 144. Disobedience of lawful orders.

Division III-Offences injurious to the public in general

CHAPTER XVI-OFFENCES RELATING TO RELIGION

- 145. Insult to religion of any class.
- 146. Disturbing religious assemblies.
- 147. Trespassing on burial places.
- 148. Writing or uttering words with intent to wound religious feelings.

CHAPTER XVII-OFFENCES AGAINST MORALITY

- 149. Definition of rape.
- 150. Punishment of rape.
- 151. Attempted rape.
- 152. Abduction.
- 153. Abduction of girl under eighteen years of age with intent to have carnal-knowledge.
- 154. Indecent assaults on and indecently insulting or annoying females.
- 155. Defilement of girl under thirteen years of age.
- 156. Defilement of girl between thirteen and sixteen years of age. Defilement of idiots or imbeciles.
- 157. Procuration.
- 158. Procuring defilement of women by threats, fraud or drugs.
- 159. Householder permitting defilement of girl under thirteen years of age on his premises.
- 160. Householder permitting, defilement of girl under sixteen years of age on his premises.
- 161. Detention of female in brothel or elsewhere.
- 162. Selling minors under the age of sixteen years for immoral purposes.
- 163. Buying minors under the age of sixteen years for immoral purposes.
- 164. Power of search.

165. Authority of court as to custody of girls.
166. Male person living on earnings of prostitution or persistently soliciting.
167. Women living on earnings of prostitution or aiding, etc. for gain prostitution of another woman.
168. Loitering or soliciting for the purposes of prostitution.
169. Suspicious premises.
170. Brothels.
171. Conspiracy to defile,
172. Attempts to procure abortion.
173. Abortion by woman with child.
174. Supplying drugs or instruments to procure abortion.
175. Unnatural offences.
176. Attempts to commit unnatural offences and indecent assaults.
177. Indecent practices between males.
178. Incest by males.
179. Incest by females.
180. Test of relationship.
181. Sanction of Director of Public Prosecutions.
182. Knowledge of age of female immaterial.
183. Definition of carnal knowledge.

CHAPTER XVIII-OFFENCES RELATING TO MARRIAGE

184. Fraudulent pretence of marriage.
185. Bigamy.
186. Marriage ceremony fraudulently gone through without lawful marriage.

CHAPTER XIX-NUISANCES AND OTHER MISCELLANEOUS OFFENCES

187. Common nuisance.
188. Traffic in obscene publications.
189. Offences in connexion with street and house to house collections.
190. Unlawful use of locomotives, etc.
191. Inciting dogs to attack.
192. Wearing, of uniform without authority prohibited.
193. Negligent spreading of disease.
194. Adulteration of food.
195. Sale of noxious food or drink.
196. Fouling air.
197. Criminal trespass.

Division IV-Offences against the person

CHAPTER XX-MURDER AND MANSLAUGHTER

198. Manslaughter.
199. Murder.
200. Punishment of murder.
201. Punishment of manslaughter.

- 202. Malice aforethought.
- 203. Killing on provocation.
- 204. Provocation defined.
- 205. Infanticide.
- 206. Causing death defined.
- 207. When child deemed to be a person.
- 208. Limitation as to time of death.

CHAPTER XXI-DUTIES RELATING TO THE PRESERVATION OF LIFE AND HEALTH

- 209. Responsibility of person who has charge of another.
- 210. Duty of head of family.
- 211. Duty of masters.
- 212. Duty of persons doing dangerous acts.
- 213. Duty of persons in charge of dangerous things.

CHAPTER XXII-OFFENCES CONNECTED WITH MURDER AND SUICIDE

- 214. Attempt to murder.
- 215. Attempt to murder by convict.
- 216. Accessory after the fact to murder.
- 217. Conspiracy to murder.
- 218. Suicide to cease to be offence.
- 219. Liability for complicity in another's suicide.
- 220. Concealing the birth of children.
- 221. Killing unborn child.

CHAPTER XXIII-OFFENCES ENDANGERING LIFE AND HEALTH

- 222. Disabling in order to commit felony or misdemeanour.
- 223. Stupefying in order to commit felony or misdemeanour.
- 224. Acts intended to cause grievous harm or to prevent arrest.
- 225. Preventing escape from wreck.
- 226. Intentionally endangering safety of persons travelling by railway.
- 227. Grievous harm.
- 228. Placing explosive with intent.
- 229. Maliciously administering poison with intent to harm.
- 230. Unlawful wounding.
- 231. Unlawful poisoning.
- 232. Witchcraft and sorcery.
- 233. Failure to supply necessaries.
- 234. Surgical operation.
- 235. Excess of force.
- 236. Consent.

CHAPTER XXIV-CRIMINAL RECKLESSNESS AND NEGLIGENCE

- 237. Reckless or negligent acts.
- 238. Causing death by dangerous driving.
- 239. Other negligent acts causing harm.
- 240. Negligent dealing with poisons.
- 241. Endangering safety of persons travelling by railway.
- 242. Exhibition of false light, mark or buoy.
- 243. Conveyance by unsafe or overloaded vessel.

CHAPTER XXV-ASSAULTS

- 244. Common assault.
- 245. Assault causing actual bodily harm.
- 246. Assaults on magistrates and other persons protecting wreck.
- 247. Assaults punishable with five years' imprisonment.

CHAPTER XXVI-OFFENCES AGAINST LIBERTY

- 248. Definition of kidnapping and abduction.
- 249. Punishment for kidnapping.
- 250. Kidnapping or abducting in order to murder.
- 251. Kidnapping or abducting with intent to confine person.
- 252. Kidnapping or abducting with intent to harm.
- 253. Wrongfully concealing kidnapped person.
- 254. Child stealing.
- 255. Abduction of girls under sixteen.
- 256. Punishment for wrongful confinement.
- 257. Unlawful compulsory labour.

Division V-Offences relating to property

CHAPTER XXVII-LARCENY, EMBEZZLEMENT AND CONVERSION

- 258. Things capable of being stolen.
- 259. Definition of theft.
- 260. Stealing and embezzlement by co-partners, etc.
- 261. Husband and wife.
- 262. General punishment for theft.
- 263. Larceny of will.
- 264. Larceny of documents of title and legal documents.
- 265. Larceny of electricity.
- 266. Larceny of ore.
- 267. Larceny of postal packets.
- 268. Embezzlement by officer of post office.
- 269. Definitions relating to larceny and embezzlement of postal packets.
- 270. Larceny in dwelling-house.
- 271. Larceny from the person.
- 272. Larceny from ship, dock, etc.
- 273. Larceny by tenant or lodger.

- 274. Larceny and embezzlement by clerks or servants.
- 275. Larceny of cattle.
- 276. Larceny of dogs.
- 277. Larceny of creatures.
- 278. Larceny of fish.
- 279. Conversion.

CHAPTER XXVIII-STEALING AND DAMAGING TREES, FIXTURES, ETC.

- 280. Larceny of trees.
- 281. Larceny of fences.
- 282. Larceny of fruit and vegetables.
- 283. Damaging fixtures, trees, etc., with intent to steal.

CHAPTER XXIX-OTHER OFFENCES ALLIED TO STEALING

- 284. Fraudulent destruction of documents.
- 285. Fraudulent destruction of documents of title.
- 286. Fraudulent destruction of wills.
- 287. Fraudulent destruction of record, writ, etc.
- 288. Miners removing ore.
- 289. Killing animals with intent to steal.
- 290. Larceny of or dredging for oysters.
- 291. Factor, obtaining, advances on the property of their principals.
- 292. Unlawful use of vehicles, animals, etc.

CHAPTER XXX-ROBBERY AND EXTORTION

- 293. Robbery.
- 294. Demanding money etc. with menaces.
- 295. Demanding with menaces with intent to steal.
- 296. Extortion.

CHAPTER XXXI-BURGLARY, HOUSEBREAKING AND SIMILAR OFFENCES

- 297. Definition of breaking and entering.
- 298. Sacrilege.
- 299. Burglary.
- 300. Housebreaking and committing felony.
- 301. Entering a magazine with intent.
- 302. Housebreaking with intent to commit felony.
- 303. Possession of housebreaking implements.
- 304. Forfeiture of housebreaking instruments.

CHAPTER XXXII-FRAUDS BY TRUSTEES AND PERSONS IN A POSITION OF TRUST, AND FALSE ACCOUNTING

- 305. Conversion by trustee.

- 306. Directors destroying books, etc.
- 307. Fraudulent falsification of accounts.

CHAPTER XXXIII-FALSE PRETENCES

- 308. Definition of false pretence.
- 309. False pretences.
- 310. Obtaining credit, etc., by false pretences.
- 311. Obtaining registration by false pretence.
- 312. False declaration for passport.

CHAPTER XXXIV-RECEIVING PROPERTY STOLEN OR UNLAWFULLY OBTAINED AND LIKE OFFENCES

- 313. Receiving.
- 314. Receiving goods stolen outside Fiji.
- 315. Evidence on charge of receiving stolen property.
- 316. Compulsory disclosures not to afford evidence.

Division VI-Malicious Injuries to Property

CHAPTER XXXV-OFFENCES CAUSING INJURY TO PROPERTY

- 317. Arson.
- 318. Attempts to commit arson.
- 319. Setting fire to crops, etc.
- 320. Attempting to set fire to crops. etc.
- 321. Casting away vessels.
- 322. Attempts to cast away vessels.
- 323. Injuring animals.
- 324. Other malicious injuries-general and special punishments.
- 325. Attempts to destroy property by explosives.
- 326. Spreading infectious disease among animals.
- 327. Removing boundary marks with intent to defraud.
- 328. Wilful damage, etc. to survey and boundary marks.
- 329. Penalties for damage, etc. to railway works.
- 330. Criminal Intimidation.

Division VII-Forgery, coining, counterfeiting and similar offences

CHAPTER XXXVI-INTERPRETATION

- 331. Definitions for purposes of sections relating to forgery, etc.
- 332. Definition of forgery.
- 333. False document.
- 334. Intent to defraud.

CHAPTER XXXVII-PUNISHMENT FOR FORGERY

- 335. Forgery of certain documents with intent to defraud.
- 336. Forgery with intent to defraud or deceive.
- 337. Making false entries in the books of the Chief Accountant.
- 338. Forging copies of certificates of records.
- 339. Forging registers of births, etc.
- 340. Making false entries in copies of register sent to registrar.
- 341. Forgery of other documents.
- 342. Forgery of seals and dies.
- 343. Uttering.
- 344. Uttering cancelled documents.
- 345. Demanding property on forged document.
- 346. Possession of forged documents, seals and dies.
- 347. Possession of paper or implements for forgery.
- 348. Possession of revenue paper, etc.
- 349. Falsifying warrants for money.
- 350. Procuring execution of document by false pretences.
- 351. Letter written for another to be signed by writer.

CHAPTER XXXVIII-OFFENCES RELATING TO COIN, AND BANK AND CURRENCY NOTES

- 352. Definitions.
- 353. Counterfeiting.
- 354. Gilding, silvering, filing and altering coin.
- 355. Imparting coin and possession of filing, etc.
- 356. Uttering and possession with intent to utter counterfeit coin.
- 357. Buying or selling counterfeit coin.
- 358. Importing and exporting counterfeit coin.
- 359. Possession of medals resembling coin.
- 360. Making, mending and having possession of coining implements.
- 361. Breaking up coin suspected to be counterfeit.
- 362. Evidence of coin being counterfeit.
- 363. Defacing and uttering defaced coin.
- 364. Melting down of currency.
- 365. Mutilating or defacing currency notes.
- 366. Imitation of currency.
- 367. Evidence of counterfeiting, etc.
- 368. Forfeiture of forged bank notes, currency notes. etc.

CHAPTER XXXIX-PERSONATION

- 369. General penalty for personation.
- 370. Falsely making acknowledgement.
- 371. Personation of a person named in a certificate.
- 372. Lending, etc. certificate for personation.
- 373. Personation of person named in a testimonial of character.
- 374. Lending, etc. testimonial for personation.

CHAPTER XL-SECRET COMMISSIONS AND CORRUPT PRACTICES

- 375. Interpretation for purposes of sections dealing with corrupt practices, etc.
- 376. Corrupt practices.
- 377. Secret commission on Government contracts.
- 378. Presumption as to corrupt practices.
- 379. Consent to prosecution.

Division VIII-Attempts and conspiracies to Commit Crimes, and Accessories After the Fact

CHAPTER XLI-ATTEMPTS

- 380. Attempt defined.
- 381. Attempts to commit offences.
- 382. Punishment of attempts to commit certain felonies.
- 383. Soliciting or inciting others to commit offence in Fiji or elsewhere.
- 384. Neglect to prevent felony.

CHAPTER XLII-CONSPIRACIES

- 385. Conspiracy to commit felony.
- 386. Conspiracy to commit misdemeanour.
- 387. Other conspiracies.

CHAPTER XLIII-ACCESSORIES AFTER THE FACT

- 388. Definition of accessories after the fact.
- 389. Punishment of accessories after the fact to felonies.
- 390. Punishment of accessories after the fact to misdemeanours.

AN ACT TO ESTABLISH A CODE OF CRIMINAL LAW

*Ordinances Nos. 18 of 1944, 29 of 1945, 9 of 1946, 11 of 1948, 21 of 1950,
23 of 1951, 24 of 1952, 31 of 1954, 9 of 1955, 25 of 1957, 30 of 1958,
6 of 1959, 16 of 1960, 40 of 1960, 50 of 1961, 16 of 1966, 17 of 1966,
37 of 1966, 12 of 1969, 25 of 1969, 8 of 1970,
Orders 7th October 1970*, 4th November 1970†,
Acts Nos. 11 of 1971, 8 of 1972, 28 of 1972, 15 of 1973, 14 of 1975,
4 of 1976, 24 of 1976, 34 of 1976, 13 of 1977, 20 of 1977, 4 of 1979*

* See Legal Notice No. 112 of 1970

† See Legal Notice No. 118 of 1970.

[1 May 1945]

PART I-GENERAL PROVISIONS
CHAPTER I-PRELIMINARY

Short title

1. This Act (hereinafter referred to as this Code) may be cited as the Penal Code.

Saving of certain laws

2. Except as hereinafter expressly provided nothing in this Code shall affect-

(a) the liability, trial or punishment of a person for an offence against the common law or against any other law in force in Fiji other than this Code; or

(b) the liability of a person to be tried or punished for an offence under the provisions of any law in force in Fiji relating to the jurisdiction of the courts of Fiji in respect of acts done beyond the ordinary jurisdiction of such courts; or

(Amended by Order 7th October 1970.)*

(c) the power of any court to punish a person for contempt of such court; or

(d) the liability or trial of a person, or the punishment of a person under any sentence passed or to be passed, in respect of any act done or commenced before the commencement of this Code; or

(e) any power of Her Majesty, or of the Governor-General as the representative of Her Majesty, to grant any pardon or to remit or commute in whole or in part or to respite the execution of any sentence passed or to be passed; or

(Amended by Order 7th October 1970.)*

(f) any of the Statutes, Acts, Regulations or Articles for the time being in force for the government of Her Majesty's military or naval or air forces, or the military or police forces of Fiji:

Provided that if a person does an act which is punishable under this Code and is also punishable under another Act or Statute of any of the kinds mentioned in this section, he shall not be punished for that act both under that Act or Statute and also under this Code.

* See Legal notice No. 112 of 1970

† See: Legal Notice No. 118 of 1970

CHAPTER II - INTERPRETATION

General rule of construction

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

Definition of certain expressions and terms

4. In this Code unless the context otherwise requires-

"court" means a court of competent jurisdiction;

"dangerous harm" means any harm endangering life;

"document of title to goods" includes any bill of lading, India warrant, dock warrant, warehousekeeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought or sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to;

"document of title to lands" includes any deed, map, roll, register, paper, or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real estate or to any interest in or out of any real estate and includes an instrument under the Land Transfer Act;

(Cap. 131)

"dwelling-house" includes any building or structure* or vessel or part of a building or structure* or vessel which is for the time being kept by the owner or occupier for the residence therein of himself, his family or servants or any of them, and it is immaterial that it is from time to time uninhabited; a building or structure adjacent to or occupied with a dwelling-house is deemed to be part of the dwelling-house if there is a communication between such building or structure and the dwelling-house, either immediate or by means of a covered and enclosed passage leading from the one to the other, but not otherwise;

*Inserted Act No. 15 of 1973.

"felony" means an offence which is declared by law to be a felony or, if not declared to be a misdemeanour, is punishable, without proof of previous conviction, with death, or with imprisonment for three years or more;

"grievous harm" means any harm which amounts to a maim or dangerous harm, or seriously or permanently injures health or which is likely so to injure health, or which extends to permanent disfigurement, or to any permanent or serious injury to any external or internal organ, member or sense;

"harm" means any bodily hurt, disease or disorder whether permanent or temporary;

"judicial proceeding" includes any proceeding had or taken in or before any court, tribunal, commission of inquiry, or person, in which evidence may be taken on oath;

"knowingly" used in connection with any term denoting uttering or using, implies knowledge of the character of the thing uttered or used;

"local authority" means a local authority established under any* Act;

†Amended by Order 8th October, 1970.

"mail" includes every conveyance by which postal packets are carried, whether it be a vessel, car, coach, cart, horse or any other conveyance, and also a person employed in conveying or delivering postal

packets, and also any vessel employed by or under the post office for the transmission of postal packets by contract, or otherwise in respect of postal packets transmitted by the vessel;

"mail bag" includes a bag, box, parcel or any other envelope or covering in which postal packets in course of transmission by post are conveyed, whether it does or does not contain any such packet;

"maim" means the destruction or permanent disabling of any external or internal organ, member or sense;

"misdemeanour" means any offence which is not treason or a felony;

"money" includes bank notes, bank drafts, cheques and any other orders, warrants or requests for the payment of money;

"night" or "night-time" means the interval between half-past six o'clock in the evening and half-past six o'clock in the morning;

"oath" includes affirmation or declaration and "swear" includes affirm or declare;

"offence" is an act, attempt or omission punishable by law;

"officer of the post office" includes the *Permanent Secretary for Posts and Telecommunications and any person employed in any business of the post office, whether employed by the *Permanent Secretary by any person under him or on behalf of the post office;

*Amended by Order 19th November 1971.

"Person" and "owner", and other like terms, when used with reference to property, include corporations of all kinds and any other association of persons capable of owning property, and also when so used include Her Majesty;

"person employed in the public service" means any person holding any of the following offices or performing the duty hereof, whether as a deputy or otherwise, namely

(i) any civil office including the office of †Governor-General the power of appointing a person to which or of removing from which is vested in Her Majesty or in the †Governor-General in a †Minister or in any public Commission or Board; or

† Amended by Order 8th October, 1970 and by Act 14 of 1975.

(ii) any office to which a person is appointed or nominated under the provisions of any Act or by election; or

(iii) any civil office, the power of appointing to which or removing from which is vested in any person or persons holding an office of any kind included in either of paragraphs (i) or (ii); or

(iv) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any court, or in pursuance of any Act;

and the said term further includes-

- (i) a justice of the peace;
- (ii) a member of a commission of inquiry appointed under or in pursuance of any Act;
- (iii) any person employed to execute any process of a court;
- (iv) all persons belonging to the military forces of Fiji;
- (v) all persons in the employment of any government department;
- (vi) all persons in the employ of the Fijian Affairs Board;
- (vii) a person acting as a minister of religion of whatsoever denomination, in so far as he performs functions in respect of the notification of intending marriage or in respect of the solemnisation of marriage, or in respect of the making or keeping of any register or certificate of marriage, birth, baptism, death or burial, but not in any other respect;
- (viii) a person in the employ of a local authority;

"possession"-

- (a) "be in possession of" or "have in possession" includes not only having in one's own personal possession, but also knowingly having anything in the actual possession or custody of any other person, or having anything in any place (whether belonging to or occupied by oneself or not) for the use or benefit of oneself or of any other person;
- (b) if there are two or more persons and any one or more of them with the knowledge and consent of the rest has or have anything in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them;

"postal packet" means a letter, postcard, lettercard, newspaper, book, packet, printed paper, pattern or sample packet, small packet or parcel and every other packet or article when in course of transmission by post and shall include a telegram when conveyed by post;
(*Substituted by 37 of 1966, s. 5.*)

"property" includes any description of real and personal property, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods, and also includes not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise;

"public" refers not only to all persons within Fiji, but also to the persons inhabiting or using any particular place, or any number of such persons, and also to such indeterminate persons as may happen to be affected by the conduct in respect to which such expression is used;

"public way" includes any highway, market place, square, street, bridge or other way which is lawfully used by the public;

*"public place" or "public premises" means-

(a) any highway, public street, public road, public park or garden, sea beach, river, public bridge, wharf, jetty, lane, footway, square, court, alley or passage whether a thoroughfare or not; or

(b) any-

(i) land or open space, whether such land or space is closed or unenclosed; and

(ii) place or building of public resort, other than a dwelling house,

to which for the time being the public have or are permitted to have access whether on payment or otherwise;

*Replaced by Act No. 11 of 1971.

"publicly" when applied to acts done, means either-

(a) that they are so done in any public place as to be seen by any person whether such person be or be not in a public place; or

(b) that they are so done in any place not being a public place as to be likely to be seen by any person in a public place;

*"severe subnormality" means a state of arrested or incomplete development of mind which includes subnormality of intelligence and is of such a nature or degree that the patient is incapable of living an independent life or guarding himself against sources of exploitation or will be so incapable when of an age to do so;

*Inserted by Ordinance No. 12 of 1969.

"trustee" means a trustee on some express trust created by some deed, will, or instrument in writing, and includes the heir or personal representative of any such trustee, and any other person upon or to whom the duty of such trust shall have devolved or come, and also an executor and administrator, and an official receiver, assignee, liquidator or other like officer acting under any present or future †Act relating to companies or bankruptcy;

† Amended by Order 8th October, 1970.

"utter" includes using or dealing with and attempting to use or deal with and attempting to induce any person to use, deal with or act upon the thing in question;

"valuable security" includes any writing entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund or debt of any country or territory of the Commonwealth, or any territory which is under Her Majesty's protection or in respect of which a trusteeship agreement has been entered into by Her Majesty, or of any foreign state, or in any stock, annuity, fund or debt of any body corporate, company or society, whether within or without any country or territory of the Commonwealth, or any territory which is under Her Majesty's protection or in respect of which a

trusteeship agreement has been entered into by Her Majesty, or to any deposit in any bank, and also includes any scrip, debenture, bill, note, warrant, order or other security for the payment of money, or any authority or request for the payment of money or for the delivery or transfer of goods or chattels, or any accountable receipt, release or discharge, or any receipt or other instrument evidencing the payment of money, or the delivery of any chattel personal, and any document of title to lands or goods;
(Amended by 37 of 1966, s. 5.)

"vessel" includes any ship, a boat and every other kind of vessel used in navigation either on the sea or in inland waters, and includes aircraft;

"wound" means any incision or puncture which divides or pierces any exterior membrane of the body, and any membrane is exterior for the purpose of this definition which can be touched without dividing or piercing any other membrane.

CHAPTER III-TERRITORIAL APPLICATION OF THIS CODE

Extent of jurisdiction of Fiji Courts

5. The jurisdiction of the courts of Fiji for the purposes of this Code extends to every place within Fiji or within *the internal waters, archipelagic waters and territorial seas thereof.

*Amended by 20 of 1977 s.2.

Offences committed partly within and partly beyond the jurisdiction

6. When an act which, if wholly done within the jurisdiction of the court, would be an offence against this Code, is done partly within and partly beyond the jurisdiction, every person who within the jurisdiction does or makes any part of such act may be tried and punished under this Code in the same manner as if such act had been done wholly within the jurisdiction.

CHAPTER IV-GENERAL RULES AS TO CRIMINAL RESPONSIBILITY

Ignorance of law

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

Bona fide claim of right

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

Intention and motive

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

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

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

Mistake of fact

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

The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject.

Presumption of sanity

11. Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

Insanity

12. A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind incapable of understanding what he is doing, or knowing that he ought not to do the act or make the omission.

But a person may be criminally responsible for an act or omission, although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act or omission.

Intoxication

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

(2) Intoxication shall be a defence to any criminal charge if by reason thereof the person charged at the time of the act or omission complained of did not know that such act or omission was wrong or did not know what he was doing and-

(a) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or

(b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.

(3) Where the defence under subsection (2) is established, then in a case falling under paragraph (a) thereof the accused shall be discharged, and in a case falling under paragraph (b) the provisions of this Code and of the

Criminal Procedure Code relating to insanity shall apply.
(Cap. 21)

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

(5) For the purpose of this section "intoxication" shall be deemed to include a state produced by narcotics or drugs.

Immature age

14.-(1) A person under the age of *ten years is not criminally responsible for any act or omission.
*Amended by Ordinance No. 12 of 1969.

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

(3) A male person under the age of twelve years is presumed to be incapable of having carnal knowledge.

Judicial officers

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

(Amended by 9 of 1946, s. 2.)

Compulsion

16. A person is not criminally responsible for an offence if it is committed by two or more offenders, and if the act is done or omitted only because during the whole of the time in which it is being done or omitted the person is compelled to do or omit to do the act by threats on the part of the other offender or offenders instantly to kill him or do him grievous bodily harm if he refuses; but threats of future injury do not excuse any offence.

Defence of person or property

17. Subject to any express provisions in this Code or any other law in operation in Fiji, criminal responsibility for the use of force in the defence of person or property shall be determined according to the principles of English common law.

Use of force in effecting arrest

18. Where any person is charged with a criminal offence arising out of the lawful arrest, or attempted arrest, by him of a person who forcibly resists such arrest or attempts to evade being arrested, the court shall, in considering whether the means used were necessary, or the degree of force used was reasonable, for the apprehension of such person, have regard to the gravity of the offence which had been or was being committed by such person and the circumstances in which such offence had been or was being committed by such person.

Compulsion by husband

19. A married woman is not free from criminal responsibility of doing or omitting to do an act merely because the act or omission takes place in the presence of her husband; but, on a charge against a wife for any offence other than treason or murder, it shall be a good defence to prove that the offence was committed in the presence of, and under the coercion of, the husband.

Person not to be punished twice for same offence

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

CHAPTER V-PARTIES TO OFFENCES

Principal offenders

21.-(1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say-

- (a) every person who actually does the act or makes the omission which constitutes the offences;
- (b) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;
- (c) every person who aids or abets another person in committing the offence;
- (d) any person who counsels or procures any other person to commit the offence.

In the last-mentioned case he may be charged either with committing the offence or with counselling or procuring its commission.

- (2) A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence.
- (3) Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had himself done the act or made the omission; and he may be charged with doing the act or making the omission.

Offences committed by joint offenders in prosecution of common purpose

22. When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its

commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

Counselling another to commit an offence

23. When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence actually committed is the same as that counselled or a different one, or whether the offence is committed in the way counselled or in a different way, provided in either case that the facts constituting the offence actually committed are a probable consequence of carrying out the counsel.

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

If the facts constituting the offence actually committed are not a probable consequence of carrying out the counsel, the person who gave the counsel is not deemed to be responsible.

CHAPTER VI-PUNISHMENTS

Sentence of death

***24.**-(1) When any person is sentenced to death, the form of sentence shall be to the effect only that he is to suffer death in the manner authorised by law".

(Substituted by 6 of 1959, s. 2.)

(2) A certificate under the hand of the Chief Registrar or other officer of the court that sentence of death has been passed, and naming the person condemned, shall be sufficient authority for the detention of such person.

**Sections 24, 25 and 27 and subsections (2) and (3) of section 26 substituted by Ordinance No. 21 of 1950.*

Persons under 18 not to be sentenced to death

***25.**-(1) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age of eighteen years, but in lieu thereof the court shall sentence such person to be detained during the †Governor-General's pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the †Governor-General may direct, and whilst so detained shall be deemed to be in legal custody.

(Amended by 24 of 1952, s. 2, 17 of 1966, s. 2, and 28 of 1972 s. 2.)

(2) When a person has been sentenced to be detained during the †Governor-General's pleasure under subsection (1) the presiding judge shall forward to the †Governor-General a copy of the notes of evidence taken on the trial, with a report in writing signed by him containing any recommendation or observations on the case he may think fit to make.

(3) Any person so detained as aforesaid may at any time be discharged by the †Governor-General on licence. Such licence may be in such form and may contain such conditions as the †Governor-General may direct and may at any time be revoked or varied by the †Governor-General.

Where a licence has been revoked the person to whom the licence relates shall return to such place as the †Governor-General may direct and if he fails to do so may be apprehended without warrant and taken to that place.

*Sections 24, 25 and 27 and subsections (2) and (3) of section 26 substituted by Ordinance No. 21 of 1950.

†Amended by Order 8th October, 1970.

Record and report to be sent to Governor-General

26.-(1) As soon as possible after action has been taken in accordance with the provisions of subsection (6) of section 88 of the Constitution, the Commission on the Prerogative of Mercy shall communicate to the presiding judge or his successor in office the terms of any decision reached by the Governor-General under such provisions and such judge shall cause the tenor and substance thereof to be entered in the records of the Court.

*(2) The †Governor-General shall issue a death warrant, or an order for the sentence of death to be commuted, or a pardon, under his hand and the public seal of Fiji, to give effect to the said decision. If the sentence of death is to be carried out, the warrant shall state that the person to be executed shall be hanged by the neck until he is dead, and the place where and the time when the execution is to be had, and shall give directions as to the place of burial or cremation of the body of the person executed. If the sentence is commuted for any other punishment the order shall specify that punishment. If the person sentenced is pardoned, the pardon shall state whether it is free, or to what conditions, if any, it is subject:

(Amended by 6 of 1959, s. 3.)

Provided that the †Governor-General's warrant may direct that the execution shall take place at such time and at such place and that the body of the person executed shall be buried or cremated at such place, as shall be appointed by some officer specified in the warrant.

*(3) The warrant or order, or pardon of the †Governor-General shall be sufficient authority in law to all persons to whom the same is directed to execute the sentence of death or other punishment awarded, and to carry out the directions therein given in accordance with the terms thereof.

*Sections 24, 25 and 27 and subsections (2) and (3) of section 26 substituted by Ordinance No. 21 of 1950.

†Amended by Order 8th October, 1970.

Procedure where woman convicted of capital offence alleges she is pregnant

***27.**-(1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before whom she is convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by the trial judge.

(2) The question whether the woman is pregnant or not shall be determined by the judge on such evidence as may be laid before him on the part of the woman or on the part of the Crown, and the judge shall find that the woman is not pregnant unless it is proved affirmatively to his satisfaction that she is pregnant.

(3) Where a woman convicted of an offence punishable with death is found in accordance with the preceding provisions of this section to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment for life instead of sentence of death.

*Sections 24, 25 and 27 and subsections (2) and (3) of section 26 substituted by Ordinance No. 21 of 1950.

Imprisonment

28.-(1) No person shall be sentenced by a court to imprisonment with hard labour; and every enactment conferring power on a court to pass a sentence of imprisonment with hard labour in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the term for which a sentence of imprisonment with hard labour could have been passed immediately before the date of coming into force of this section; and so far as any enactment required or permits prisoners to be kept to hard labour it shall cease to have effect.

(Substituted by 25 of 1957, s. 3.)

(2) A person liable to imprisonment for life or any other period may be sentenced for any shorter term.

(3) A person liable to imprisonment for an offence may be sentenced to pay a fine in addition to or instead of imprisonment.

(4) Where a person after conviction for an offence is convicted of another offence, either before sentence is passed upon him under the first conviction or before the expiration of that sentence, any sentence of imprisonment which is passed upon him under the subsequent conviction shall be executed after the expiration of the former sentence, unless the court directs that it shall be executed concurrently with the former sentence or any part thereof:

Provided that it shall not be lawful for a court to direct that a sentence of imprisonment in default of payment of a fine shall be executed concurrently with a former sentence.

(5) A warrant under the hand of the judge or magistrate by whom any person is sentenced to imprisonment, ordering that the sentence be carried out in any prison within Fiji, shall be issued by the sentencing judge or magistrate, and shall be full authority to the officer in charge of such prison and to all other persons for carrying into effect the sentence described in such warrant, not being a sentence of death. Subject to the provisions of this section every sentence shall be deemed to commence from and to include the whole of the day on which it was pronounced except where otherwise provided in this Code or otherwise ordered by the court.

**Suspended sentences of imprisonment*

29.-(1) A court which passes a sentence of imprisonment for a term of not more than two years for an offence, may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year nor more than three years from the date of the order, the offender commits in Fiji another offence punishable with imprisonment and thereafter a court having power to do so orders under the provisions of section **30** that the original sentence shall take effect; and in this and in sections **30**, **31** and **32** "operational period" in relation to a suspended sentence means the period so specified in the order.

(2) A court which passes a suspended sentence on any person for an offence shall not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.

(3) A court which passes a sentence of imprisonment for a term of not more than six months in respect of one offence shall not make an order under the provisions of subsection (1) where-

(a) the act or any of the acts constituting that offence consisted of an assault on or threat of violence to another person or of having or possessing a firearm, an imitation firearm, an explosive or an offensive weapon or of indecent conduct with or towards a person under the age of sixteen years;

(b) that offence is one in respect of which a probation order or order for conditional discharge was originally made or the offender was subject to such order at the time of committing the offence; or

(c) on the occasion on which a sentence is passed for that offence, the court passes or proposes to pass a sentence of immediate imprisonment on the offender for another offence which the court is not required to suspend.

(4) On passing a suspended sentence the court shall explain to the offender in ordinary language his liability under the provisions of section **30** if during the operational period he commits an offence punishable with imprisonment.

(5) Subject to any provision contained in any written law-

(a) a suspended sentence which has not taken effect under the provisions of section 30 shall be treated as a sentence of imprisonment for the purposes of any written law which provides for disqualification for or loss of office or forfeiture of office of persons sentenced to imprisonment; and

(b) where a suspended sentence has taken effect under the provisions of section **30**, the offender shall be treated for the purpose of such written law as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under that section expires or, if such an appeal is made, the date on which it is finally disposed of, or abandoned or fails for non-prosecution.

* Inserted by Ordinance No. 12 of 1969

**Power of court on conviction of further offence to deal with suspended sentence*

30.-(1) Where an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence and either he was convicted by or before a court having power under the provisions of section **31** to deal with him in respect of the suspended sentence or who subsequently appears or is brought before a court, then, unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods-

(a) the court may order that the suspended sentence shall take effect with the original term unaltered;

(b) it may order that the sentence shall take effect with the substitution of a lesser term for the original term;

(c) it may by order vary the original order made under the provisions of subsection (1) of section **29** by substituting for the period specified therein a period expiring not later than three years from the date of the variation; or

(d) it may make any order with respect to the suspended sentence, and a court shall make an order under paragraph (a) unless the court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent, offence and, where it is of that opinion, the court shall state its reasons.

(2) Where a court orders that a suspended sentence shall take effect with or without any variation of the original term, the court may order that that sentence shall take effect immediately or that the term thereof shall commence on the expiry of another term of imprisonment passed on the offender by that or any other court.

(3) For the purposes of any written law conferring rights of appeal in criminal cases, any order made by a court under the provisions of subsection (1) shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

* Inserted by Ordinance No. 12 of 1969

**Court by which suspended sentence is to be dealt with*

31.-(1) An offender shall be dealt with in respect of a suspended sentence by the Supreme Court or, where the sentence was passed by a magistrate's court, by any magistrate's court before which he appears or is brought.

(2) Where an offender is convicted by a magistrate's court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the operational period of a suspended sentence passed by the Supreme Court-

(a) the court may, if it thinks fit, commit him in custody or on appeal to the Supreme Court; and

(b) if it does not, shall give written notice of the conviction to the Clerk of the Court by which the suspended sentence is passed.

(3) For the purposes of this and section 32 a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

* Inserted by Ordinance No. 12 of 1969

**Discovery of further offences*

32.-(1) If it appears to a judge or a magistrate on whom jurisdiction is conferred by subsection (2) that an offender has been convicted in Fiji of an offence punishable with imprisonment committed during the operational period of a suspended sentence and that it has not been dealt with in respect of this suspended sentence, the judge or magistrate may issue a summons requiring the offender to appear at the place and time specified therein or may issue a warrant for his arrest.

(2) The following persons shall have jurisdiction for the purpose of subsection (1):-

(a) if the suspended sentence was passed by the Supreme Court, a judge of that court;

(b) if the suspended sentence was passed by a magistrate's court, any magistrate.

* Inserted by Ordinance No. 12 of 1969

**Minimum period on sentence of imprisonment for life*

33. Whenever a sentence of imprisonment for life is imposed on any convicted person the judge who imposes the sentence may recommend the minimum period which he considers the convicted person should serve.

*Inserted by Act No. 28 of 1972.

Corporal punishment

†34.-(1) A sentence of corporal punishment shall be to suffer corporal punishment once only and shall specify the number of strokes which shall not exceed ‡twelve in any case.

‡Inserted by Ordinance No. 12 of 1969.

(2) No sentence of corporal punishment shall be carried out unless it has been confirmed by the Supreme Court, and no such sentence shall be executed publicly or by instalments.

(3) The following provisions shall govern the carrying out of a sentence of corporal punishment-

(a) where the person sentenced to corporal punishment signs a statement that he does not intend to appeal against conviction or sentence, §his right to appeal shall be deemed to have been abandoned and shall, notwithstanding the provisions of any other written law, thereon cease, and the sentence shall be carried out forthwith after it has been confirmed by the Supreme Court under the provisions of subsection (2);

§Inserted by Act No. 15 of 1973

(b) where the person so sentenced does not sign such a statement and does not appeal against his conviction or sentence within the period prescribed by law, such sentence shall be carried out forthwith after it has been confirmed by the Supreme Court under the provisions of subsection (2);

(c) where the person so sentenced appeals against conviction or sentence and such sentence is upheld on appeal, such sentence shall be carried out within fourteen days of the determination of the appeal; (*Amended by 37 of 1966, s. 5*).

(d) the period of fourteen days prescribed in paragraph (c) may be extended by the Supreme Court if it is satisfied that the sentence of corporal punishment could not be carried out within such period owing to the accused's physical state or wilful act or omission;

(e) if there is an appeal in a case in which corporal punishment has been awarded, it shall be determined with as much expedition as practicable;

(f) In no circumstances whatsoever shall a sentence of corporal punishment be carried out after the expiration of whichever of the following periods from the date of passing sentence is applicable-

(i) where the sentence was passed by the Supreme Court, six months;

(ii) where the sentence was passed by a Magistrate's Court, three months.

(*Subsection substituted by 16 of 1960, s. 2 and amended by 4 of 1976, s. 3 and 24 of 1976, s. 2.*)

(4) No sentence of corporal punishment shall be passed upon any of the following persons:-

(a) females;

(b) males sentenced to death;

(c) males whom the court considers to be more than thirty-five years of age;

(d) persons under the age of seventeen years.

(Amended by 17 of 1966, s. 3, 12 of 1969, s. 5, and 28 of 1972, s. 2)

(5) Where a person is convicted at one trial of two or more distinct offences any two or more of which are punishable by corporal punishment under the provisions of this Code or any other Act, the combined sentences of corporal punishment awarded by the court shall not exceed, twelve strokes.

(Amended by Ordinance 12 of 1969, s. 5)

(6) In determining the age of an offender for the purposes of this section the court may in the absence of direct evidence or medical testimony of age adjudge such age according to the appearance of the offender.

(7) A sentence of corporal punishment shall not be carried out except in the presence of a medical officer or a duly qualified medical practitioner, nor before such medical officer or practitioner has after examination certified that in his opinion the prisoner is physically fit to undergo the sentence of corporal punishment about to be inflicted upon him.

(8) The medical officer or practitioner may at any time during the carrying out of the sentence of corporal punishment intervene and prohibit the remainder of the sentence from being carried out if in his opinion the prisoner is unable to bear such sentence without risk of grave or permanent injury.

(9) If any person has been sentenced to corporal punishment, and such sentence is, wholly or partially, prevented from being carried out, such person shall be kept in custody, and shall as soon as possible be taken before the court which passed the sentence of corporal punishment and such court shall either remit such sentence or substitute for such sentence, or the balance thereof, any sentence to which such person might have been liable.

(Amended by 16 of 1960, s. 2.)

(10) An offender sentenced to undergo corporal punishment may be detained in a prison or some other convenient place for such time as may be necessary for carrying the sentence into effect, or for ascertaining whether the same shall be carried into effect.

(11) A sentence of corporal punishment shall be carried out with an instrument of a size and pattern approved by the *Minister.

†Sections 34 to 39 substituted by Ordinance No, 21 of 1950.

* Amended by Order 8th October, 1970.

Fines

***35.-**(1) Where a fine is imposed under any law, then in the absence of express provisions relating to such fine in such law the following provisions shall apply:

(a) Where no sum is expressed to which the fine may extend, the amount of the fine which may be imposed is unlimited, but shall not be excessive;

(b) Where the sum to which the fine may amount is expressed, any lesser fine may be imposed;

(c) In the case of an offence punishable with a fine or a term of imprisonment the imposition of a fine or a term of imprisonment shall be a matter for the discretion of the court;

(d) In the case of an offence punishable with imprisonment as well as a fine in which the offender is sentenced to a fine with or without imprisonment and in every case of an offence punishable with a fine only in which the offender is sentenced to a fine the court passing sentence may, in its discretion-

(i) direct by its sentence that in default of payment of the fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of sentence; and also

(ii) issue a warrant for the levy of the amount on the immovable and movable property of the offender by distress and sale under warrant:

Provided that if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no court shall issue a distress warrant.

(2) The term of imprisonment to which a person may be sentenced by a court in default of payment of a fine shall be such term as in the opinion of the court will satisfy the justice of the case but shall not exceed the maximum fixed by the following scale:-

<i>Amount</i>	<i>Maximum period</i>
†Not exceeding \$2	7 days
Exceeding \$2 but not exceeding \$4	14 days
Exceeding \$4 but not exceeding \$20	6 weeks
Exceeding \$20 but not exceeding \$40	2 months
Exceeding \$40 but not exceeding \$80	3 months
Exceeding \$80 but not exceeding \$150	4 months
Exceeding \$150 but not exceeding \$300	6 months
Exceeding \$300	9 months

†(3) Notwithstanding the provisions of subsection (5) of section 28 but subject to the provisions of subsection (4) of that section, the imprisonment which is imposed in default of payment of a fine shall commence on the day on which the person so in default was arrested by virtue of the sentence of the court and shall terminate whenever the fine and all expenses are either paid or levied by process of law.

*Sections 34 to 39 substituted by Ordinance No. 21 of 1950.

†Inserted by Ordinance No, 12 of 1969.

Distress

*36.-(1) When a court orders money to be paid by an accused person or by a prosecutor or complainant for fine, penalty, compensation, costs, expenses or otherwise, the money may be levied on the †real and personal property by distress or sale under warrant. If he shows sufficient †personal property to satisfy the order his †real property shall not be sold.

†Inserted by Ordinance No. 12 of 1969.

(2) Such persons may pay or tender to the officer having the execution of the warrant the sum therein mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, and thereupon the officer shall cease to execute the same.

†(3) A warrant under the provisions of this section may be executed anywhere in Fiji.

†Inserted by Ordinance No. 12 of 1969.

(4) Any person claiming to be entitled to or to have a legal or equitable interest in the whole or part of any property attached in execution of a warrant issued under this section may, at any time prior to the receipt by the court of the proceeds of sale of such property, give notice in writing to the court of his objection to the attachment of such property. Such notice shall set out shortly the nature of the claim which such person (hereinafter in this section referred to as the objector) makes to the whole or part of the property attached, and shall certify the value of the property claimed by him. Such value shall be deposited upon affidavit which shall be filed with the notice.

(5) Upon receipt of a valid notice given under subsection (4), the court shall by an order in writing addressed to the officer having the execution of the warrant, direct the stay of the execution proceedings.

(6) Upon the issue of an order under subsection (5), the court shall, by notice in writing, direct the objector to appear before such court and establish his claim upon a date to be specified in the notice.

(7) A notice shall be served upon the person whose property was, by the warrant issued under subsection (1), directed to be attached, and, unless the property is to be applied to the payment of a fine, upon the person entitled to the proceeds of the sale of such property. Such notice shall specify the time and place fixed for the appearance of the objector and shall direct the person upon whom the notice is served to appear before the court at the same time and place if he wishes to be heard upon the hearing of the objection.

(8) Upon the date fixed for the hearing of the objection, the court shall investigate the claim and, for such purpose, may hear any evidence which the objector may give or adduce and any evidence given or adduced by any person served with a notice in accordance with the provisions of subsection (7).

(9) If, upon investigation of the claim, the court is satisfied that the property was not, when attached, in the possession of the person ordered to pay the money or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the person ordered to pay the money at such time it was so in his possession not on his own account or as his own property but on account of or in trust for some other person or partly on his own account and partly on account of some other person, the court shall make an order releasing the property, wholly or to such extent as it thinks fit from attachment.

(10) If, upon the date fixed for his appearance, the objector fails to appear, or if, upon investigation of the claim in accordance with the provisions of subsection (8), the court is of opinion that the objector has failed to establish his claim, the court shall order the attachment and execution to proceed, and shall make such order as to cost as it deems fit.

(11) Nothing in this section shall be deemed to deprive a person who has failed to comply with the requirements of subsection (4) of the right to take any other proceedings which, apart from the provisions of this section, may lawfully be taken by a person claiming an interest in property attached under a warrant.

(12) No distress made under this section shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceedings relating thereto.

*Sections 34 to 39 substituted by Ordinance No. 21 of 1950.

Suspension of execution of sentence of imprisonment in default of fine

*37.-(1) When a convicted person has been sentenced to a fine only and to imprisonment in default of payment of a fine, and whether or not a warrant of distress has been issued under section 36 the court may make an order directing the fine to be paid on or before a specified date, not being more than thirty days from the date of the order, and in the event of the fine not being paid on or before that date may, subject to the other provisions of this section, forthwith issue a warrant of committal. The court may, before making such order, require the convicted person to execute a bond, with or without sureties, conditioned for his appearance before the court on the specified date if the fine be not in the meantime paid. Upon the making of an order under this subsection the sentence of imprisonment shall be deemed to be suspended and the convicted person shall be released from custody.

(2) In any case in which an order for the payment of money has been made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the court may require the person ordered to make such payment to enter into a bond as prescribed in subsection (1), and in default of his so doing may at once pass sentence of imprisonment as if the money had not been recovered.

(3) The court may in its discretion direct that any money to which this section applied may be paid by instalments at such times and in such amounts as the court may deem fit; but so nevertheless that in default of payment of any such instalment as aforesaid the whole of the amount outstanding shall become and be immediately due and payable, and all the provisions of this Code applicable to a sentence of fine and to imprisonment in default of payment thereof shall apply to the same accordingly.

(4) A warrant of commitment to prison in respect of the non-payment of any sum of money by a person to whom time has been allowed for payment under the provisions of subsection (1), or who has been allowed to pay by instalments under the provisions of subsection (3), shall not be issued unless the court shall first make inquiry as to his means in his presence:

Provided that a court may issue such a warrant of commitment without any further inquiry as to means if it shall have made such inquiry in the presence of the convicted person at the time when the fine was imposed or at any subsequent time and the convicted person shall not before the expiration of the time for payment have notified the court of any change in his means or applied to the court for an extension of time to pay the fine.

(Proviso inserted by 25 of 1957, s. 7.)

(5) After making inquiry in accordance with the provisions of subsection (4), the court may, if it thinks fit, instead of issuing a warrant of commitment to prison, make an order extending the time allowed for payment or varying the amount of the instalments or the times at which the instalments were, by the previous order of the court, directed to be paid, as the case may be.

(6) For the purpose of enabling inquiry to be made under the provisions of subsection (4), the court may issue a summons to the person ordered to pay the money to appear before it and, if he does not appear in obedience to the summons, may issue a warrant for his arrest or, without issuing a summons, issue in the first instance a

warrant for his arrest.

* Sections 34 to 39 substituted by Ordinance No. 21 of 1950.

Commitment in lieu of distress

***38.**-(1) If the officer having the execution of a warrant of distress reports that he could find no property or not sufficient property whereon to levy the money mentioned in the warrant with expenses, the court may by the same or a subsequent warrant commit the person ordered to pay to prison for a time specified in the warrant, unless the money and all expenses of the distress, commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

(2) When it appears to the court that distress and sale of property would be ruinous to the person ordered to pay the money or his family, or (by his confession or otherwise) that he has no property whereon the distress may be levied, or other sufficient reason appears to the court, the court may if it thinks fit, instead of or after issuing a warrant of distress, commit him to prison for a time specified in the warrant, unless the money and all expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

(3) The period for which a person may be committed to prison in default of or in lieu of distress under this section shall be-

(a) if the person has been sentenced to a term of imprisonment in default of payment of a fine, the period to which he was so sentenced;

(b) in other cases such period as the court considers reasonable subject to the maximum laid down in subsection (2) of section **30** relating to fines.

* Sections 34 to 39 substituted by Ordinance No. 21 of 1950.

Payment after commitment

***39.**-(1) Any person committed for non-payment may pay the sum mentioned in the warrant, with the amount of expenses therein authorised (if any), to the person in whose custody he is, and that person shall thereupon discharge him if he is in custody for no other matter.

(2) If any person committed to prison for non-payment shall pay any sum in part satisfaction of the sum adjudged to be paid, the term of his imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed, as the sum so paid bears to the sum for which he is liable. The calculation shall be made by the officer in charge of the prison in which such person is confined, who shall forthwith give notice in writing to such person and to the court which passed sentence on him, stating the sum paid and the number of days by which the term of imprisonment originally awarded is reduced. The reduction of sentence shall be as so notified unless the court otherwise orders.

* Sections 34 to 39 substituted by Ordinance No. 21 of 1950.

(Amended by 16 of 1960 s. 3.)

**Payment after issue of warrant but before commitment*

40. Where a warrant has been issued under the provisions of this Code for non-payment of a fine, any payment made after the issue of such warrant but before the person in respect of whom the warrant has been issued has

been taken into custody, being a payment insufficient to satisfy the sum mentioned in the warrant together with the amount of the expenses therein mentioned, shall be deemed to be appropriated primarily in satisfaction, or part satisfaction, of such expenses.

*Inserted by Ordinance No. 12 of 1969.

Security for keeping the peace

†41.-(1) A person convicted of an offence not punishable with death may, instead of or in addition to any punishment to which he is liable, be ordered to enter into his own recognizance, with or without sureties, in such amount as the court thinks fit, conditioned that he shall keep the peace and be of good behaviour for a time to be fixed by the court, not exceeding two years, and may be ordered to be imprisoned until such recognizance, with sureties if so directed, is entered into; but so that the imprisonment for not entering into the recognizance shall not extend for a term longer than six months:

Provided that no order shall be made under this section where the person convicted has been sentenced to a term of imprisonment of more than six months.

(2) In addition to the powers conferred by sub-section (1), any magistrate shall have power in any trial before him, whether or not the complaint be dismissed, to bind both the complainant and defendant with or without sureties, to keep the peace and be of good behaviour for a period not exceeding one year and may order any person so bound, in default of compliance with the order, to be imprisoned for three months or until such earlier time as he so complies:

Provided that:

(a) a defendant who has been sentenced to more than six months' imprisonment shall not be bound over under this subsection;

(b) a complainant shall not be bound over under the powers contained in this subsection unless he shall have been given an opportunity to address the Court personally or by a barrister and solicitor as to why he should not be bound over.

(3) In this section "complainant" includes a person who makes complaint, or on behalf of whom complaint is made, to the police.

†Sections 41 to 43 substituted by Ordinance No. 21 of 1950.

(Section amended by 30 of 1958, s. 2.)

Security for coming up for judgment

†42.-(1) In any case in which a person is convicted before any court of any offence not punishable with death, if it appears to the court before which he is convicted that having regard to the circumstances, including the nature of the offence and the character of the accused, it is expedient to release the offender on probation, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, *for such period not exceeding two years as the court may order, to appear and receive sentence when called upon and, in the meantime, to keep the peace, to be of good behaviour and to comply with such conditions as the court may impose.

*Inserted by Ordinance No. 12 of 1969.

(2) If at any time the court which convicted the offender is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(3) An offender when apprehended on any such warrant shall be brought forthwith before the court by which the warrant was issued and such court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned for his appearing for sentence. Such court may after hearing the case, pass sentence.

(4) Where an order under subsection (1) is made by a court, the order shall for the purpose of revesting or restoring stolen property and for the purpose of enabling the court to make any order under the provisions of sections **164** and **165** of the Criminal Procedure Code, have the like effect as a conviction.

(Cap. 21)

†Sections 41 to 43 substituted by Ordinance No. 21 of 1950.

Provisions of Criminal Procedure Code relating to recognizance to apply

***43.** The provisions of sections **113,114** and **116** of the Criminal Procedure Code shall apply *mutatis mutandis* to recognisances taken under section **41** or section **42**.

(Cap. 21)

*Sections 41 to 43 substituted by Ordinance No. 21 of 1950.

†Absolute and conditional discharge

44.-(1) Where a court by or before which a person is found guilty of an offence, not being an offence for which a fixed sentence is prescribed by law, is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order under the Probation of Offenders Act is not appropriate, the court may, with or without proceeding to conviction, make an order discharging him absolutely, or, if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding twelve months from the date of the order, and subject to such other conditions, if any, ‡including the payment of costs or compensation, or the restitution of goods or the payment of money in lieu of goods, as may be specified in such order.

(Cap. 22)

‡Inserted by Act No. 15 of 1973.

(2) Before making an order discharging a person subject to the conditions referred to in subsection (1), the court shall explain to the offender in ordinary language that if during the period of conditional discharge he commits another offence or fails to comply with such conditions, if any, which may have been imposed he will be liable to be sentenced for the original offence.

(3) Where an order discharging an offender is made under the provisions of this section the court may order him to pay the whole, or any part, of the costs of and incidental to the prosecution, and of any compensation adjudged.

(4) An order made under the provisions of this section when the court does not proceed to conviction shall, for the purpose of revesting or restoring stolen property and of enabling the court to make an order under the provisions of sections 162 and 165 of the Criminal Procedure Code, have the like effect as a conviction.

(Cap. 21)

†Inserted by Ordinance No. 12 of 1969.

Issue of warrants and errors in orders or warrants

***45.**-(1) Every warrant for the execution of any sentence may be issued either by the judge or magistrate who passed the sentence or by his successor in office.

(2) The court may at any time amend any defect in substance or in form in any order or warrant, and no omission or error as to the time and place, and no defect in form in any order or warrant given under this Code, shall be held to render void or unlawful any act done or intended to be done.

*Sections 43 and 45 substituted by Ordinance No. 21 of 1950.

Police supervision

46.-(1) When any person having been convicted of any offence punishable with imprisonment for a term of three years or upwards, is again convicted of any offence punishable with imprisonment for a term three years or upwards, the Court may, if it thinks fit, at the time of passing sentence on such person, also order that he shall be subject to police supervision as hereinafter provided for such period as the court may specify but not exceeding five years from the date of the order or from the date of his next release from prison after the making of the order whichever shall be the later date:

*Provided that-

(a) where a person, whilst subject to police supervision, is sentenced to a term of imprisonment for another offence, the period of police supervision shall cease to run and remain suspended during such term of imprisonment and shall be revived upon such person being released from imprisonment;

(b) where a person has been released from prison under a compulsory supervision order made under the provisions of the Prisons Act, any order made under the provisions of this subsection shall not come into effect until the expiry of such compulsory supervision order.

(*Cap. 86*)

(2) Every person ordered to be subject to police supervision who is at large in Fiji shall-

(a) within one week of his release from prison personally present himself and notify the place of his residence to the officer in charge of the police station nearest to such place of residence;

***(b)** whenever he changes the place of his residence either within the Division or from Division to Division, personally present himself and notify such change of the place of his residence to the officer in charge of the police station nearest to the place of residence he is leaving and, if a different police station, to the officer in charge of the police station nearest to his new place of residence;

* Inserted by Ordinance No. 12 of 1969.

(c) personally present himself, when called upon to do so by any police officer, to the officer in charge of the police station nearest †to the place of his residence.

†Amended by Order 8th October, 1970.

(3) Any person subject to police supervision who is at large in Fiji who-

(a) fails to notify *the place of his residence or change of residence in accordance with the provisions of this section; or

(b) fails to present himself to a police station when called upon to do so under paragraph (c) of subsection (2); or

(c) neglects to comply with any rule made under this section,

shall, unless he proves to the satisfaction of the Court before which he is tried that he did his best to act in conformity with the law, be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars or imprisonment for *a continuing term not exceeding six months or to both such fine and imprisonment.

*Inserted by Ordinance No. 12 of 1969.

(4) Where any person while subject to police supervision is sentenced to a term of imprisonment upon being convicted of any offence, the court, in addition to any such sentence of imprisonment, may order that such person shall be subject to police supervision for a period not exceeding five years from the date of his release from prison.

(Amended by 14 of 1975 s.6)

(5) The †Minister may make rules for carrying out the provisions of this section, and in particular prescribing that supervision cards shall be carried by persons under police supervision when reporting under the provisions of this section.

(Section substituted by 16 of 1960, s. 4)

†Amended by Order 8th October, 1970.

*(6) For the purposes of this section, the expression "the place of his residence" means any one dwelling-house or other abode in which the person concerned actually resides and which he nominates as such to the officer in charge of the police station to whom he is required to report under the provisions of this section.

*Inserted by Ordinance No. 12 of 1969.

*(7) For the purposes of this section, a person shall be deemed to have changed the place of his residence if he has been absent from the place of his residence continuously for a period of seven days or more unless, before the expiration of such period, he has notified the officer in charge of the police station nearest to such place of his residence that his absence is only temporary; and he shall in any event be deemed to have changed his place of residence if he has been absent from the place of his residence continuously for a period of twenty-eight days or more.

* Inserted by Ordinance No. 12 of 1969.

General punishment for misdemeanours

‡47. When in this Code no punishment is specially provided for any misdemeanour, it shall be punishable with imprisonment for a term not exceeding two years or with a fine or with both.

‡Sections 47 to 49 substituted by Ordinance No. 21 of 1950.

Escaped convicts to serve unexpired sentences when recaptured

‡48.-(1) The time during which an escaped person is at large shall not be counted as part of the term of the sentence which he was serving at the time of his escape.

(2) When sentence is passed under this Code on an escaped convict, such sentence-

(a) if of death, fine or corporal punishment shall, subject to the provisions of this Code, take effect immediately;

(b) if of imprisonment, shall be executed in accordance with the provisions of subsection (4) of section 28.

‡Sections 47 to 49 substituted by Ordinance No. 21 of 1950.

Forfeiture

‡49. When any person is convicted of an offence under any of the following sections, namely, sections **106, 107, 108, 132, 133** and **373**, the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to Her Majesty of any property which has passed in connection with the commission of the offence or, if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of the property; and any property or sum so forfeited shall be dealt with in such manner as the *Minister may direct. Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as in the case of the payment of a fine.

‡Sections 47 to 49 substituted by Ordinance No. 21 of 1950.

*Amended by Order 8th October, 1970.

PART II-CRIMES

Division I.-Offences against Public Order

CHAPTER VII-TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN'S AUTHORITY

Treason by the law of England

50. Any person who compasses, imagines, invents, devises or intends any act, matter or theory, the compassing, imagining, inventing, devising or intending whereof is treason by the law of England for the time being in force, and expresses, utters or declares such compassing, imagining, inventing, devising or intending by publishing any printing or writing or by any overt acts or does any act which if done in England, would be deemed to be treason according to the law of England for the time being in force, is guilty of the offence termed treason and shall be †sentenced to death.

†Amended by Ordinance No. 12 of 1969.

Instigating invasion

51. Any person who instigates any foreigner to invade Fiji with an armed force is guilty of treason, and †shall be sentenced to death.

†Amended by Ordinance No. 12 of 1969

Misprision of treason

52. Any person who-

(a) becomes an accessory after the fact to treason; or

(b) knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to the *Governor-General, the Minister or to a magistrate or police officer or use other reasonable endeavours to prevent the commission of the offence,

*Amended by Order 8th October, 1970.

is guilty of the felony termed misprision of treason, and is liable to imprisonment for life.

Treasonable felonies

53. Any person who forms an intention to effect any of the following purposes, that is to say-

*(a) to depose Her Majesty from any style, honour and royal name to which she is entitled; or

* Substituted by 14 of 1975 s.6.

(b) to levy war against Her Majesty within any part of Her Majesty's territories, or within any country which has been declared to be under her protection or in respect of which Her Majesty has accepted a trusteeship agreement, in order by force or constraint to compel her to change her measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe, the legislature or legislative authority of any of Her Majesty's territories, or of any country which has been declared to be under her protection or in respect of which Her Majesty has accepted a trusteeship agreement; or
(Amended by 37 of 1966, s. 5)

(c) to instigate any foreigner to make an armed invasion of any of Her Majesty's dominions or of any country which has been declared to be under her protection or in respect of which Her Majesty has accepted a trusteeship agreement,

and manifests such intention by an overt act, or by publishing any printing or writing, is guilty of a felony, and is liable to imprisonment for life.

Limitations as to trial for treason, misprision of treason, or treasonable felonies

54. A person cannot be tried for treason, or for any of the felonies defined in sections **51**, **52** or **53**, unless the prosecution is commenced within two years after the offence is committed.

Two witnesses necessary

Nor can a person charged with treason, or with any of such felonies, be convicted, except on his own plea of guilty, or on the evidence in open court of two witnesses at the least to one overt act of the kind of treason or felony alleged, or the evidence of one witness to one overt act, and one other witness to another overt act of the same kind of treason or felony.

This section does not apply to cases in which the overt act of treason alleged is the killing of Her Majesty, or a direct attempt to endanger the life or injure the person of Her Majesty.

Inciting to mutiny

55. Any person who advisedly attempts to effect any of the following purposes, that is to say-

- (a) to seduce any person serving in the military forces of Fiji or any police officer from his duty and allegiance to Her Majesty; or
- (b) to incite any such persons to commit an act of mutiny or any traitorous or mutinous act; or
- (c) to incite any such persons to make or endeavour to make a mutinous assembly,

is guilty of a felony, and is liable to imprisonment for life.

Aiding soldiers or policemen in acts of mutiny

56. Any person who-

- (a) aids, abets, or is accessory to, any act of mutiny by; or
- (b) incites to sedition or to disobedience to any lawful order given by a superior officer,

any non-commissioned officer or private of the military forces of Fiji or any police officer, is guilty of a misdemeanour.

Inducing soldier or policemen to desert

57. Any person who, by any means whatsoever, directly or indirectly-

- (a) procures or persuades or attempts to procure or persuade to desert; or
- (b) aids, abets, or is accessory to the desertion of; or
- (c) having reason to believe he is a deserter, harbours or aids in concealing,

any non-commissioned officer or private of the Fiji military forces or any police officer is guilty of a misdemeanour and is liable to imprisonment for six months.

Aiding prisoners of war to escape

58. Any person who-

- (a) knowingly and advisedly aids an alien enemy of Her Majesty, being a prisoner of war in Fiji, whether such prisoner is confined in a prison or elsewhere, or is suffered to be at large on his parole, to escape from his prison or place of confinement, or, if he is at large on his parole, to escape from Fiji, is guilty of a felony, and is liable to imprisonment for life;
- (b) negligently and unlawfully permits the escape of any such person as is mentioned in paragraph (a), is guilty of a misdemeanour.

Definition of overt acts

59. In the case of any of the offences defined in this Chapter, when the manifestation by an overt act of an intention to effect any purpose is an element of the offence, every act of conspiring with any person to effect that purpose, and every act done in furtherance of the purpose by any of the persons conspiring, is deemed to be an overt act manifesting the intention.

Definitions for purposes of sections relating to sedition, etc.

60. For the purposes of sections **61** to **68**-

"import" includes-

(a) to bring into Fiji; and

(b) to bring within the waters of Fiji whether or not the publication is brought ashore, and whether or not there is an intention to bring the same ashore;

"newspaper" means a periodical publication containing any public news or comments thereon or any discussion of political matters;

"periodical publication" includes every publication issued periodically, or in parts or numbers at intervals, whether regular or irregular;

"publication" includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication;

"seditious publication" means a publication having a seditious intention;

"seditious words" means words having a seditious intention.

Power to prohibit importation of publication

61. If the *Minister is of opinion that the importation of any publication would be contrary to the public interest, he may in his absolute discretion, by order prohibit the importation of such publication, and in the case of periodical publication may, by the same or subsequent order, prohibit the importation of any past or future issue thereof.

* Amended by Order 8th October, 1970.

Offences in relation to publications, the importation of which is prohibited

62.-(1) Any person who, except with the permission of the *Minister, imports, publishes, sells, offers for sale, distributes or reproduces any publication, the importation of which has been prohibited under section **61**, or any extract therefrom, is guilty of a misdemeanour, and is liable for a first offence to imprisonment for two years or to a fine of two hundred dollars or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years; and such publication or extract therefrom shall be forfeited to Her Majesty.

† Inserted by Ordinance No. 12 of 1969.

* Amended by Order 8th October, 1970.

(2) Any person who without lawful excuse has in his possession any publication the importation of which has been prohibited under section **61**, or any extract therefrom, is guilty of a misdemeanour, and is liable for a first offence to imprisonment for one year or to a fine of one hundred dollars or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication or extract therefrom shall be forfeited to Her Majesty.

Delivery of prohibited publication to police station

63-(1) Any person to whom any publication the importation of which has been prohibited under section **61**, or any extract therefrom, is sent without his knowledge or privity or in response to a request made before the prohibition of the importation of such publication came into effect, or who has such a publication or extract therefrom in his possession at the time when the prohibition of its importation comes into effect, shall forthwith if or as soon as the nature of its contents have become known to him, or, in the case of a publication or extract therefrom coming into the possession of such person before an order prohibiting its importation has been made, forthwith upon the coming into effect of an order prohibiting the importation of such publication, deliver such publication or extract therefrom to the officer in charge of the nearest police station, and in default thereof is guilty of a misdemeanour, and is liable to imprisonment for one year or to a fine of one hundred dollars or to both such imprisonment and fine; and such publication or extract therefrom shall be forfeited to Her Majesty.

(2) A person who complies with the provisions of subsection (1) or is convicted of an offence under that subsection is not liable to be convicted for having imported or having in his possession the same publication or extract therefrom.

Power to examine packages

64-(1) Any of the following officers, that is to say:-

(a) the Comptroller of Customs, the Commissioner of Police, the ‡Permanent Secretary for Posts and Telecommunications, or any officer authorised in that behalf in writing by any one of them; or

‡ Amended by Order 1 November, 1971.

(b) any other officer authorised in that behalf by the *Minister, may detain, open and examine any package or article which he suspects to contain any publication or extract therefrom which it is an offence under the provisions of section **62** to import, publish, sell, offer for sale, distribute, reproduce or possess, and during such examination may detain any person importing, distributing or posting such package or article or in whose possession such package or article is found.

* Amended by Order 8th October, 1970.

(2) If any such publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by the officer, and the person importing, distributing or posting it or in whose possession it is found, may forthwith be arrested and proceeded against for the commission of an offence under section **62** or section **63** as the case may be.

Seditious intention

65.-(1) A "seditious intention" is an intention-

- (i) to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, Her heirs or successors or the Government of Fiji as by law established; or
- (ii) to excite Her Majesty's subjects or inhabitants of Fiji to attempt to procure the alteration, otherwise than by lawful means, of any matter in Fiji as by law established; or
- (iii) to bring into hatred or contempt or to excite disaffection against the administration of justice in Fiji; or
- (iv) to raise discontent or disaffection amongst Her Majesty's subjects or inhabitants of Fiji; or
- (v) to promote feelings of ill-will and hostility between different classes of the population of Fiji.

But an act, speech or publication is not seditious by reason only that it intends-

- (a) to show that Her Majesty has been misled or mistaken in any of her measures; or
- (b) to point out errors or defects in the government or constitution of Fiji as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
- (c) to persuade Her Majesty's subjects or inhabitants of Fiji to attempt to procure by lawful means the alteration of any matter in Fiji as by law established; or
- (d) to point out, with a view to their removal, any matters which are producing or having a tendency to produce feelings of ill-will and enmity between different classes of the population of Fiji.

(2) In determining whether the intention with which any act was done, any words were spoken, or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.

Seditious offences

66.-(1) Any person who-

- (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do any act with a seditious intention;
- (b) utters any seditious words;
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; or
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious,

is guilty of a misdemeanour, and is liable for a first offence to imprisonment for two years or to a fine of two hundred dollars or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years; and any such seditious publication shall be forfeited to Her Majesty.

(2) Any person who without lawful excuse has in his possession any seditious publication is guilty of a misdemeanour, and is liable for a first offence to imprisonment for one year or to a fine of one hundred dollars or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication shall be forfeited to Her Majesty.

(3) No prosecution for an offence under this section shall be begun except within six months after the offence is committed.

(4) A person shall not be prosecuted for an offence under this section without the written consent of the *Director of Public Prosecutions.

* Amended by Order 8th October, 1970.

(5) No person shall be convicted of an offence under this section on the uncorroborated testimony of one witness.

Suspension of newspaper containing seditious matter

67.-(1) Whenever any person is convicted of publishing in any newspaper matter having a seditious intention, the court may, if it thinks fit, either in lieu of or in addition to any other punishment, make orders as to all or any of the following matters, that is to say:-

(a) prohibiting, either absolutely or except on conditions to be specified in the order, for any period not exceeding one year from the date of the order, the future publication of that newspaper;

(b) prohibiting, either absolutely or except on conditions to be specified in the order, for the period aforesaid, the publisher, proprietor or editor of that newspaper from publishing, editing or writing for any newspaper, or from assisting, whether with money or money's worth, material, personal service or otherwise, in the publication, editing or production of any newspaper; and

(c) that for the period aforesaid any printing press used in the production of the newspaper be used only on conditions to be specified in the order, or that it be seized by the police and detained by them for the period aforesaid.

(2) Any person who contravenes an order made under this section is guilty of a misdemeanour, and is liable to imprisonment for six months or to a fine of two hundred dollars or to both such imprisonment and fine.

(3) Nothing in this Code shall affect the power of the court to punish any person contravening an order made under this section for contempt of court:

Provided that no person shall be punished twice for the same offence.

Power of court to prohibit circulation of seditious publications

68.-(1) Whenever on the application of the *Director of Public Prosecutions it is shown to the satisfaction of the court that the issue or circulation of a seditious publication is or if commenced or continued would be likely to lead to unlawful violence, or appears to have the object of promoting feelings of hostility between different classes or races of the community, the court shall make an order (in this section called a "prohibition order")

prohibiting the issuing and circulation of that publication (in this section called a "prohibited publication") and requiring every person having any copy of the prohibited publication in his possession, power or control forthwith to deliver every such copy into the custody of the police.

* Amended by Order 8th October, 1970.

(2) An order under this section may be made *ex parte* on the application of the *Director of Public Prosecutions in chambers.

* Amended by Order 8th October, 1970.

(3) It shall be sufficient if the order so describes the prohibited publication that it can be identified by a reasonable person who compares the prohibited publication with the description in the prohibition order.

(4) Every person on whom a copy of a prohibition order is served by any police officer shall forthwith deliver to that police officer every prohibited publication in his possession, power or control, and if he fails to do so he is guilty of a misdemeanour, and is liable to imprisonment for one year or to a fine of two hundred dollars or to both such imprisonment and fine.

(5) Every person to whose knowledge it shall come that a prohibited publication is in his possession, power or control shall forthwith deliver every such publication into the custody of the police.

(6) The court may, if it thinks fit, either before or after or without service of the prohibition order on any person, issue a warrant authorising any police officer not below the rank of sergeant and his assistants to break, enter and search, either by day or night, any building or place specified in the order, and any enclosure, room, box, receptacle or thing in such building or place, and to seize and carry away every prohibited publication there found, and to use such force as may be necessary for the purpose.

A copy of the prohibition order and of the search warrant shall be left in a conspicuous position at every building or place so entered.

(7) The owner of any prohibited publication delivered or seized under this section may, at any time within fourteen days after the delivery or seizure, petition the court for the discharge of the prohibition order, and the court, if on the hearing of the petition it decides that the prohibition order ought not to have been made, shall discharge the order and shall order the prohibited publication delivered by or seized from the petitioner to be returned to him.

(8) Every prohibited publication delivered or seized under this section with respect to which a petition is not filed within the time aforesaid or which is not ordered to be returned to the owner shall be deemed to be forfeited to Her Majesty.

***CHAPTER VIII-GENOCIDE**

**Genocide*

69.-(1) A person commits the offence of genocide if he commits any of the following acts with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:-

- (a) killing members of the group;

- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

†(2) A person guilty of an offence of genocide shall on conviction-

- (a) if the offence consists of the killing of any person, be sentenced to death;
- (b) in any other case, be liable to imprisonment for a term not exceeding fourteen years.

† Amended by Ordinance No. 15 of 1973.

(3) Proceedings for an offence of genocide shall not be instituted except by or with the consent of the ‡Director of Public Prosecutions.

* Inserted by Ordinance No. 25 of 1969.

‡ Amended by Order 13th November, 1970.

CHAPTER IX-OFFENCES AFFECTING RELATIONS WITH FOREIGN STATES AND EXTERNAL TRANQUILLITY

Defamation of foreign princes

°70. Any person who, without such justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read, or any sign or visible representation, tending to degrade, revile or expose to hatred or contempt any foreign prince, potentate, ambassador or other foreign dignitary with intent to disturb peace and friendship between Fiji and the country to which such prince, potentate, ambassador or dignitary belongs, is guilty of a misdemeanour.

° Amended by 14 of 1975, s.6.

Foreign enlistment

°71. Any person commits a misdemeanour who does any of the following acts without the licence, order, command or authority of the Governor-General, that is to say:-

- (a) who prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, or is engaged in such preparation or fitting-out, or assists therein, or is employed in any capacity in such expedition; or
- (b) who, being a British subject, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state, or, whether a British subject or not, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid; or

(c) who, being a British subject, quits or goes on board any vessel with a view of quitting Fiji, with intent to accept any commission or engagement in the military naval service of any foreign state at war with a friendly state, or, whether a British subject or not, induces any other person to quit or to go on board any vessel with a view of quitting Fiji with the like intent; or

(d) who, being the master or owner of any vessel, knowingly either takes on board, or engages to take on board, or has on board such vessel, any illegally enlisted person; or

(e) who, with intent or knowledge, or having reasonable cause to believe that the same will be employed in the military or naval service of any foreign state at war with any friendly state, builds, agrees to build, causes to be built, equips, despatches, or causes or allows to be despatched, any vessel, or issues or delivers any commission for any vessel:

Provided that a person building, causing to be built, or equipping a vessel in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, is not liable to any of the penalties specified in this section in respect of such building or equipment if-

(i) upon a proclamation of neutrality being issued by Her Majesty *in right of Her Government of Fiji he forthwith gives notice to the *Minister or the Secretary of State that he is so building, causing to be built, or equipping such vessel, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the *Minister or the Secretary of State; and
* Amended by Order 8th October, 1970.

(ii) he gives such security, and takes and permits to be taken such other measures, if any, as the *Minister or the Secretary of State may prescribe for ensuring that such vessel shall not be despatched, delivered or removed without the licence of Her Majesty until the termination of such war as aforesaid.
° Amended by 14 of 1975, s.6.
* Amended by Order 8th October, 1970.

Piracy

72. Any person who is guilty of piracy or any crime connected with or relating or akin to piracy †shall be liable to imprisonment for life.

† Amended by Ordinance No. 12 of 1969.

‡Hijacking

73.-(1) A person on board an aircraft in flight who-

(a) unlawfully, by the use of force or by threats of any kind or by any other form of intimidation, seizes or exercises control of that aircraft or attempts to seize or exercise control of it; or

(b) assists any person who carries out or attempts to carry out any act mentioned in paragraph (a),

commits the offence of hijacking, whatever his nationality or citizenship, whatever the State in which the aircraft is registered and whether-the aircraft is in Fiji or elsewhere.

(2) The provisions of subsection (1) shall not apply if-

(a) the aircraft is used in military, customs or police service; or

(b) both the place of take-off and the place of landing are in the territory of the State in which the aircraft is registered,

unless the person seizing or exercising control of the aircraft or assisting in so doing is a citizen of Fiji or resident in Fiji or his act is committed in Fiji or the aircraft whatever its use is registered in Fiji.

(3) A person who commits the offence of hijacking is liable on conviction to imprisonment for life.

(4) The period during which an aircraft is in flight shall be deemed to include any period from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and, in the case of a forced landing, any period until the competent authorities take over responsibility of the aircraft and for persons and property on board.

(5) For the purposes of this section, the territorial waters of any State shall be treated as part of its territory.

‡Inserted by Act No. 8 of 1972.

**Other offences committed in the course of hijacking*

74. Where outside Fiji any person of whatever nationality or citizenship, while on board an aircraft wherever registered, does any act which would constitute an offence under this Code if done in Fiji shall be liable to be convicted of such offence if it is done in connection with the offence of hijacking.

*Inserted by Act No. 8 of 1972 and amended by Act No. 15 of 1973.

**Aircraft operated by joint or international organisation*

75.-(1) If the Minister by order declares-

(a) that any two or more States named in the order have established an organisation or agency which operates aircraft; and

(b) that one of these States has been designated as exercising, for aircraft so operated, the powers of the State of registration,

the State declared under paragraph (b) of this subsection shall be deemed for the purposes of this Code to be the State in which any aircraft so operated is registered; but in relation to such an aircraft paragraph (b) of subsection (2) of section **73** and paragraph (b) of subsection (2) of section **76** shall have effect as if these paragraphs referred to the territory of any one of the States named in the order.

*Inserted by Act No. 8 of 1972 and amended by Act No. 15 of 1973.

**Aircraft Sabotage*

76.-(1) A person who-

(a) destroys an aircraft in service or causes damage which renders it incapable of flight or which is likely to endanger its safety in flight; or

(b) places or causes to be placed on an aircraft in service by any means whatsoever, a device or substance which is likely to destroy that aircraft or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(c) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or

(d) communicates information which he knows to be false thereby endangering the safety of an aircraft in flight; or

(e) performs an act of violence on board an aircraft in flight likely to endanger the safety of that aircraft; or

(f) assists any person who carries out or attempts to carry out any act mentioned in the preceding paragraphs of this section;

*(g) communicates any information which he knows to be false or performs any other act for the purpose of causing, or which is likely to cause, inconvenience to persons travelling upon or about to travel upon an aircraft in service or which is likely adversely to affect the journey or passage of an aircraft in service,

* Inserted by Act No. 15 of 1973

commits the offence of aircraft sabotage whatever his nationality or citizenship, whatever the State in which the aircraft is registered and whether the aircraft is in Fiji or elsewhere.

(2) The provisions of subsection (1) shall not apply if-

(a) the aircraft is used in military, customs or police service; or

(b) both the place of take off and the place of landing are in the territory of the State in which the aircraft is registered, unless-

(i) the offence is committed in Fiji; or

(ii) The aircraft whatever its use is registered in Fiji; or

(iii) the aircraft lands in Fiji with the offender on board; or

(iv) the offence is committed against or on board an aircraft leased to a lessee who has either his principal place of business or a residence in Fiji.

(3) A person who commits an offence under this section is liable on conviction to imprisonment for life.

(4) For the purposes of this section "aircraft in service" means the period beginning with the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing after such flight.

*Inserted by Act No. 8 of 1972 and amended by Act No. 15 of 1973.

†Prosecution of offences

77. Proceedings for an offence under sections **73** and **76** shall not be instituted except by or with the consent of the Director of Public Prosecutions.

† Inserted by Act No. 8 of 1972

†Definition of State

78. "State" means, for the purposes of sections **73** to **76**, any State which is a party to any international convention to which Fiji is also a party.

† Inserted by Act No. 8 of 1972

CHAPTER X-UNLAWFUL ASSEMBLIES, RIOTS AND OTHER OFFENCES AGAINST PUBLIC TRANQUILLITY

Unlawful society

79.-(1) A society includes any combination of ten or more persons whether the society be known by any name or not.

(2) A society is an unlawful society-

(a) if formed for any of the following purposes:-

(i) levying war or encouraging or assisting any persons to levy war on the Government or the inhabitants of any part of Fiji; or

(ii) killing or injuring or inciting to the killing or injuring of any person; or

(iii) destroying or injuring or inciting to the destruction or injuring of any property; or

(iv) subverting or promoting the subversion of the Government or of its officials; or

(v) committing or inciting to acts of violence or intimidation; or

(vi) interfering with, or resisting, or inciting to interference with or resistance to the administration of the law; or

(vii) disturbing or inciting to the disturbance of peace and order in any part of Fiji; or

(b) if declared by an order of the *Minister to be a society dangerous to the good government of Fiji.

*Amended by Order 8th October, 1970

Managing unlawful society

80. Any person who manages or assists in the management of an unlawful society is guilty of a felony, and is liable to imprisonment for seven years.

Being member of unlawful society

81. Any person who-

(a) is a member of an unlawful society; or

(b) knowingly allows a meeting of an unlawful society, or of members of an unlawful society, to be held in any house, building or place belonging to or occupied by him, or over which he has control,

is guilty of a felony, and is liable to imprisonment for three years.

Prosecutions under sections 80 and 81

82.-(1) A prosecution for an offence under sections **80** and **81** shall not be instituted except with the consent of the *Director of Public Prosecutions:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the *Director of Public Prosecutions to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

*Amended by Order 8th October, 1970.

(2) In any prosecution for an offence under sections **80** and **81** it shall not be necessary to prove that the society consisted of ten or more members; but it shall be sufficient to prove the existence of a combination of persons, and the onus shall then rest with the accused to prove that the number of members of such combination did not amount to ten.

(3) Any person who attends a meeting of an unlawful society shall be presumed, until and unless the contrary is proved, to be a member of the society.

(4) Any person who has in his possession or custody or under his control any of the insignia, banners, arms, books, papers, documents or other property belonging to an unlawful society, or wears any of the insignia, or is marked with any mark of the society, shall be presumed, unless and until the contrary is proved, to be a member of the society.

Power of entry, arrest, search, etc.

83. Any peace officer, and any police officer authorised in writing by a peace officer, may enter with or without assistance any house or building or into any place in which he has reason to believe that a meeting of an unlawful society, or of persons who are members of an unlawful society, is being held, and to arrest or cause to be arrested all persons found therein and to search such house, building or place, and seize or cause to be seized all insignia, banners, arms, books, papers, documents and other property which he may have reasonable cause to believe to belong to any unlawful society or to be in any way connected with the purpose of the meeting.

For the purposes of this section, the expression "peace officer" means any magistrate or any police officer not below the rank of Assistant Superintendent.

*Declaration by *Minister*

84.-(1) When a society is declared to be an unlawful society by an order of the *Minister, the following consequences shall ensue:-

- (a) the property of the society within Fiji shall forthwith vest in an officer appointed by the *Minister;
- (b) the officer appointed by the *Minister shall proceed to wind up the affairs of the society, and after satisfying and providing for all debts and liabilities of the society and the cost of the winding up, if there shall then be any surplus assets shall prepare and submit to the *Minister a scheme for the application of such surplus assets;
- (c) such scheme, when submitted for approval, may be amended by the *Minister in such way as he shall think proper in the circumstances of the case;
- (d) the approval of the *Minister to such a scheme shall be denoted by the endorsement thereon of a memorandum of such approval signed by the *Minister, and, upon this being done, the surplus assets, the subject of the scheme, shall be held by such officer upon the terms and to the purposes thereby prescribed;
- (e) for the purpose of the winding up, the officer appointed by the *Minister shall have all the powers vested in the Official Receiver for the purpose of the discovering of the property of a debtor and the realization thereof.

*Amended by Order 8th October, 1970

(2) The *Minister may, for the purpose of enabling a society to wind up its own affairs, suspend the operation of this section for such period as to him shall seem expedient.

*Amended by Order 8th October, 1970

(3) The provisions of subsection (1) shall not apply to any property seized at any time under section **83**.

*Amended by Order 8th October, 1970

Forfeiture of insignia, etc.

85. Subject to the provisions of section **84**, the insignia, banners, arms, books, papers, documents and other property belonging to an unlawful society shall be forfeited to Her Majesty, and shall be dealt with in such manner as the *Minister may direct.

*Amended by Order 8th October, 1970.

Definitions of unlawful assembly and riot

86. When three or more persons assemble with intent to commit an offence, or, being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly.

It is immaterial that the original assembling was lawful if, being assembled, they conduct themselves with a common purpose in such a manner as aforesaid.

Riot

When an unlawful assembly has begun to execute the purpose for which it assembled by a breach of the peace and to the terror of the public, the assembly is called a riot, and the persons assembled are said to be riotously assembled.

Punishment of unlawful assembly

87. Any person who takes part in an unlawful assembly is guilty of a misdemeanour, and is liable to imprisonment for one year.

Punishment of riot

88. Any person who takes part in a riot is guilty of a misdemeanour.

Making proclamation for rioters to disperse

89. Any magistrate or, in his absence, any officer of police or special constable not below the rank of Assistant Superintendent, in whose view twelve or more persons are riotously assembled, or who apprehends that a riot is about to be committed by twelve or more persons assembled within his view, may make or cause to be made a proclamation in the Queen's name, in such form as he thinks fit, commanding the rioters or persons so assembled to disperse peaceably.

(Amended by 16 of 1960, s. 5.)

Dispersion of rioters after proclamation made

90. If upon the expiration of a reasonable time after such proclamation made, or after the making of such proclamation has been prevented by force, twelve or more persons continue riotously assembled together, any person authorised to make proclamation, or any police officer or constable, or any other person acting in aid of such person, police officer or special constable may do all things necessary for dispersing the persons so continuing assembled, or for apprehending them or any of them, and, if any person makes resistance, may use all such force as is reasonably necessary for overcoming such resistance, and shall not be liable in any criminal or civil proceeding for having, by use of such force, caused harm or death to any person.

(Amended by 16 of 1960, s. 6.)

Rioting after proclamation

91. If a proclamation is made, commanding the persons engaged in a riot, or assembled with the purpose of committing a riot, to disperse, every person who, at or after the expiration of a reasonable time for the making of such proclamation, takes or continues to take part in the riot or assembly, is guilty of a felony, and is liable to imprisonment for five years.

Preventing or obstructing the making of proclamation

92. Any person who forcibly prevents or obstructs the making of such proclamation as is in section **89** mentioned, is guilty of a felony, and is liable to imprisonment for ten years; and if the making of the proclamation is so prevented, every person who, knowing that it has been so prevented, takes or continues to take part in the riot or assembly, is liable to imprisonment for five years.

Rioters demolishing buildings, etc.

93. Any persons who, being riotously assembled together, unlawfully pull down or destroy, or begin to pull down or destroy any building, railway, machinery or structures are guilty of a felony, and each of them is liable to imprisonment for life.

Rioters damaging buildings, machinery, etc.

94. Any persons who, being riotously assembled together, unlawfully damage any of the things in section **93** mentioned, are guilty of a felony, and each of them is liable to imprisonment for seven years.

Riotously interfering with railway, vehicle or vessel

95. All persons are guilty of a misdemeanour who, being riotously assembled, unlawfully and with force prevent, hinder or obstruct the loading or unloading of any railway, vehicle or vessel, or the starting or transit of any railway or vehicle, or the sailing or navigation of any vessel, or unlawfully and with force board any railway, vehicle or vessel with intent to do so.

Prohibition of the carrying of offensive weapons without lawful authority or reasonable excuse

96. (1) Any person who without lawful authority or reasonable excuse, the proof whereof shall lie on him, has with him in any public place any offensive weapon is guilty of a misdemeanour.

(2) Where any person is convicted of an offence under subsection (1) the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.

(3) In this section "offensive weapon" means any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him.

(Section inserted by 16 of 1960, s. 7)

Prohibition on manufacture, sale, etc., of flick knives, gravity knives and knuckle dusters

97.-(1) Any person who manufactures, sells or hires, or exposes for sale or hire, or offers for sale or hire, or lends or gives to any person a flick knife, gravity knife*, swordstick or knuckle duster shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of one hundred dollars or to both such fine and imprisonment.

*Inserted by Ordinance No. 12 of 1969.

(2) Where any person is convicted of an offence contrary to subsection (1) the court shall make an order for the forfeiture or disposal of all flick knives, gravity knives, swordsticks and knuckle dusters found in the possession of such person.

(3) In this section-

"flick knife" means any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife;

"gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever or other device;

"knuckle duster" means any solid contraption designed or adapted to be gripped in the fist or fitted to or over one or more fingers and equipped with any projection or flat striking surface peculiarly adapted for causing injury to the person:

Provided that nothing in this section shall apply to any ring which is a *bona fide* signet ring or to any ring the projection of which consists of a precious or semi-precious stone or stones or other purely ornamental object. (Section inserted by 50 of 1961, s. 2.)

Going armed in public

98. Any person who goes armed in public without lawful occasion in such a manner as to cause terror to any person is guilty of a misdemeanour, and his arms may be forfeited.

Forcible entry

99. Any person who, in order to take possession thereof, enters on any lands or tenements in a violent manner, whether such violence consists in actual force applied to any other person or in threats or in breaking open any house or in collecting an unusual number of people, is guilty of the misdemeanour termed forcible entry.

It is immaterial whether he is entitled to enter on the land or not, provided that a person who enters upon lands or tenements of his own, but which are in the custody of his servant or bailiff, does not commit the offence of forcible entry.

Forcible detainer

100. Any person who, being in actual possession of land without colour of right, holds possession of it, in a manner likely to cause a breach of the peace or reasonable apprehension of a breach of the peace, against a person entitled by law to the possession of the land is guilty of the misdemeanour termed forcible detainer.

Affray

101. Any person who takes part in a fight in a public place is guilty of a misdemeanour, and is liable to imprisonment for one year.

Challenge to fight a duel

102. Any person who challenges another to fight a duel, or attempts to provoke another to fight a duel, or attempts to provoke any person to challenge another to fight a duel, is guilty of a misdemeanour.

Threatening violence

103. Any person who with intent to alarm any person in a dwelling-house, discharges loaded firearms or commits any other breach of the peace, is guilty of a misdemeanour, and is liable to imprisonment for *three years, with or without corporal punishment.

* Amended by Act No. 15 of 1973

Assembling for the purpose of smuggling

104. Any persons who assemble together, to the number of two or more, for the purpose of unshipping, carrying or concealing any goods subject to customs duty and liable to forfeiture under any law relating to the customs, are guilty of a misdemeanour, and each of them is liable to a fine not exceeding two hundred dollars or to imprisonment for six months.

**Throwing or projecting objects, etc.*

105. Any person who wilfully throws or in any other way projects any object, fluid or substance at any dwelling-house, vehicle or person is guilty of an offence and is liable to imprisonment for three years, with or without corporal punishment.

* Amended by Act No. 15 of 1973

*Division II-Offences against Administration of
Lawful Authority*

CHAPTER XI-CORRUPTION AND THE ABUSE OF OFFICE

Official corruption

106. Any person who-

(a) being employed in the public service, and being charged with the performance of any duty by virtue of such employment, corruptly asks for, solicits, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or

(b) corruptly gives, confers or procures, or promises or offers to give or confer, or to procure. or attempt to procure, to, upon, or for any person employed in the public service, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of the person so employed,

is guilty of a felony and is liable to imprisonment for seven years.

Extortion by public officers

107. Any person who, being employed in the public service, takes or accepts from any person for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, or any promise of such reward, is guilty of a misdemeanour, and is liable to imprisonment for three years.

Public officers receiving property to show favour

108. Any person who, being employed in the public service, receives any property or benefit of any kind for himself or any other person, on the understanding, express or implied, that he shall favour the person giving the property or conferring the benefit, or any one in whom that person is interested, in any transaction then pending, or likely to take place, between the person giving the property or conferring the benefit, or any one in whom he is interested, and any person employed in the public service, is guilty of a misdemeanour, and is liable to imprisonment for six months.

Officers charged with administration of property of a special character or with special duties

109. Any person who, being employed in the public service, and being charged by virtue of his employment with any judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade or business of a special character, and having acquired or holding, directly or indirectly, a private interest in any such property, manufacture, trade or business, discharges any such duties with respect to the property, manufacture, trade or business in which he has such interest or with respect to the conduct of any person in relation thereto, is guilty of a misdemeanour, and is liable to imprisonment for one year.

False claims by officials

110. Any person who, being employed in the public service, in such a capacity as to require him or enable him to furnish returns or statements touching any sum payable or claimed to be payable to himself or to any other person, or touching any other matter required to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such matter which is, to his knowledge, false in any material particular, is guilty of a misdemeanour.

Abuse of office

111. Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another, is guilty of a misdemeanour.

If the act is done or directed to be done for purpose of gain, he is guilty of a felony, and is liable to imprisonment for three years.

A prosecution for any offence under this or either of sections **109** or **110** shall not be instituted except by or with the sanction of the *Director of Public Prosecutions.

* Amended by Order 8th October, 1970.

False certificates by public officers

112. Any person who, being authorised or required by law to give any certificate touching any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificate which is, to his knowledge, false in any material particular, is guilty of a misdemeanour.

Unauthorised administration of oaths

113. Any person who administers an oath, or takes a solemn declaration or affirmation or affidavit, touching any matter with respect to which he has not by law any authority to do so is guilty of a misdemeanour:

Provided that this section shall not apply to an oath, declaration, affirmation or affidavit administered by or taken before a magistrate or a justice of the peace in any matter relating to the preservation of the peace or the punishment of offences or relating to inquiries respecting sudden deaths, nor to an oath, declaration, affirmation or affidavit administered or taken for some purpose which is lawful under the laws of another country, or for the purpose of giving validity to an instrument in writing which is intended to be used in another country.

False assumption of authority

114. Any person who-

- (a) not being a judicial officer, assumes to act as a judicial officer; or
- (b) without authority assumes to act as a person having authority by law to administer an oath or take a solemn declaration or affirmation or affidavit or to do any other act of a public nature which can only be done by persons authorised by law to do so; or
- (c) represents himself to be a person authorised by law to sign a document testifying to the contents of any register or record kept by lawful authority, or testifying to any fact or event, and signs such document as being so authorised. when he is not, and knows that he is not. in fact, so authorised,

is guilty of a misdemeanour.

Personating public officers

115. Any person who-

- (a) personates any person employed in the public service on an occasion when the latter is required to do any act or attend in any place by virtue of his employment; or
- (b) falsely represents himself to be a person employed in the public service, and assumes to do any act or to attend in any place for the purpose of doing any act by virtue of such employment,

is guilty of a misdemeanour, and is liable to imprisonment for three years.

Threat of injury to persons employed in public service

116. Whoever holds out any threat of injury to any person employed in the public service, or to any person in whom he believes that person employed in the public service to be interested, for the purpose of inducing that person employed in the public service to do any act, or to forbear or delay to do any act connected with the exercise of the public functions of such person employed in the public service, is guilty of a misdemeanour.

A prosecution for an offence under this section shall not be instituted except by or with the sanction of the
*Director of Public Prosecutions.

* Amended by Order 13th November, 1970.

CHAPTER XII-PERJURY AND FALSE STATEMENTS AND DECLARATIONS

Perjury

117.-(1) Any person lawfully sworn as a witness in a judicial proceeding who wilfully makes a statement material in that proceeding which he knows to be false or does not believe to be true is guilty of the misdemeanour termed perjury, and is liable to imprisonment for seven years.

*(2) Any person lawfully sworn as an interpreter, who wilfully in the course, or proposed course, of his duties as such, makes any misstatement, or actively or by omission misinterprets any statement whether or not that statement is material in any judicial proceeding is guilty of perjury and is liable to imprisonment for seven years.

*Inserted by Ordinance No. 12 of 1969.

(3) Where a statement made for the purpose of a judicial proceeding is not made before the tribunal itself but is made on oath before a person authorised by law to administer an oath to the person who makes the statement and to record or authenticate the statement it shall, for the purposes of this section, be treated as having been made in a judicial proceeding.

(4) The question whether a statement on which perjury is assigned was material is a question of law to be determined by the court of trial.

False statements on oath made otherwise than in a judicial proceeding

118. Any person who-

(a) being required or authorised by law to make any statement on oath for any purpose and being lawfully sworn (otherwise than in a judicial proceeding) wilfully makes a statement which is material for that purpose and which he knows to be false or does not believe to be true; or

(b) wilfully uses any false affidavit for the Bills of Sale Act,

is guilty of a misdemeanour, and is liable to imprisonment for seven years.

(Cap. 225)

False statements, etc. with reference to marriage

119. Any person who-

(a) for the purpose of procuring a marriage or a certificate or licence for marriage knowingly and wilfully makes a false oath or makes or signs a false declaration, notice or certificate required under any Act for the time being in force relating to marriage; or

(b) knowingly and wilfully makes or knowingly and wilfully causes to be made for the purpose of being inserted in any register of marriage a false statement as to any particular required by law to be known and registered relating to any marriage; or

(c) forbids the issue of any certificate or licence for marriage by falsely representing himself to be a person whose consent to the marriage is required by law knowing such representation to be false,

is guilty of a misdemeanour, and is liable to imprisonment for seven years.

False statements, etc. as to births or deaths

120.-(1) Any person who-

(a) wilfully makes any false answer to any question put to him by any registrar of births or deaths relating to the particulars required to be registered concerning any birth or death or wilfully gives to any such registrar any false information concerning any birth or death or the cause of any death; or

(b) wilfully makes any false certificate or declaration under or for the purposes of any Act relating to the registration of births or deaths or, knowing any such certificate or declaration to be false, uses the same as true or gives or sends the same as true to any person; or

(c) wilfully makes, gives or uses any false statement or declaration as to a child born alive as having been still-born or as to the body of a deceased person or a still-born child in any coffin or falsely pretends that any child born alive was still-born; or

(d) makes any false statement with intent to have the same inserted in any register of births or deaths,

is guilty of a misdemeanour, and is liable to imprisonment for seven years.

(2) A prosecution under this section shall not be commenced more than three years after the commission of the offence.

False statutory declarations and other false statements without oath

121. Any person who knowingly and wilfully makes (otherwise than on oath) a statement false in a material particular and the statement is made-

(a) in a statutory declaration; or

(b) in an abstract, account, balance sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return or other document which he is authorised or required to make, attest or verify by any Act for the time being in force; or

(c) in any oral declaration or oral answer which he is required to make by, under or in pursuance of any Act for the time being in force,

is guilty of a misdemeanour.

False declarations, etc. to obtain registration, etc. for carrying on a vocation

122. Any person who-

- (a) procures or attempts to procure himself to be registered on any register or roll kept under or in pursuance of any Act for the time being in force of persons qualified by law to practise any vocation or calling; or
- (b) procures or attempts to procure a certificate of the registration of any person on any such register or roll as aforesaid,

by wilfully making or producing or causing to be produced, either verbally or in writing, any declaration, certificate or representation which he knows to be false or fraudulent, is guilty of a misdemeanour, and is liable to imprisonment for twelve months.

Aiders, abettors, suborners, etc.

123.-(1) Every person who aids, abets, counsels, procures or suborns another person to commit an offence against any of sections **117** to **122** inclusive is liable to be proceeded against, tried and punished as if he were a principal offender.

(2) Every person who incites or attempts to procure or suborn another person to commit an offence against any of the six preceding sections of this Code is guilty of a misdemeanour.

Corroboration

124. A person shall not be liable to be convicted on any offence against any of sections **117** to **123** inclusive or of any offence declared by any other Act to be perjury or subornation or perjury or to be punishable as perjury or subornation of perjury solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Fabricating evidence

125. Any person who, with intent to mislead any tribunal in any judicial proceeding-

- (a) fabricates evidence by any means other than perjury or subornation of perjury; or
- (b) knowingly makes use of such fabricated evidence,

is guilty of a misdemeanour, and is liable to imprisonment for seven years.

Inconsistent or contradictory statements

126.-(1) Where two or more inconsistent or contradictory statements of fact or alleged fact, material to the issue or matter in question, have been wilfully made on oath by one and the same witness in any judicial proceeding or proceedings, whether before the same court or tribunal or person or not, such witness shall be guilty of a misdemeanour, and is liable to imprisonment for six months.

(2) Upon the trial of any person for an offence under this section, it shall not be necessary to prove the falsity of either of the inconsistent or contradictory statements, but, upon proof that both the statements were made by him, the court, if satisfied that the statements, or either of them, were or was made with intent to deceive the court, tribunal or person before whom the statements or either of them were or was made, shall convict the accused.

Proof of certain proceedings on which perjury is assigned

127. On a prosecution-

(a) for perjury alleged to have been committed on the trial of an information for felony or misdemeanour; or

(b) for procuring or suborning the commission of perjury on any such trial,

the fact of the former trial shall be sufficiently proved by the production of a certificate containing the substance and effect (omitting the formal parts) of the information and trial purporting to be signed by the Chief Registrar or other person having the custody of the records of the court where the information was tried or by the deputy of that Chief Registrar or other person without proof of the signature or official character of the clerk or persons appearing to have signed the certificate.

Forms and ceremonies of oath immaterial

128. For the purposes of this Chapter the forms and ceremonies used in administering an oath are immaterial if the court or person before whom the oath is taken has power to administer an oath for the purpose of verifying the statement in question if the oath has been administered in a form and with ceremonies which the person taking the oath has accepted without objection or has declared to be binding on him.

**CHAPTER XIII-OTHER OFFENCES RELATING TO
THE ADMINISTRATION OF JUSTICE**

Deceiving witnesses

129. Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token or writing, to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, is guilty of a misdemeanour.

Destroying evidence

130. Any person who, knowing that any book, document or thing of any kind whatsoever is or may be required in evidence in a judicial proceeding, wilfully removes or destroys it or renders it illegible or indecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, is guilty of a misdemeanour.

Conspiracy to defeat justice and interference with witnesses

131. Any person commits a misdemeanour who-

(a) conspires with any other person to accuse any person falsely of any crime or to do anything to obstruct, prevent, pervert or defeat the course of justice; or

(b) in order to obstruct the due course of justice, dissuades, hinders or prevents any person lawfully bound to appear and give evidence as a witness from so appearing and giving evidence, or endeavours to do so; or

(c) obstructs or in any way interferes with or knowingly prevents the execution of any legal process, civil or criminal; or

*(d) in any way obstructs, prevents, perverts or defeats, or attempts to obstruct, prevent, pervert or defeat, the course of justice.

*Inserted by Ordinance No. 12 of 1969.

Compounding felonies

132. Any person who asks, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person upon any agreement or understanding that he will compound or conceal a felony, or will abstain from, discontinue or delay a prosecution for a felony, or will withhold any evidence thereof is guilty of a misdemeanour.

Compounding penal actions

133. Any person who, having brought, or under pretence of bringing, an action against another person under the provisions of a penal Act in order to obtain from him a penalty for any offence committed or alleged to have been committed by him, compounds the action without the order or consent of the court in which the action is brought or is to be brought, is guilty of a misdemeanour.

(Amended by Ordinance 37 of 1966, s. 5.)

Advertisements for stolen property

134. Any person who-

(a) publicly offers a reward for the return of any property which has been stolen or lost, and in the offer makes use of any words purporting that no questions will be asked, or that the person producing such property will not be seized or molested; or

(b) publicly offers to return to any person who may have bought or advanced money by way of loan upon any stolen or lost property the money so paid or advanced, or any other sum of money or reward for the return of such property; or

(c) prints or publishes any such offer,

is guilty of a misdemeanour.

Corruptly taking a reward

135. Any person who corruptly takes any money or reward, directly or indirectly, under pretence or upon account of helping any person to recover any property which has, under circumstances which amount to felony or misdemeanour, been stolen or obtained in any way whatsoever, or received, is (unless he has used all due diligence to cause the offender to be brought to trial for the same) guilty of felony, and is liable to imprisonment for seven years.

Offences relating to judicial proceedings

136.-(1) Any person who-

(a) within the premises in which any judicial proceeding is being had or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being had or taken; or

(b) having been summoned to give evidence in a judicial proceeding, fails to attend; or

(c) being present at a judicial proceeding and being called upon to give evidence, refuses to be sworn or to make an affirmation; or

(d) having been sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document; or

(e) having attended a judicial proceeding to give evidence, remains in the room in which such proceeding is being had or taken after the witnesses have been ordered to leave such room; or

*(f) having been ordered by the court to remain within the premises in which any judicial proceeding is being heard or taken or within the precincts thereof departs from such premises or precincts without the leave of the court; or

*Inserted by Ordinance No. 12 of 1969.

(g) causes an obstruction or disturbance in the course of a judicial proceeding; or

(h) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority of any person before whom such proceeding is being had or taken; or

(i) publishes a report of the evidence taken in any judicial proceeding which has been directed to be held in private; or

(j) attempts wrongfully to interfere with or influence a witness in a judicial proceeding, either before or after he has given evidence, in connexion with such evidence; or

(k) dismisses a servant because he has given evidence on behalf of a certain party to a judicial proceeding; or

(l) wrongfully retakes possession of land from any person who has recently obtained possession by a writ of court; or

(m) commits any other act of intentional disrespect to any judicial proceeding, or to any person before whom such proceeding is being had or taken,

is guilty of an offence, and is liable to imprisonment for three months.

(2) When an offence against paragraphs (a), (b), (c), (d), (e), (g), (h) or (m) of subsection (1) is committed in view of the court, other than a magistrate's court *presided over by a third class magistrate, the court may cause the offender to be detained in custody, and at any time before the rising of the court on the same day may take cognizance of the offence and sentence the offender to a fine not exceeding forty dollars or in default of payment to imprisonment for a term not exceeding one month.

*Amended by Ordinance No. 12 of 1969.

(3) The provisions of this section shall be deemed to be in addition to and not in derogation from the power of the Supreme Court to punish for contempt of court.

CHAPTER XIV-RESCUES AND ESCAPES AND OBSTRUCTING OFFICERS OF COURT OF LAW

Rescue

137. Any person, who by force rescues or attempts to rescue from lawful custody any other person-

(a) is, if such last-named person is under sentence of death or imprisonment for life, or charged with an offence punishable with death or imprisonment for life, guilty of a felony, and is liable to imprisonment for life; and

(b) is, if such other person is imprisoned on a charge or under sentence for any offence other than those specified above, guilty of a felony, and is liable to imprisonment for seven years; and

(c) is, in any other case, guilty of a misdemeanour.

If the person rescued is in the custody of a private person, the offender must have notice of the fact that the person rescued is in such custody.

Escape

138. Any person who, being in lawful custody, escapes from such custody, is guilty of a misdemeanour.

Aiding prisoners to escape

139. Any person who-

(a) aids a prisoner in escaping or attempting to escape from lawful custody; or

(b) conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner; or

(c) being an officer of the Prisons Service or other person lawfully placed in charge of any prisoner, knowingly or wilfully permits, or connives at, †or by his negligence causes or contributes to the escape of a prisoner from lawful custody,

† Inserted by Act No. 11 of 1971

is guilty of a felony, and is liable to imprisonment for seven years.

Removal, etc. of property under lawful seizure

140. Any person who, when any property has been attached or taken under the process of authority of any court, knowingly, and with intent to hinder or defeat the attachment or process, receives, removes, retains, conceals or disposes of such property, is guilty of a felony, and is liable to imprisonment for three years.

Obstructing court officers

141. Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any court, is guilty of a misdemeanour, and is liable to imprisonment for one year.

**CHAPTER XV-MISCELLANEOUS OFFENCES AGAINST
PUBLIC AUTHORITY**

Frauds and breaches of trust by persons employed in the public service

142. Any person employed in the public service who, in the discharge of the duties of his office, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person, is guilty of a misdemeanour.

False information to public servant

143. Whoever gives to any person employed in the public service any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such person employed in the public service-

(a) to do or omit anything which such person employed in the public service ought not to do or omit if the true state of facts respecting which such information is given were known to him; or

(b) to use the lawful power of such person employed in the public service to the injury or annoyance of any person,

is guilty of a misdemeanour, and is liable to imprisonment for *twelve months.

*Amended by Ordinance No. 12 of 1969.

Disobedience of lawful orders

144. Everyone who disobeys any order, warrant or command duly made, issued or given by any court, officer or person acting in any public capacity and duly authorised in that behalf, is guilty of a misdemeanour, and is liable, unless any other penalty or mode of proceeding is expressly prescribed in respect of such disobedience, to imprisonment for two years.

Division III.-Offences Injurious to the Public in General

CHAPTER XVI-OFFENCES RELATING TO RELIGION

Insult to religion of any class

145. Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, is guilty of a misdemeanour.

Disturbing religious assemblies

146. Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony, is guilty of a misdemeanour.

Trespassing on burial places

147. Every person who, with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of sepulture, or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, is guilty of a misdemeanour.

Writing or uttering words with intent to wound religious feelings

148. Any person who, with the deliberate intention of wounding the religious feelings of any other person, writes any word, or any person who, with the like intention, utters any word or makes any sound in the hearing of any other person or makes any gesture or places any object in the sight of any other person, is guilty of a misdemeanour, and is liable to imprisonment for one year.

CHAPTER XVII-OFFENCES AGAINST MORALITY

Definition of rape

149. Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of the felony termed rape.

Punishment of rape

150. Any person who commits the offence of rape is liable to imprisonment for life, with or without corporal punishment.

Attempted rape

151. Any person who attempts to commit rape is guilty of a felony, and is liable to imprisonment for seven years, with or without corporal punishment.

Abduction

152. Any person who, with intent to marry or carnally know a woman of any age, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will, is guilty of a felony, and is liable to imprisonment for seven years, with or without corporal punishment.

Abduction of girl under eighteen years of age with intent to have carnal knowledge

153. Any person who, with intent that any unmarried girl under the age of eighteen years shall be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, takes or causes to be taken such girl out of the possession and against the will of her father or mother, guardian or any other person having the lawful care or charge of her, is guilty of a misdemeanour:

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of eighteen years.

Indecent assaults on females

154.-(1) Any person who unlawfully and indecently assaults any woman or girl is guilty of a felony, and is liable to imprisonment for five years, with or without corporal punishment.

(2) It is no defence to a charge for an indecent assault on a girl under the age of sixteen years to prove that she consented to the act of indecency.

(3) It shall be a sufficient defence to a charge for an indecent assault on a girl under the age of sixteen years to prove that she consented to the act of indecency and that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

(Inserted by 16 of 1960, s. 9.)

Indecently insulting or annoying females

(4) Whoever, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman or girl, or whoever intrudes upon the privacy of a woman or girl by doing an act of a nature likely to offend her modesty, is guilty of a misdemeanour, and is liable to imprisonment for one year.

(Amended by 11 of 1948, s. 2, and by 21 of 1950, s. 3.)

Defilement of girl under thirteen years of age

155.-(1) Any person who unlawfully and carnally knows any girl under the age of thirteen years is guilty of a felony, and is liable to imprisonment for life, with or without corporal punishment.

(2) Any person who attempts to have unlawful carnal knowledge of any girl under the age of thirteen years is guilty of a misdemeanour, and is liable to imprisonment for *five years, with or without corporal punishment.
*Amended by Ordinance No. 12 of 1969.

(3) It is no defence to a charge for unlawful carnal knowledge of a girl under the age of thirteen years to prove that she consented to the act.

Defilement of girl between thirteen and sixteen years of age

156.-(1) Any person who-

(a) unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any girl being of or above the age of thirteen years and under the age of sixteen years; or

Defilement of idiots or imbeciles

(b) unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any female *person suffering from severe subnormality under circumstances which do not amount to rape but which prove that the offender knew at the time of the commission of the offence that the woman or girl was *a person suffering from severe subnormality,

*Amended by Ordinance No. 12 of 1969

is guilty of a misdemeanour, and is liable to imprisonment for *five years, with or without corporal punishment:
*Amended by Ordinance No. 12 of 1969

Provided that it shall be a sufficient defence to any charge under paragraph (a) if it shall be made to appear to the court before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

(2) No prosecution shall be commenced for an offence under paragraph (a) of subsection (1) more than twelve months after the commission of the offence.

(3) It is no defence to any charge under paragraph (a) of subsection (1) to prove that the girl consented to the act.

Procuration

157.-(1) Any person who-

(a) procures or attempts to procure any girl or woman under the age of twenty-one years, not being a common prostitute or of known immoral character, to have unlawful connection, either in Fiji or elsewhere, with any other person or persons; or

(b) procures or attempts to procure any woman or girl to become, either in Fiji or elsewhere, a common prostitute; or

(c) procures or attempts to procure any woman or girl to leave Fiji, with intent that she may become an inmate of or frequent a brothel elsewhere; or

(d) procures or attempts to procure any woman or girl to leave her usual place of abode in Fiji (such place not being a brothel), with intent that she may for the purposes of prostitution become an inmate of or frequent a brothel either in Fiji or elsewhere,

is guilty of a misdemeanour, and is liable to imprisonment for two years, with or without corporal punishment:

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

Consent no defence

(2) It is no defence to any charge under this section to show that the girl or woman procured was procured with her consent.

Procuring defilement of woman by threats or fraud or administering drugs

158. Any person who-

(a) by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection either in Fiji or elsewhere; or

(b) by false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection, either in Fiji or elsewhere; or

(c) applies, administers to, or causes to be taken by any woman or girl any drug, matter or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl,

is guilty of a misdemeanour, and is liable to imprisonment for two years, with or without corporal punishment:

Provided that no person shall be convicted of an offence under this section upon the evidence of one witness only, unless such witness be corroborated in some material particular by evidence implicating the accused.

Householder permitting defilement of girl under thirteen years of age on his premises

159. Any person who, being the owner or occupier of premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl under the age of thirteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a felony, and is liable to imprisonment for five years, with or without corporal punishment:

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

Householder permitting defilement of girl under sixteen years of age on his premises

160. Any person who, being the owner or occupier of premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl of or above the age of thirteen years and under the age of sixteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a misdemeanour, and is liable to imprisonment for two years, with or without corporal punishment:

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court before whom the charge is brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

Detention with intent or in brothel

161. (1) Any person who detains any woman or girl against her will-

(a) in or upon any premises with intent that she may be unlawfully and carnally known by any man, whether any particular man or generally; or

(b) in a brothel,

is guilty of a misdemeanour, and is liable to imprisonment for two years, with or without corporal punishment.

Constructive detention by withholding clothes

(2) When a woman or girl is in or upon any premises for the purpose of having any unlawful carnal connection, or is in any brothel, a person shall be deemed to detain such woman or girl in or upon such premises or in such brothel if, with intent to compel or induce her to remain in or upon such premises or in such brothel, such person withholds from such woman or girl any wearing apparel or other property belonging to her, or where wearing apparel has been lent or otherwise supplied to such woman or girl by or by the directions of such person, such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel so lent or supplied.

No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such wearing apparel as was necessary to enable her to leave such premises or brothel.

Selling minors under the age of sixteen years for immoral purposes

162.-(1) Any parent or any other person having the custody, charge or care of a minor under the age of sixteen years who sells, lets for hire or otherwise disposes of such minor with intent that such minor shall at any age be employed or used for the purpose of prostitution or illicit sexual intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such minor at any age will be employed or used for any such purpose, is guilty of a misdemeanour, and is liable to imprisonment for two years, with or without corporal punishment.

(2) When a minor under the age of sixteen years is sold, let for hire or otherwise disposed of to a common prostitute or other person of known immoral character, the parent or person so disposing of such minor shall, until the contrary is proved, be deemed to have disposed of such minor with the intent mentioned in this section.

Buying minors under the age of sixteen years for immoral purposes

163.-(1) Any person who buys, hires or otherwise obtains possession of any minor under the age of sixteen years with intent that such minor shall at any age be employed or used for the purpose of prostitution or illicit sexual intercourse with any person or for any unlawful and immoral purpose or knowing it to be likely that such minor at any age will be employed or used for any such purpose, is guilty of a misdemeanour, and is liable to imprisonment for two years, with or without corporal punishment.

(2) Any common prostitute or other person of known immoral character who buys, hires or otherwise obtains possession of a minor under the age of sixteen years shall, until the contrary is proved, be deemed to have obtained possession of such minor with the intent mentioned in this section.

Power of search

164.-(1) If it appears to any magistrate, on information made before him on oath by any parent, relative or guardian of any woman or girl or other person who, in the opinion of the magistrate, is acting *bona fide* in the interests of any woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such magistrate, such magistrate may issue a warrant authorising the person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a magistrate; and the magistrate before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

(2) A magistrate issuing such warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before a magistrate and proceedings to be taken for punishing such person according to law.

(3) A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally; and-

(a) either is under the age of sixteen years; or

(b) if she is of or over the age of sixteen years and under the age of twenty-one years, is so detained against her will or against the will of her father or mother or of any person having the lawful care or charge of her; or

(c) if she is of or over the age of twenty-one years and is so detained against her will.

(4) Any person authorised by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be, by force) any house, building or other place mentioned in the warrant, and may remove such woman therefrom.

(5) Every warrant issued under this section shall be addressed to and executed by some officer of police who shall be accompanied by the parent, relative or guardian or other person making the information if such person so desires, unless the magistrate shall otherwise direct.

Authority of court as to custody of girls

165. Where on the trial of any offence under sections **149** to **164** inclusive it is proved to the satisfaction of the court that the seduction, prostitution or unlawful detention of any female under the age of twenty-one years has been caused, encouraged or favoured by her father, mother, guardian, master or mistress, the court may divest such father, mother, guardian, master or mistress of all authority over her and appoint any person or persons willing to take charge of such female to be her guardian until she has attained the age of twenty-one years or any age below this as the court may direct and the court may from time to time rescind or vary such order by the appointment of any other person or persons as such guardian or in any other respect.

Male person living on earnings of prostitution or persistently soliciting

166.-(1) Every male person who-

- (a) knowingly lives wholly or in part on the earnings of prostitution; or
- (b) in any public place persistently solicits or importunes for immoral purposes,

is guilty of a misdemeanour. In the case of a second or subsequent conviction under this section the court may, in addition to any term of imprisonment awarded, sentence the offender to corporal punishment.

(2) Where a male person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person, or generally, he shall unless he shall satisfy the court to the contrary be deemed to be knowingly living on the earnings of prostitution.

Woman living on earnings of prostitution or aiding, etc. for gain prostitution of another woman

167. Every woman who knowingly lives wholly or in part on the earnings of prostitution, or who is proved to have, for the purpose of gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any person, or generally, is guilty of a misdemeanour.

**Loitering or soliciting for the purposes of prostitution*

168.-(1) Any common prostitute who loiters or solicits in any public place shall be guilty of an offence.

(2) Any person who, in any public place, solicits for immoral purposes shall be guilty of an offence.

(3) Any person guilty of an offence under the provisions of either of the subsections (1) or (2) shall be liable on conviction, in respect of a first offence, to a fine not exceeding fifty dollars and in respect of a subsequent offence, to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(4) Any police officer may arrest without warrant any person he finds in any public place whom he reasonably suspects to be committing an offence under the provisions of this section.

(5) For the purposes of this section, "public place" includes the doorways and entrances of premises abutting on any public way and any around adjoining and open to any public place.

*Inserted by Act No. 11 of 1971.

Suspicious premises

169. If it is made to appear to a magistrate by information on oath that there is reason to suspect that any house or any part of a house is used by a woman or girl for purposes of prostitution, and that any person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, or is exercising control, direction or influence over the movements of the prostitute, the magistrate may issue a warrant authorising any police officer to enter and search the house and to arrest such person.

Brothels

170. Any person who-

- (a) keeps or manages or acts or assists in the management of a brothel; or
- (b) being the tenant, lessee or occupier of any premises knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution; or
- (c) being the lessor or landlord of any premises or the agent of such lessor or landlord lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

is guilty of a misdemeanour.

(Amended by 12 of 1969, s. 24.)

Conspiracy to defile

171. Any person who conspires with another to induce any woman or girl, by means of any false pretence or other fraudulent means, to permit any man to have unlawful carnal knowledge of her is guilty of a felony, and is liable to imprisonment for three years, with or without corporal punishment.

Attempts to procure abortion

172. Any person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatsoever, is guilty of a felony, and is liable to imprisonment for fourteen years.

Abortion by woman with child

173. Any woman who, being with child, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatsoever, or permits any such thing or means to be administered or used to her, is guilty of a felony, and is liable to imprisonment for seven years.

Supplying drugs or instruments to procure abortion

174. Any person who unlawfully supplies to or procures for any person any thing whatsoever, knowing that it is intended to be unlawfully used with intent to procure the miscarriage of a woman, whether she is or is not with child, is guilty of a felony, and is liable to imprisonment for three years.

Unnatural offences

175. Any person who-

- (a) has carnal knowledge of any person against the order of nature; or
- (b) has carnal knowledge of an animal; or
- (c) permits a male person to have carnal knowledge of him or her against the order of nature,

is guilty of a felony, and is liable to imprisonment for fourteen years, with or without corporal punishment.

Attempts to commit unnatural offences and indecent assaults

176. Any person who attempts to commit any of the offences specified in section **175**, or who is guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, is guilty of a felony, and is liable to imprisonment for seven years, with or without corporal punishment.

Indecent practices between males

177. Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony, and is liable to imprisonment for five years, with or without corporal punishment.

Incest by males

178.-(1) Any male person who has carnal knowledge of a female person, who is to his knowledge his granddaughter, daughter, sister or mother, is guilty of a felony, and is liable to imprisonment for seven years:

Provided that if it is alleged in the information or charge and proved that the female person is under the age of thirteen years, the offender shall be liable to imprisonment for life.

Consent immaterial

(2) It is immaterial that the carnal knowledge was had with the consent of the female person.

Attempt

(3) If any male person attempts to commit any such offence as aforesaid he is guilty of a misdemeanour.

Order for guardianship

(4) On the conviction before any court of any male person of an offence under this section, or of an attempt to commit the same, against any female under the age of twenty-one years, it shall be in the power of the court to divest the offender of all authority over such female, and, if the offender is the guardian of such female, to remove the offender from such guardianship, and in any such case to appoint any person or persons to be the guardian or guardians of such female during her minority or any less period, and the court may at any time vary or rescind the order by the appointment of any other person as such guardian, or in any other respect.

Incest by females

179. Any female person of or above the age of sixteen years who with consent permits her grandfather, father, brother or son to have carnal knowledge of her (knowing him to be her grandfather, father, brother or son, as the case may be) is guilty of a felony, and is liable to imprisonment for seven years.

Test of relationship

180. In sections **178** and **179** the expressions "brother" and "sister" respectively include half-brother and half-sister, and the provisions of the said sections shall apply whether the relationship between the person charged with an offence and the person with whom the offence is alleged to have been committed is or is not traced through lawful wedlock.

*Sanction of *Director of Public Prosecutions*

181. No prosecution for an offence under sections **178** or **179** shall be commenced without the sanction of the *Director of Public Prosecutions.

*Amended by Order 8th October, 1970.

Knowledge of age of female immaterial

182. Except as otherwise expressly stated, it is immaterial in the case of any of the offences committed with respect to a woman or girl under a specified age, that the accused person did not know that the woman or girl was under that age, or believed that she was not under that age.

Definition of carnal knowledge

183. Whenever, upon the trial for any offence punishable under this Code, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only.

CHAPTER XVIII-OFFENCES RELATING TO MARRIAGE

Fraudulent pretence of marriage

184. Any person who wilfully and by fraud causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, is guilty of a felony, and is liable to imprisonment for ten years.

Bigamy

185. Any person who, having a husband or wife living, goes through a ceremony of marriage which is void by reason of its taking place during the life of such husband or wife, is guilty of a felony, and is liable to imprisonment for five years:

Provided that this section shall not extend to any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been beard of by such person as being alive within that time.

Marriage ceremony fraudulently gone through without lawful marriage

186. Any person who dishonestly or with fraudulent intention goes through the ceremony of marriage, knowing that he is not thereby lawfully married, is guilty of a felony, and is liable to imprisonment for five years

CHAPTER XIX-NUISANCES AND OTHER MISCELLANEOUS OFFENCES

Common nuisance

187. Any person who does an act not authorised by law or omits to discharge a legal duty and thereby causes any common injury, or danger or annoyance. or obstructs or causes inconvenience to the public in the exercise of common rights, commits the misdemeanour termed a common nuisance, and is liable to imprisonment for one year.

It is immaterial that the act or omission complained of is convenient to a larger number of the public than it inconveniences, but the fact that it facilitates the lawful exercise of their rights by a part of the public may show that it is not a nuisance to any of the public,

Traffic in obscene publications

188.-(1) Any person who-

(a) for the purpose of or by way of trade or for the purpose of distribution or public exhibition, makes, produces or has in his possession any one or more obscene writing, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films, or any other obscene objects, or any other object tending to corrupt morals; or

(b) for any of the purposes above-mentioned imports, conveys or exports, or causes to be imported, conveyed or exported, any such matters or things, or in any manner whatsoever puts any of them in circulation; or

(c) carries on or takes in any business, whether public or private, concerned with any such matters or things, or deals in any such matters or things in any manner whatsoever, or distributes any of them or exhibits any of them publicly, or makes a business of lending any of them; or

(d) advertises or makes known by any means whatsoever with a view to assisting the circulation of, or traffic in any such matters or things, that a person is engaged in any of the acts referred to in this section, or advertises or makes known how, or from whom, any such matters or things can be procured either directly or indirectly; or

(e) publicly exhibits any indecent show or performance or any show or performance tending to corrupt morals,

is guilty of a misdemeanour, and is liable to imprisonment for two years or to a fine of two hundred dollars.

(2) If, in respect of any of the offences specified in paragraphs (a), (b), (c), or (d) of subsection (1), any constituent element thereof is committed in Fiji, such commission shall be sufficient to render the person accused of such offence triable therefor in Fiji.

(3) A court, on convicting any person of an offence against this section, may order to be destroyed any matter or thing made, possessed or used for the purpose of such offence.

(4) A court may, on the application of the *Director of Public Prosecutions or a Crown Counsel or a Superintendent of Police, order the destruction of any obscene matter or thing to which this section relates, whether any person may or may not have been convicted under the provisions of this section in respect of such obscene matter or thing.

Offences in connexion with street and house to house collections

189.-(1) In this section-

"collection" means an appeal to the public or any class of the public, made by means of visits from house to house or by soliciting in public ways or other public places, or by both such means, to give money or other property, not being money or property due or about to fall due from the donors under or by virtue of any written law, contract or other legal obligation;

"collector" means, in relation to a collection, a person who makes such an appeal by either of the said means;

"house" includes a place of business;

"promoter" means, in relation to a collection, a person who causes others to act as collectors for the purposes of a collection.

(2) No person shall assist or take part in a collection without the written authority of the promoter (if any) of such collection. Every person so authorised shall produce such written authority forthwith for inspection on demand being made by any police officer or any person solicited by such collector.

(3) No collection shall be made in any part of the carriageway of any street.

(4) No collection shall be made in any place whatsoever to the obstruction, annoyance or intimidation of any person.

(5) Except with the permission of a gazetted officer of the police or district officer not more than two persons shall act as collectors at the same place.

(6) No collector shall carry any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the fund for which the collection is being made.

(7) No person in connexion with any collection shall display or use a written authority or other document or thing intended, calculated or likely to cause any person to believe that the person displaying or using the same is an authorised collector for the purposes of a collection when such is not the case.

(8) A police officer in uniform may require any person whom he believes to be acting as a collector for the purposes of a collection to declare to him immediately his name and address, and such person shall comply with such requirement.

(9) A police officer may arrest without warrant any person contravening, or failing to comply with the provisions of subsection (3), (4), (5) or (8).

(10) Any person contravening or failing to comply with any of the provisions of this section shall be guilty of an offence and shall be liable to a fine not exceeding, one hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(Section inserted by 16 of 1960, s. 10)

Unlawful use of locomotives etc.

190. Any person who unlawfully or without the permission of some person authorised to give it uses or travels upon any locomotive, carriage or truck in or upon any railway or tramline, is guilty of an offence, and is liable to a fine of ten dollars or to imprisonment for two months.

Inciting dogs to attack

191. Any person who incites a dog or other animal to attack, worry or put in bodily fear any other person or any animal, is guilty of an offence, and is liable to imprisonment for two months or to a fine of twenty dollars.

Wearing of uniform without authority prohibited

192.-(1) Any person who, not being a person serving in Her Majesty's naval military or air forces, or in any constabulary or police force in the United Kingdom, or in any country or territory of the Commonwealth, wears without the permission of the *Minister the uniform of any of those forces, or any dress having the appearance or bearing any of the regimental or other distinctive marks of such uniform, is guilty of an offence, and is liable to imprisonment for one month or to a fine of twenty dollars:

* Amended by Order 8th October, 1970.

Provided that nothing in this section shall prevent any person from wearing any uniform or dress in the course of a stage play performed in any place in which stage play's may lawfully, be publicly performed, or in the course of a music-hall or circus performance, or in the course of any *bona fide* military representation

Bringing contempt on uniform

(2) Any person who unlawfully wears the uniform of any of the forces aforesaid, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, in such a manner or in such circumstances as to be likely, to bring contempt on that uniform, or employs any other person so to wear such uniform or dress, is guilty of a misdemeanour, and is liable to imprisonment for three months or to a fine of forty dollars.

Importation and sale of uniform, etc., without authority prohibited

(3) Any person who, not being in the service of Fiji or having previously received the written permission of the *Minister so to do, imports or sells or has in his possession for sale any such uniform as aforesaid, or the buttons or badges appropriate thereto, is guilty of a misdemeanour, and is liable to imprisonment for six months, or to a fine of two hundred dollars.

*Amended by Order 8th October, 1970.

Forfeiture of uniform, etc. on conviction

(4) When any person has been convicted of any offence under this section, the uniform, dress, button, badge or other thing in respect of which the offence has been committed shall be forfeited unless the *Minister otherwise orders.

*Amended by Order 8th October, 1970.

Negligent act likely to spread infection of disease dangerous to life

193. Any person who unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, is guilty of a misdemeanour.

Adulteration of food or drink intended for sale

194. Any person who subjects any article of food or drink to such treatment as to make such article noxious as food or drink or of less nutritive value, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, is guilty of a misdemeanour.

Sale of noxious food or drink

195.-(1) Any person who sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, is guilty of a misdemeanour.

(2) Any person selling any article which has been rendered or has become noxious shall be taken to have knowledge that the same is noxious until the contrary be proved.

Fouling air

196. Any person who voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, is guilty of a misdemeanour.

Criminal trespass

197.-(1) Any person who-

(a) enters into or upon property in the possession of another with intent to commit an offence or to intimidate or annoy any person lawfully in possession of such property:

†Provided that the ‡Minister responsible for Fijian affairs may certify that a person or persons are lawfully in possession of native land;

†Inserted by Ordinance No. 12 of 1969

‡Amended by Order 13th November, 1970.

(b) having lawfully entered into or upon such property unlawfully remains

there with intent thereby to intimidate, insult or annoy any such person or with intent to commit any offence; or

(c) unlawfully persists in coming or remaining upon such property after being warned not to come thereon or to depart therefrom:

*Provided that the †Minister responsible for Fijian affairs may give such a warning in relation to native land,

*Inserted by Ordinance No. 12 of 1969

†Amended by Order 13th November, 1970

is guilty of a misdemeanour, and is liable to imprisonment for three months.

If the property upon which the offence is committed is any building, tent or vessel used as a human dwelling, or any building used as a place of worship, or as a place for the custody of property, the offender is liable to imprisonment for one year.

(2) Any person who enters by night any dwelling-house, or any verandah or passage attached thereto, or any yard, garden or other land adjacent to or within the cartilage of such dwelling-house, without lawful excuse, is guilty of a misdemeanour, and is liable to imprisonment for one year.

(Amended by 11 of 1948, s. 3)

Division IV. Offences Against the Person

CHAPTER XX-MURDER AND MANSLAUGHTER

Manslaughter

198. Any person who by an unlawful act or omission causes the death of another person is guilty of the felony termed manslaughter. An unlawful omission is an omission amounting to culpable negligence to discharge a duty tending to the preservation of life or health, whether such omission is or is not accompanied by an intention to cause death or bodily harm.

Murder

199.-(1) Any person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of murder:

Provided that it shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other.

(2) Where it is shown that a person charged with the murder of another killed the other, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

(3) For the purposes of this section "suicide pact" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

(Inserted by 6 of 1959, s. 5, and amended by 17 of 1966, s. 5, and 28 of 1972, s. 2).

Punishment of murder

200. Any person convicted of murder shall be sentenced to imprisonment for life.
(Substituted by Act 4 of 1979, s. 2.)

Punishment of manslaughter

201. Any person who commits the felony of manslaughter is liable to imprisonment for life.

Malice aforethought

202. Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances:

(a) an intention to cause the death of or to do grievous harm to any person, whether such person is the person actually killed or not;

(b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether such person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused.

(Amended by Ordinance 6 of 1959, s. 6.)

Killing on provocation

203. When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, does the act which causes death in the heat of passion caused by sudden provocation as hereinafter defined, and before there is time for his passion to cool, he is guilty of manslaughter only.

Provocation defined

204. The term "provocation" means, except as hereinafter stated, any wrongful act or insult of such a nature as to be likely, when done to an ordinary person, or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial or fraternal relation, or in the relation of master or servant, to deprive him of the power of self-control and to induce him to commit an assault of the kind which the person charged committed upon the person by whom the act or insult is done or offered.

When such an act or insult is done or offered by one person to another, or in the presence of another to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give to the latter provocation for an assault.

A lawful act is not provocation to any person for an assault.

An act which a person does in consequence of incitement given by another person in order to induce him to do the act and thereby to furnish an excuse for committing an assault is not provocation to that other person for an assault.

An arrest which is unlawful is not necessarily provocation for an assault, but it may be evidence of provocation to a person who believes and has reasonable grounds for believing the arrest to be unlawful.
(Amended by Ordinance 16 of 1960, s. 11)

Infanticide

205. Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for the provisions of this section the offence would have amounted to murder, she shall be guilty of felony, to wit, infanticide, and may for such offence be dealt with and punished as if she had been guilty of manslaughter of the child.

Causing death defined

206. A person is deemed to have caused the death of another person although his act is not the immediate or the sole cause of death in any of the following cases:

(a) if he inflicts bodily injury on another person in consequence of which that other person undergoes surgical or medical treatment which causes death. In this case it is immaterial whether the treatment was proper or mistaken, if it was employed in good faith and with common knowledge and skill; but the person inflicting the injury is not deemed to have caused the death if the treatment which was its immediate cause was not employed in good faith or was so employed without common knowledge or skill;

(b) if he inflicts bodily injury on another which would not have caused death if the injured person had submitted to proper surgical or medical treatment or had observed proper precautions as to his mode of living;

(c) if by actual or threatened violence he causes such other person to perform an act which causes the death of such person, such act being a means of avoiding such violence which in the circumstances would appear natural to the person whose death is so caused;

(d) if by any act or omission he hastened the death of a person suffering under any disease or injury which apart from such act or omission would have caused death;

(e) if his act or omission would not have caused death unless it had been accompanied by an act or omission of the person killed or of other persons.

When child deemed to be a person

207. A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not, and whether the navel-string is severed or not.

Limitation as to time of death

208. A person is not deemed to have killed another if the death of that person does not take place within a year and a day of the cause of death.

Such period is reckoned inclusive of the day on which the last unlawful act contributing to the cause of death was done.

When the cause of death is an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the omission ceased.

When the cause of death is in part an unlawful act, and in part an omission to observe or perform a duty, the period is reckoned inclusive of the day on which the last unlawful act was done or the day on which the omission ceased, whichever is the later.

CHAPTER XXI-DUTIES RELATING TO THE PRESERVATION OF LIFE AND HEALTH

Responsibility of person who has charge of another

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

Duty of head of family

210. It is the duty of every person who, as head of a family, has charge of a child under the age of fourteen years, being a member of his household, to provide the necessaries of life for such child; and he shall be deemed to have caused any consequences which adversely affect the life or health of the child by reason of any omission to perform that duty, whether the child is helpless or not.

Duty of masters

211. It is the duty of every person who as master or mistress has contracted to provide necessary food, clothing or lodging for any servant or apprentice under the age of sixteen years to provide the same; and he or she shall be deemed to have caused any consequences which adversely affect the life or health of the servant or apprentice by reason of any omission to perform that duty.

Duty of persons doing dangerous acts

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

Duty of persons in charge of dangerous things

213. It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety or health of any person may be endangered, to use reasonable care and take reasonable precaution to avoid such danger; and he shall be deemed to have caused any consequences which adversely affect the life or health of any person by reason of any omission to perform that duty.

CHAPTER XXII-OFFENCES CONNECTED WITH MURDER AND SUICIDE

Attempt to murder

214. Any person who-

(a) attempts unlawfully to cause the death of another; or

(b) with intent unlawfully to cause the death of another does any act, or omits to do any act which it is his duty to do, such act or omission being of such a nature as to be likely to endanger human life,

is guilty of a felony, and is liable to imprisonment for life.

Attempt to murder by convict

215. Any person who, being under sentence of imprisonment for three years or more, attempts to commit murder, is liable to imprisonment for life, with or without corporal punishment.

Accessory after the fact to murder

216. Any person who becomes an accessory after the fact to murder is guilty of a felony, and is liable to imprisonment for seven years.

Conspiracy to murder

217. Any person who conspires with any other person to kill any person, whether such person is in Fiji or elsewhere, is guilty of a felony, is liable to imprisonment for fourteen years.

**Suicide to cease to be offence*

218. The rule of law whereby, it is a crime for a person to commit suicide is hereby abrogated.

**Inserted by Ordinance No. 12 of 1969.*

**Liability for complicity in another's suicide*

219.-(1) Any person who wilfully aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding fourteen years.

(2) If on the trial of an indictment for murder or manslaughter it is proved that the accused aided, abetted, counselled or procured the suicide of the person in question, the accused may be found guilty of that offence.

**Inserted by Ordinance No. 12 of 1969.*

Concealing the birth of children

220. Any person who, when a woman is delivered of a child, endeavours by any secret disposition of the dead body of the child to conceal the birth, whether the child died before, at, or after its birth is guilty of a misdemeanour.

Killing unborn child

221.-(1) Any person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother is guilty of the felony of child destruction, and is liable to imprisonment for life:

Provided that no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose of preserving the life of the mother.

(2) For the purposes of this section, evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be *prima facie* proof that she was at that time pregnant of a child capable of being born alive.

CHAPTER XXIII-OFFENCES ENDANGERING LIFE AND HEALTH

Disabling in order to commit felony or misdemeanour

222. Any person who, by any means calculated to choke, suffocate or strangle, and with intent to commit or to facilitate the commission of a felony, or misdemeanour, or to facilitate the flight of an offender after the commission or attempted commission of a felony or misdemeanour, renders or attempts to render any person

incapable of resistance, is guilty of a felony, and is liable to imprisonment for life, *with or without corporal punishment.

* Inserted by Act No. 15 of 1973.

Stupefying in order to commit felony or misdemeanour

223. Any person who, with intent to commit or to facilitate the commission of a felony or misdemeanour, or to facilitate the flight of an offender after the commission or attempted commission of a felony, or misdemeanour, administers or attempts to administer any, stupefying or overpowering drug or thing to any person, is guilty of a felony, and is liable to imprisonment for life.

Acts intended to cause grievous harm or prevent arrest

224. Any person who, with intent to maim, disfigure or disable any person, or to do some grievous harm to any person, or to resist or prevent the lawful arrest or detention of any person-

- (a) unlawfully wounds or does any grievous harm to any person by any means whatsoever; or
- (b) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife, or other dangerous or offensive weapon; or
- (c) unlawfully causes any explosive substance to explode; or
- (d) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
- (e) causes any such substance or thing to be taken or received by any person; or
- (f) puts any corrosive fluid or any destructive or explosive substance in any place; or
- (g) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person,

is guilty of a felony, and is liable to imprisonment for life, *with or without corporal punishment.

* Inserted by Act No. 15 of 1973.

Preventing escape from wreck

225. Any person who unlawfully-

- (a) prevents or obstructs any person who is on board of, or is escaping from, a vessel which is in distress or wrecked, in his endeavours to save his life; or
- (b) obstructs any person in his endeavours to save the life of any person so situated,

is guilty of a felony, and is liable to imprisonment for life.

Intentionally endangering safety of persons travelling by railway

226. Any person who, with intent to injure or to endanger the safety of any person travelling by any railway, whether a particular person or not-

(a) places anything on the railway; or

(b) deals with the railway, or with anything whatsoever upon or near the railway, in such manner as to affect or endanger the free and safe use of the railway or the safety of any such person; or

(c) shoots or throws anything at, into, or upon or causes anything to come into contact with any person or thing on the railway; or

(d) shows any light or signal, or in any way deals with any existing light or signal, upon or near the railway; or

(e) by any omission to do any act which it is his duty to do causes the safety of any person to be endangered,

*is guilty of a felony, and is liable to imprisonment for life, with or without corporal punishment.

*Inserted by Act No. 15 of 1973

Grievous harm

227. Any person who unlawfully †and maliciously does grievous harm to another is guilty of a felony, and is liable to imprisonment for seven years, *with or without corporal punishment.

†Inserted by Ordinance No. 12 of 1969.

*Inserted by Act No. 15 of 1973

Attempting to injure by explosive substances

228. Any person who unlawfully, and with intent to do any harm to another, puts any explosive substance in any place whatsoever, is guilty of a felony, and is liable to imprisonment for fourteen years, *with or without corporal punishment.

*Inserted by Act No. 15 of 1973

Maliciously administering poison with intent to harm

229. Any person who unlawfully, and with intent to injure or annoy another, causes any poison or noxious thing to be administered to, or taken by, any person, and thereby, endangers his life, or does him grievous harm, is guilty of a felony, and is liable to imprisonment for fourteen years.

Unlawful wounding

230. Any person who unlawfully wounds another is guilty of *an offence, and is liable to imprisonment for two years with or without corporal punishment.

*Inserted by Act No. 15 of 1973

Unlawful poisoning

231. Any person who unlawfully and with intent to injure or annoy any person causes any poison or other noxious thing to be administered to, or taken by, any person is guilty of a felony, and is liable to imprisonment for three years, *with or without corporal punishment.

*Inserted by Act No. 15 of 1973

†Witchcraft and sorcery

232. Any person who-

(a) holds himself out as being able to cause by supernatural means, fear, annoyance or injury to another person in mind, person or property; or

(b) pretends to exercise or who practises, whether on an isolated occasion or otherwise, witchcraft or sorcery,

shall be guilty of an offence and shall be liable on conviction to imprisonment for five years.

†Inserted by Ordinance No. 12 of 1969.

Failure to supply necessities

233. Any person who, being charged with the duty of providing for another the necessities of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered, or his health is or is likely to be permanently injured, is guilty of a felony, and is liable to imprisonment for three years.

Surgical operation

234. A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his benefit, or upon an unborn child for the preservation of the mothers life, if the performance of the operation is reasonable, having regard to the patient's state at the time, and to all the circumstances of the case.

Excess of force

235. Any person authorised by law or by the consent of the person injured by him to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess.

Consent

236. Notwithstanding anything contained in section **235**, consent by a person to the causing of his own death or his own maim does not affect the criminal responsibility of any person by whom such death or maim is caused.

CHAPTER XXIV-CRIMINAL RECKLESSNESS AND NEGLIGENCE

Reckless or negligent acts

237. Any person who, in a manner so rash or negligent as to endanger human life or to be likely to cause harm to any other person-

- (a) drives any vehicle or rides on any public way; or
- (b) navigates, or takes part in the navigation or working of, any vessel; or
- (c) does any act with fire or any combustible matter, or omits to take precautions against any probable danger from any fire or any combustible matter in his possession; or
- (d) omits to take precautions against any probable danger from any animal in his possession; or
- (e) gives medical or surgical treatment to any person whom he has undertaken to treat; or
- (f) dispenses, supplies, sells, administers or gives away any medicine poisonous or dangerous matter; or
- (g) does any act with respect to, or omits to take proper precautions against any probable danger from, any machinery of which he is solely or partly in charge; or
- (h) does any act with respect to, or omits to take proper precautions against any probable danger from, any explosive in his possession,

is guilty of a misdemeanour.

Causing death by reckless or dangerous driving of motor vehicle

238. (1) Any person who causes the death of another person by the driving of a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road, is guilty of a misdemeanour, and is liable on conviction to imprisonment for a term not exceeding five years.

(Inserted by 25 of 1957, s. 12.)

*⁽²⁾ The provisions of sections **30**, **31**, **32** and **42** of the Traffic Act relating to disqualifications from holding or obtaining a driving licence, the endorsement of holding driving licences and restrictions on prosecution shall apply to prosecutions under the provisions of subsection (1).

(Cap. 176.)

*Inserted by Ordinance No. 12 of 1969.

Other negligent acts causing harm

239. Any person who unlawfully does any act, or omits to do any act which it is his duty to do, not being an act or omission specified in section **237**, by which act or omission harm is caused to any person, is guilty of a misdemeanour, and is liable to imprisonment for six months.

(Amended by 37 of 1966, s. 5)

Dealing in poisonous substances in negligent manner

240. Whoever does with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such care with any poisonous substance in his possession as is sufficient to guard against probable danger to

human life from such poisonous substance, is guilty of a misdemeanour, and is liable to imprisonment for six months, or to a fine of two hundred dollars.

Endangering safety of persons travelling by railway

241. Any person who, by, any unlawful act or omission not specified in section **226**, causes the safety, of any person travelling by any railway to be endangered, is guilty of a misdemeanour.

Exhibition of false light, mark or buoy

242. Any person who exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, is liable to imprisonment for seven years.

Conveying person by water for hire in unsafe or overloaded vessel

243. Any person who knowingly or negligently conveys, or causes to be conveyed, for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to be unsafe, is guilty of a misdemeanour.

CHAPTER XXV-ASSAULTS

Common assault

244. Any person who unlawfully assaults another is guilty of a misdemeanour, and, if the assault is not committed in circumstances for which a greater punishment is provided in this Code, is liable to imprisonment for one year.

Assault causing actual bodily harm

245. Any person who commits an assault occasioning actual bodily harm is guilty of a misdemeanour, and is liable to imprisonment for five years, *with or without corporal punishment.

*Inserted by Act No. 15 of 1973

Assaults on magistrates and other persons protecting wreck

246. Any person who assaults and strikes or wounds any magistrate, officer or other person lawfully authorised in or on account of the execution of his duty in or concerning the preservation of any vessel in distress, or of any vessel or goods or effects wrecked, stranded or cast on shore, or lying under water, is guilty of a misdemeanour, and is liable to imprisonment for seven years.

Assaults punishable with five years imprisonment

247. Any person who-

(a) assaults any person with intent to commit a felony or to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence; or

(b) assaults, resists or wilfully obstructs any police officer in the due execution of his duty, or any person acting in aid of such officer; or

(c) assaults any person in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or respecting any trade, business or manufacture or respecting any person concerned or employed therein; or

(d) assaults, resists or obstructs any person engaged in lawful execution of process, or in making a lawful distress with intent to rescue any property lawfully taken under such process or distress; or

(e) assaults any person on account of any act done by him in the execution of any duty imposed on him by law,

is guilty of a misdemeanour, and is liable to imprisonment for five years.

CHAPTER XXVI-OFFENCES AGAINST LIBERTY

Definition of kidnapping and abduction

248. For the purposes of this Chapter-

(a) any person who conveys any person beyond the limits of Fiji without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person; and

(b) any person who by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Punishment for kidnapping

249. Any person who kidnaps any person is guilty of a felony, and is liable to imprisonment for seven years.

Kidnapping or abducting in order to murder

250. Any person who kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, is guilty of a felony, and is liable to imprisonment for ten years.

Kidnapping or abducting with intent to confine person

251. Any person who kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, is guilty of a felony, and is liable to imprisonment for seven years.

Kidnapping or abducting in order to subject person to grievous harm, slavery, etc.

252. Any person who kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous harm, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, is guilty of a felony. and is liable to imprisonment for ten years.

Wrongfully concealing or keeping in confinement kidnapped or abducted person

253. Any person who, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, is guilty of a felony, and shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose, as that with or for which he conceals or detains such person in confinement.

Child stealing

254. Any person who unlawfully, either by force or fraud, leads, or takes away, or decoys, or entices away, or detains any child under the age of fourteen years, with intent to deprive any parent, guardian, or other person having the lawful care or charge of such child, or the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong; and any person who with any such intent, receives or harbours any such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away, or detained, as in this section before mentioned, is guilty of a felony, and is liable to imprisonment for seven years:

Provided that no person who shall have claimed in good faith any right to the possession of such child, or shall be the mother or shall have claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof, on account of the getting possession of such child, or taking such child out of the possession of any person having the lawful charge thereof.

Abduction of girls under sixteen

255. Any person who unlawfully takes or causes to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, is guilty of a misdemeanour.
(Amended by 29 of 1945, s. 2).

Punishment for wrongful confinement

256. Whoever wrongfully confines any person is guilty of a misdemeanour, and is liable to imprisonment for one year or to a fine of four hundred dollars.

Unlawful compulsory labour

257. Any person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanour.

Division V.-Offences Relating to Property

CHAPTER XXVII-LARCENY, EMBEZZLEMENT AND CONVERSION

Things capable of being stolen

258.-(1) Every inanimate thing which has value and is the property of any person, and if adhering to the realty then after severance therefrom, is capable of being stolen:

Provided that, save as hereinafter expressly provided with respect to fixtures, growing things, and ore from mines, anything attached to or forming part of the realty is not capable of being stolen by the person who severs the same from the realty, unless after severance he has abandoned possession thereof.

(2) Every tame creature, whether tame by nature or wild by nature and subsequently tamed, which is the property of any person, is capable of being stolen.

(3) Creatures wild by nature, of a kind which is not ordinarily found in a condition of natural liberty in Fiji, which are the property of any person, and which are usually kept in a state of confinement, are capable of being stolen, whether they are actually in confinement or have escaped from confinement.

(4) Creatures wild by nature, of a kind which is ordinarily found in a condition of natural liberty in Fiji, which are the property of any person, are capable of being stolen while they are in confinement, and while they are being actually pursued after escaping from confinement, but not at any other time.

(5) A creature wild by nature is deemed to be in a state of confinement so long as it is in a den, cage, sty, tank or other small enclosure, or is otherwise so placed that it cannot escape, and that its owner can take possession of it at pleasure.

(6) Wild creatures in the enjoyment of their natural liberty are not capable of being stolen, but their dead bodies are capable of being stolen:

Provided that the carcass of a creature wild by nature and not reduced into possession while living is not capable of being stolen by the person who has killed such creature, unless after killing it he has abandoned possession of the carcass.

(7) Everything produced by or forming part of the body of a creature capable of being stolen is capable of being stolen.

Definition of theft

259.-(1) A person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof:

Provided that a person may be guilty of stealing any such thing notwithstanding that he has lawful possession thereof, if, being a bailee or part owner thereof, he fraudulently converts the same to his own use or the use of any person other than the owner.

(2) (a) The expression "takes" includes obtaining the possession-

(i) by any trick;

(ii) by intimidation;

(iii) under a mistake on the part of the owner with knowledge on the part of the taker that possession has been so obtained; or

(iv) by finding, where at the time of the finding the finder believes that the owner can be discovered by taking reasonable steps.

(b) The expression -carries "away" includes any removal of anything from the place which it occupies, but in the case of a thing attached, only if it has been completely detached.

(c) The expression "owner" includes any part owner, or person having possession or control of, or a special property in, anything capable of being stolen.

Stealing and embezzlement by co-partners, etc.

260. If any person, who is a member of any co-partnership or is one of two or more beneficial owners of any property, steals or embezzles any such property of or belonging to such co-partnership or to such beneficial owners he is liable to be dealt with, tried, and punished as if he had not been or was not a member of such co-partnership or one of such beneficial owners.

Husband and wife

261. (1) A wife has the same remedies and redress under this Division for the protection and security of her own separate property as if such property belonged to her as a feme sole:

Provided that no proceedings under this Division shall be taken by any wife against her husband while they are living together as to or concerning any property claimed by her, nor while they are living apart as to or concerning any act done by the husband while they were living together concerning property claimed by the wife, unless such property has been wrongfully taken by the husband when leaving or deserting or about to leave or desert his wife or for the purpose of giving it to a paramour.

(2) A wife doing an act with respect to any property of her husband, which, if done by the husband in respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Division, shall be in like manner liable to criminal proceedings by her husband.

General punishment for theft

262.-(1) Stealing for which no special punishment is provided under this Code or any other Act for the time being in force is simple larceny and a felony punishable with imprisonment for five years.

(2) Any person who commits the offence of simple larceny after having been previously convicted of felony, is liable to imprisonment for ten years.

(3) Any person who commits the offence of simple larceny, or any offence made punishable like simple larceny, after having been previously convicted of any misdemeanour punishable under this Chapter or under Chapter XXXV, is liable to imprisonment for seven years.

Larceny of will

263. Any person who steals any will, codicil or other testamentary instrument, either of a dead or a living person, is guilty of a felony, and is liable to imprisonment for life.

Larceny of documents of title and other legal documents

264. Any person who steals the whole or any part of-

(a) any document of title to lands; or

(b) any record, writ, return, panel, petition, process, interrogatory, deposition, affidavit, rule, order, warrant of attorney, or any original document of or belonging to any court of record, or relating to any cause or matter, civil or criminal, begun, depending, or terminated in any such court; or

(c) any original document relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in Government House, or in any Government or public office,

is guilty of a felony and is liable to imprisonment for five years.

Larceny of electricity

265. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity is guilty of a felony, and is liable to be punished as in the case of simple larceny.

Larceny of ore

266. Any person who steals, or severs with intent to steal, the ore of any metal, or any lapis calaminaris manganese, mundick wad, black cawke, black lead, coal or cannel coal, from any mine, bed or vein thereof, is guilty of a felony, and is liable to imprisonment for two years.

Larceny of postal packets

267. Any person who-

(a) steals a mail bag; or

(b) steals from a mail bag, post office, office of the post office, or mail, any postal packet in course of transmission by post; or

(c) steals any chattel, money or valuable security out of a postal packet in course of transmission by post; or

(d) stops a mail with intent to rob the mail,

is guilty of a felony, and is liable to imprisonment for three years.

Embezzlement by officer of post office

268. Any person who, being an officer of the post office, steals or embezzles a postal packet in course of transmission by post, is guilty of a felony and is liable-

- (a) if the postal packet contains any chattel, money or valuable security, to imprisonment for life; and
- (b) in all other cases to imprisonment for seven years.

Definitions relating to larceny and embezzlement of postal packets

269. For the purposes of sections **267** and **268**-

- (a) a postal packet shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the person to whom it is addressed;
- (b) the delivery of a postal packet of any description to a letter carrier or other person authorised to receive postal packets of that description for the post shall be a delivery to a post office; and
- (c) the delivery of a postal packet at the house or office of the person to whom the packet is addressed or to him or to his servant or agent or other person considered to be authorised to receive the packet according to the usual manner of delivering that person's postal packets shall be a delivery to the person addressed.

Larceny in dwelling-house

270. Any person who steals in any dwelling-house any 1 chattel, money 1 or valuable security-

- (a) if the value of the property stolen amounts to *not less than ten dollars; or
*Amended by Act No. 11 of 1971.

- (b) if he by any menace or threats puts any person being in such dwelling-house in bodily fear,

is guilty of a felony, and is liable to imprisonment for fourteen years.

Larceny from the person

271. Any person who steals any chattel, money or valuable security from the person of another is guilty of a felony, and is liable to imprisonment for fourteen years.

Larceny from ship, dock, etc.

272. Any person who steals-

- (a) any goods in any vessel barge or boat of any description in any haven or any port of entry or discharge or upon any navigable river or canal or in any creek or basin belonging to or communicating with any such haven, port, river or canal; or
- (b) any goods from any dock, wharf or quay adjacent to any such haven, port, river, canal, creek, or basin; or
- (c) any, part of any vessel in distress, wrecked, stranded, or cast on shore, or any goods, merchandise or articles of any kind belonging to such Vessel,

is guilty of a felony, and is liable to imprisonment for fourteen years.

Larceny by tenant or lodger

273. Any person who, being a tenant or lodger, or the husband or wife of any tenant or lodger, steals any chattel or fixture let to be used by such person in or with any house or lodging is guilty of a felony, and is liable-

(a) if the value of such chattel or fixture exceeds the sum of ten dollars, to imprisonment for seven years; and

(b) in all other cases, to imprisonment for two years.

Larceny and embezzlement by clerks or servants

274. Any person who-

(a) being a clerk or servant or person employed in the capacity of a clerk or servant-

(i) steals any chattel, money or valuable security belonging to or in the possession or power of his master or employer; or

(ii) fraudulently embezzles the whole or any part of any chattel, money or valuable security delivered to or received or taken into possession by him for or in the name or on the account of his master or employer; or

(b) being employed in the public service of Her Majesty-

(i) steals any chattel, money or valuable security belonging to or in the possession of Her Majesty or entrusted to or received or taken into possession by such person by virtue of his employment; or

(ii) embezzles or in any manner fraudulently applies or disposes of for any purpose whatsoever except for the public service any chattel, money or valuable security, entrusted to or received or taken into possession by him by virtue of his employment; or

*(c) being appointed to any office or service by or under the Fijian Affairs Board or the Fiji Marine Board or by or under a town council, district council or other public body-

(i) fraudulently applies or disposes of any chattel, money or valuable security received by him (whilst employed in such office or service) for or on account of the Fijian Affairs Board or the Fiji Marine Board or for or on account of any town council, district council or other public body or department, for his own use or any use or purpose other than that for which the same was paid, entrusted to, or received by him; or

(ii) fraudulently withholds, retains or keeps back the same, or any part thereof, contrary to any lawful directions or instructions which he is required to obey in relation to his office or service aforesaid,

* Amended by 14 of 1975. s. 6

is guilty of a felony, and is liable to imprisonment for fourteen years.

Larceny of cattle

275. Any person who steals any horse, cattle or sheep is guilty of a felony, and is liable to imprisonment for fourteen years.

Larceny of dog

276. Any person who steals any dog is guilty of a misdemeanour, and is liable for a first offence to imprisonment for six months or to a fine of fifty dollars, and for a subsequent offence to imprisonment for eighteen months.

Larceny of creatures not the subject of larceny at common law

277. Any person who steals any bird, beast, or other animal ordinarily kept in a state of confinement, or for any domestic purpose, not being the subject of larceny at common law, is guilty of a misdemeanour, and is liable to imprisonment for six months or to a fine of fifty dollars.

Larceny of fish

278.-(1) Subject to subsection (2)-

(a) Any person who unlawfully and wilfully takes or destroys any fish in any water which runs through or is in any land adjoining or belonging to the dwelling-house of any person being the owner of such water, or having a right of fishery therein, is guilty of a misdemeanour; and

(b) any person who unlawfully and wilfully takes or destroys, or attempts to take or destroy, any fish in any water not being such as hereinbefore mentioned, but which is private property, or in which there is any private right of fishery,

is guilty of an offence, and is liable to a fine of ten dollars.

(2) Nothing in this section contained shall extend to any person angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, but any person who, by angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset, unlawfully and wilfully takes or destroys, or attempts to take or destroy, any fish in any such water, is guilty of an offence, and is liable-

(a) in the case of the water mentioned in paragraph (a) of subsection (1), to a fine of ten dollars; and

(b) in the case of the water mentioned in paragraph (b) of subsection (1), to a fine of four dollars.

Conversion

279.-(1) Any person who-

(a) being entrusted either solely or jointly with any other person with any power of attorney for the sale or transfer of any property, fraudulently sells, transfers, or otherwise converts the property or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was entrusted; or

(b) being a director, member or officer of any company or other body incorporated by or under the provisions of any Act, fraudulently takes or applies for his own use or benefit, or for any use or purposes other than the use or purposes of such company or other body, any of the property of such company or other body; or

(c) (i) being entrusted either solely or jointly with any other person with any property in order that he may retain in safe custody or apply, pay, or deliver, for any purpose or to any person, the property or any part thereof or any proceeds thereof; or

(ii) having either solely or jointly with any other person received any property for or on account of any other person, fraudulently converts to his own use or benefit, or the use or benefit of any other person, the property or any part thereof or any proceeds thereof,

is guilty of a misdemeanour, and is liable to imprisonment for seven years.

(Amended by 37 of 1966, s. 5.)

(2) Nothing in paragraph (c) of subsection (1) applies to or affects any trustee under any express trust created by a deed or will, or any mortgage of any property, real or personal, in respect of any act done by the trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage.

CHAPTER XXVIII-STEALING AND DAMAGING TREES, FIXTURES, ETC.

Larceny of trees

280. Any person who steals, or cuts, breaks, roots up or otherwise destroys or damages, with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles or the injury done being to the amount of ten cents at the least, is guilty of a misdemeanour.

Larceny of fences

281. Any person who steals, or cuts, breaks, or throws down, with intent to steal, any part of any live or dead fence or any metal or wooden post, pale, wire or rail set up or used as a fence, or any stile or gate any part thereof respectively, is guilty of a misdemeanour.

Larceny of fruit and vegetables

282. Any person who steals, destroys, roots up or damages, with intent to steal, any plant, root, fruit, or vegetable production, used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any garden, orchard, pleasure ground, hot-house, green-house or conservatory, or in any land, open or enclosed, is guilty of a misdemeanour.

Damaging fixtures, trees, etc. with intent to steal

283. Any person who-

- (a) steals, or, with intent to steal, rips, cuts, severs, or breaks-
 - (i) any glass or woodwork belonging to any building; or
 - (ii) any metal or utensil or fixture, fixed in or to any building; or
 - (iii) anything made of metal fixed in any land being private property, or as a fence to any dwelling-house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial-ground; or
- (b) steals, or, with intent to steal, cuts, breaks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling, shrub, or underwood growing-
 - (i) in any place whatsoever the value of the article stolen or injury done being to the amount of ten cents at the least, after two previous convictions of any such offence under section **280**; or
 - (ii) in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, the value of the article stolen or the injury done exceeding the amount of two dollars; or
 - (iii) in any place whatsoever, the value of the article stolen or the injury done exceeding the amount of ten dollars; or
- (c) steals, or with intent to steal, destroys or damages any plant, root, fruit, or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house or conservatory, after a previous conviction of any such offence under section **282**,

is guilty of a felony, and is liable to be punished as in the case of simple larceny.

CHAPTER XXIX-OTHER OFFENCES ALLIED TO STEALING

Fraudulent destruction of documents

284. Any person who, for any fraudulent purpose, destroys, cancels or obliterates the whole or any part of any valuable security, other than a document of title to lands, is guilty of a felony, of the same nature and in the same degree, and punishable in the same manner, as if he had stolen any chattel of like value with the share, interest or deposit to which the security so stolen may relate, or with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing represented, mentioned, or referred to in or by the security.

Fraudulent destruction of documents of title

285. Any person who, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole of any part of any document of title to lands, is guilty of a felony, and is liable to imprisonment for three years.

Fraudulent destruction of wills

286.-(1) Any person who, either during the life of the testator, or after his death, for any fraudulent purpose destroys, cancels, obliterates or conceals, the whole or any part of any will, codicil or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, is guilty of a felony, and is liable to imprisonment for life.

(2) Nothing in this or section **285** mentioned, nor any proceeding, conviction, or judgment to be had or taken thereupon, shall, prevent, lessen or impeach any remedy at law or in equity, which any party aggrieved by any such offence might or would have had if this Code had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of any of the felonies in this and section **285** mentioned by any evidence whatsoever, in respect of any act done by him, if he shall, at any time previously to his being charged with such offence, have first disclosed such act or oath, in consequence of any compulsory process of any court of law or equity in any action, suit or proceeding which shall have been *bona fide* instituted by any party aggrieved; or if he shall have first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency.

Fraudulent destruction of record, writ, etc.

287. Any person who, for any fraudulent purpose, takes from its place of deposit for the time being, or from any person having the lawful custody thereof, or unlawfully and maliciously cancels, obliterates, injures or destroys the whole or any part of any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or of any original document whatsoever of or belonging to any court of record, or relating to any matter, civil or criminal, begun, depending or terminated in any such court, or of any bill, petition, answer, interrogatory, deposition, affidavit, order or decree, or of any original document whatsoever of or belonging to any court of equity, or relating to any cause or matter begun, depending or terminated in any such court, or of any original document in anywise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in Government House, or in any Government or public office, is guilty of a felony, and is liable to imprisonment for three years.

Miners removing ore

288. Any person who, being employed in or about any mine, takes, removes or conceals any ore of any metal, or any lapis calamianris, manganese, mundick or other mineral found or being in such mine, with intent to defraud any proprietor of or any adventurer in such mine, or any workman or miner employed therein, is guilty of a felony, and is liable to imprisonment for two years.

Killing animals with intent to steal

289. Any person who wilfully kills any animal with intent to steal the carcass, skin, or any part of the animal killed, is guilty of a felony, and is liable to the same punishment as if he had stolen such animal, provided that the offence of stealing the animal so killed would have amounted to felony.

Larceny of or dredging for oysters

290.(1) Any person who unlawfully and wilfully uses any dredge, or any net, instrument or engine whatsoever within the limits of any oyster bed, laying or fishery, being the property of any other person and sufficiently marked out or known as such, for the purpose of taking oysters or oyster brood, although none shall be actually taken, or unlawfully and wilfully with any net, instrument or engine drags upon the ground or soil of any such fishery, is guilty of a misdemeanour, and is liable to imprisonment for three months:

Provided that nothing in this section shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking floating fish only.

(2) It shall be sufficient in any charge or information to describe either by name or otherwise the bed, laying or fishery in which any of the said offences have been committed without stating the same to be in any particular district.

Factors obtaining advances on the property of their principals

291.-(1) Any person who, being a factor or agent entrusted, either solely, or jointly with any other person, for the purpose of sale or otherwise, with the possession of any goods or of any document of title to goods, contrary to or without the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so entrusted, and in violation of good faith-

(a) consigns, deposits, transfers or delivers any goods or document of title so entrusted to him as and by way of a pledge, lien or security for any money or valuable security borrowed or received, or intended to be borrowed or received, by him; or

(b) accepts any advance of any money or valuable security on the faith of any contract or agreement to consign, deposit, transfer or deliver any such goods or document of title,

is guilty of a misdemeanour, and is liable to imprisonment for seven years:

Provided that no such factor or agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or documents of title, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which, at the time of such consignment, deposit, transfer or delivery, was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal and accepted by such factor or agent.

(2) (a) Any factor or agent entrusted as aforesaid and in possession of any document of title to goods shall be deemed to have been entrusted with the possession of the goods represented by such document of title.

(b) Every contract pledging or giving a lien upon such document of title as aforesaid shall be deemed to be a pledge of and lien upon the goods to which the same relates.

(c) Any such factor or agent as aforesaid shall be deemed to be in possession of such goods or documents whether the same are in his actual custody or are held by any other person subject to his control, or for him or on his behalf.

(d) Where any loan or advance is made in good faith to any factor or agent entrusted with and in possession of any such goods or documents of title on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver such goods or documents of title, and such goods or documents of

title are actually received by the person making such loan or advance, without notice that such factor or agent was not authorised to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or documents of title and within the meaning of this section, though such goods or documents of title are not actually received by the person making such loan or advance till the period subsequent thereto.

(e) Any payment made whether by money or bill of exchange or other negotiable security shall be deemed to be an advance within the meaning of this section.

(f) Any contract or agreement whether made direct with such factor or agent as aforesaid or with any person on his behalf shall be deemed to be a contract or agreement with such factor or agent.

(g) Any factor or agent entrusted as aforesaid, and in possession of any goods or documents of title to goods shall be deemed, for the purposes of this section, to have been entrusted therewith by the owner thereof, unless the contrary be shown in evidence.

Unlawful use of vehicles, animals, etc.

292. Any person who unlawfully and without colour of right, but not so as to be guilty of stealing, takes or converts to his own use or to the use of any other person, any draught or riding animal or any vehicle or cycle, however propelled, or any vessel, is guilty of a misdemeanour, and is liable to imprisonment for six months, or to a fine of one hundred dollars, or to both such imprisonment and such fine.

CHAPTER XXX-ROBBERY AND EXTORTION

Robbery

293.-(1) Any person who-

(a) being armed with any offensive weapon or instrument, or being together with one other person or more, robs, or assaults with intent to rob, any person; or

(b) robs any person and, at the time of or immediately before or immediately after such robbery, uses or threatens to use any personal violence to any person,

is guilty of a felony, and is liable to imprisonment for life, with or without corporal punishment.

(2) Any person who robs any person is guilty of a felony, and is liable to imprisonment for fourteen years, *with or without corporal punishment.

* Inserted by, Act No. 15 of 1973.

(3) Any person who assaults any person with intent to rob is guilty of a felony, and is liable to imprisonment for five years, *with or without corporal punishment.

* Inserted by, Act No. 15 of 1973.

Demanding money, etc. with menaces.

294.-(1) Any person who-

- (a) utters, knowing the contents thereof, any letter or writing demanding of any person with menaces, and without any reasonable or probable cause, any property or valuable thing; or
- (b) utters, knowing the contents thereof, any letter or writing accusing or threatening to accuse any other person (whether living or dead) of any crime to which this section applies, with intent to extort or gain thereby any property or valuable thing from any person; or
- (c) with intent to extort or gain any property or valuable thing from any person accuses or threatens to accuse either that person or any other person (whether living or dead) of any such crime,

is guilty of a felony, and is liable to imprisonment for life, with or without corporal punishment.

(2) Any person who with intent to defraud or injure any other person-

- (a) by any unlawful violence to or restraint of the person of another; or
- (b) by accusing or threatening to accuse any person (whether living or dead) of any such crime or of any felony,

compels or induces any person to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security, or to write, impress, or affix the name of any person, company, firm or co-partnership, or the seal of any body corporate, company or society upon or to any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a felony, and is liable to imprisonment for life.

(3) This section applies to any crime punishable with death, or imprisonment for not less than seven years, or any assault with intent to commit any rape, or any attempt to commit any rape, or any solicitation, persuasion, promise, or threat offered or made to any person, whereby to move or induce such person to commit or permit the abominable crime of buggery, either with mankind or with any animal.

(4) For the purposes of this Code it is immaterial whether any menaces or threats be of violence, injury, or accusation to be caused or made by the offender or by any other person.

Demanding with menaces with intent to steal

295. Any person who with menaces or by force demands of any person anything capable of being stolen with intent to steal the same is guilty of a felony, and is liable to imprisonment for five years.

Threatening to publish with intent to extort

296. Any person who with intent-

- (a) to extort any valuable thing from any person; or
- (b) to induce any person to confer or procure for any person any appointment or office of profit or trust-

- (i) publishes or threatens to publish any libel upon any other person (whether living or dead); or
- (ii) directly or indirectly threatens to print or publish, or directly or indirectly proposes to abstain from or offers to prevent the printing or publishing of any matter or thing touching any other person (whether living or dead),

is guilty of a misdemeanour, and is liable to imprisonment for two years.

CHAPTER XXXI-BURGLARY, HOUSEBREAKING AND SIMILAR OFFENCES

Definitions of breaking and entering

297. A person who breaks any part, whether external or internal, of a building, or opens by unlocking, pulling, pushing, lifting, or any other means whatsoever, any door, window, shutter, cellar-flap, or other thing intended to close or cover an opening in a building, or an opening giving passage from one part of a building to another, is deemed to break the building.

A person is deemed to enter a building as soon as any part of his body or any part of any instrument used by him is within the building.

A person who obtains entrance into a building by means of any threat or artifice used for that purpose, or by collusion with any person in the building, or who enters any chimney or other aperture of the building permanently left open for any necessary purpose, but not intended to be ordinarily used as a means of entrance, is deemed to have broken and entered the building.

Sacrilege

298. Any person who-

- (a) breaks and enters any place of divine worship and commits any, felony therein; or
- (b) breaks out of any place of divine worship having committed any felony therein,

is guilty of the felony called sacrilege, and is liable to imprisonment for fourteen years.

Burglary

299. Any person who in the night-

- (a) breaks and enters the dwelling-house of another with intent to commit any, felony therein; or
- (b) breaks out of the dwelling-house of another, having-
 - (i) entered the said dwelling-house with intent to commit any felony therein; or
 - (ii) committed any felony in the said dwelling-house,

is guilty of the felony called burglary, and is liable to imprisonment for life, *with or without corporal punishment.

**Inserted by Act No. 15 of 1973.*

House breaking and committing felony

300. Any person who-

(a) breaks and enters any dwelling-house, or any building within the curtilage thereof and occupied therewith, or any school-house, shop, warehouse, counting-house, office, store, garage, pavilion, factory, or workshop, or any building belonging to Her Majesty, or to any Government department, or to any municipal or other public authority, and commits any felony therein; or

(b) breaks out of the same, having committed any felony therein,

is guilty of a felony, and is liable to imprisonment for fourteen years.

Entering a magazine with intent

301.-(1) Any person who enters a magazine with intent to steal therein shall be guilty of a felony and is liable to imprisonment for seven years.

(2) "magazine" in this section means any enclosed place regularly used for the storage of arms, ammunition or explosives, including a fixed container and a fenced enclosure.

(Amended by 16 of 1960, s. 13.)

Housebreaking with intent to commit felony

302.-(1) Any person who, with intent to commit any, felony, therein enters any, dwelling-house in the night is guilty of an offence, and is liable to imprisonment for seven years, with or without corporal punishment.

(2) Any person who, with intent to commit any felony therein breaks and enters any dwelling-house, place of divine worship or any building within the curtilage, or any school-house, shop, warehouse, counting-house, office, store, garage, pavilion, factory workshop, or any building belonging to Her Majesty, or to any Government department, or to any municipal or other public authority is guilty of an offence and is liable to imprisonment for seven years.

Being found by night armed or in possession of housebreaking implements

303. Any person who is found by night-

(a) armed with any dangerous or offensive weapon or instrument, with intent to break or enter into any, building and to commit any felony therein; or

(b) having in his possession without lawful excuse (the proof whereof shall lie on such person) any key, picklock, crow, jack, bit or other implement of housebreaking; or

(c) having his face blackened or disguised with intent to commit any felony; or

(d) in any building with intent to commit any felony therein, is guilty of a misdemeanour, and is liable-

(i) if he has been previously convicted of any such misdemeanour or of any felony, to imprisonment for ten years; and

(ii) in all other cases to imprisonment for five years.

Forfeiture of housebreaking instruments

304. When any person is convicted of an offence under this Chapter the court may order that any instrument of housebreaking used in connection with any offence shall be forfeited to Her Majesty.

**CHAPTER XXXII-FRAUDS BY TRUSTEES AND PERSONS IN A POSITION OF TRUST
AND FALSE ACCOUNTING**

Conversion by trustee

305. Any person who, being a trustee of any property for the use or benefit either wholly or partially of some other person, or for any public or charitable purpose, with intent to defraud converts or appropriates the same or any part thereof to or for his own use or benefit, or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise disposes of or destroys such property or any part thereof, is guilty of a misdemeanour, and is liable to imprisonment for seven years:

Provided that no prosecution for any offence included in this section shall be commenced-

(a) by any person without the sanction of the *Director of Public Prosecutions; or
*Amended by Order 8th October, 1970.

(b) by any person who has taken any civil proceedings against such trustee, without the sanction also of the court or judge before whom such civil proceedings have been had or are pending.

Director, etc. of any body corporate or public company wilfully destroying books, etc.

306.(1) Any person who-

(a) being a director, manager, public officer or member of any body corporate or public company, with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, or valuable security belonging to the body corporate or public company, or makes or concurs in the making of any false entry, or omits or concurs in omitting any material particular in any book of account or other document; or

Or keeping fraudulent accounts

(b) being a director, manager or public officer of any body corporate or public company, as such receives, or possesses himself of, any of the property of such body corporate or public company, otherwise than in payment of a just debt or demand, and, with intent to defraud, omits to make, or to

cause or direct to be made, a full and true entry thereof in the books and accounts of such body corporate or public company; or

Or publishing false statements

(c) being a director, manager or public officer of any body corporate or public company, makes, circulates or publishes, or concurs in making, circulating or publishing, any written statement or account which he knows to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor of such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to entrust or advance any, property to such body corporate or public company, or to enter into any security for the benefit thereof,

is guilty of a misdemeanour, and is liable to imprisonment for seven years.

No person exempt from answering questions in any court

(2) Nothing contained in this section shall enable or entitle any person to refuse to make a full and complete discovery by answer to any question or interrogatory in any civil proceeding in any court or upon the hearing of any matter in bankruptcy or insolvency.

Compulsory statements not admissible in proceeding against person making same

(3) A statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy shall not be admissible against that person in any proceeding in respect of any of the misdemeanours referred to in this section.

No remedy at law or in equity shall be affected

(4) Nothing contained in this section, nor any proceeding, conviction or judgment to be had or taken thereon against any person under this section, shall prevent, lessen or impeach any remedy at law or in equity which any party aggrieved by any, offence against this section might have had if this section had not been passed, but no conviction of any such offender shall be received in evidence in any action at law or suit in equity against him, and nothing in this section contained shall affect or prejudice any agreement entered into, or security given, by any trustee having for its object the restoration or repayment of any trust Property misappropriated.

Fraudulent falsification of accounts

307.-(1) Any clerk, officer or servant, or any person employed or acting in the capacity of a clerk, officer or servant, who wilfully and with intent to defraud destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or which has been received by him for or on behalf of his employer, or who wilfully and with intent to defraud makes, or concurs in omitting or altering, any material particular from or in any such book or document or account, is guilty of a misdemeanour, and is liable to imprisonment for seven years.

(2) It shall be sufficient in any information under this section to allege a general intent to defraud without naming any particular person intended to be defrauded.

CHAPTER XXXIII-FALSE PRETENCES

Definition of false pretence

308. Any representation made by words, writing or conduct, of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be false, or does not believe to be true, is a false pretence.

False pretences

309. Any person who by any false pretence-

(a) with intent to defraud, obtains from any other person any chattel, money, or valuable security, or causes or procures any money to be paid, or any chattel or valuable security to be delivered to himself or to any other person for the use or benefit or on account of himself or any other person; or

(b) with intent to defraud or injure any other person fraudulently causes or induces any other person-

(i) to execute, make, accept, endorse or destroy the whole or any part of any valuable security; or

(ii) to write, impress, or affix his name or the name of any other person, or the seal of any body corporate or society, upon any paper or parchment in order that the same may be afterwards made or converted into, or used or dealt with as, a valuable security,

is guilty of a misdemeanour, and is liable to imprisonment for five years.

Obtaining credit, etc. by false pretences

310. Any, person who-

(a) in incurring any debt or liability obtains credit by any false pretence or by means of any other fraud;
or

(b) with intent to defraud his creditors or any of them, makes or causes to be made any gift, delivery or transfer of or any charge on his property; or

(c) with intent to defraud his creditors or any of them, conceals, sells or removes any part of his property, after or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him,

is guilty of a misdemeanour, and is liable to imprisonment for one year.

Obtaining registration, etc. by false pretence

311. Any person who wilfully procures or attempts to procure for himself or any other person any registration, licence or certificate under any Act by any false pretence, is guilty of a misdemeanour, and is liable to imprisonment for one year.

False declaration for passport

312. Any person who makes a statement which is to his knowledge untrue for the purpose of procuring a passport, whether for himself or for any other person, is guilty of a misdemeanour.

**CHAPTER XXXIV-RECEIVING PROPERTY STOLEN OR UNLAWFULLY OBTAINED
AND LIKE OFFENCES**

Receiving

313.-(1) Any person who receives any property knowing the same to have been stolen or obtained in any way whatsoever under circumstances which amount to felony or misdemeanour, is guilty of an offence of the like degree (whether felony or misdemeanour) and is liable-

(a) in the case of felony, to imprisonment for fourteen years; and

(b) in the case of misdemeanour, to imprisonment for seven years.

(2) Any person who receives any mail bag, or any postal packet, or chattel, or money, or valuable security, the stealing, or taking, or embezzling, or secreting whereof amounts to a felony or misdemeanour under the Post Office Act or this Code, knowing the same to have been so feloniously stolen, taken, embezzled, or secreted, and to have been sent or to have been intended to be sent by post, is guilty of a felony or misdemeanour as the case may be and is liable to the same punishment as if he had stolen, taken, embezzled or secreted the same. (*Cap. 171.*)

(3) Every such person may be proceeded against on information and convicted, whether the principal offender has or has not been previously convicted, or is or is not amenable to justice.

Receiving goods stolen outside Fiji

314. Any person who, without lawful excuse, knowing the same to have been stolen or obtained in any way whatsoever under such circumstances that if the act had been committed in Fiji the person committing it would have been guilty of felony or misdemeanour, receives or has in his possession any property so stolen or obtained outside Fiji, is guilty of an offence of the like degree (whether felony or misdemeanour) and is liable to imprisonment for seven years.

Evidence on charge of receiving stolen property

315. Whenever any person is being proceeded against for receiving property knowing it to have been stolen, or for having in his possession stolen property, for the purpose of proving guilty knowledge there may be given in evidence at any stage of the proceedings-

(a) the fact that other property stolen within the period of twelve months preceding the date of the offence charged was found or had been in his possession; and

(b) the fact that within the five years preceding the date of the offence charged he was convicted of any offence involving fraud or dishonesty. This last-mentioned fact may not be proved unless-

(i) seven days notice in writing has been given to the offender that proof of such previous conviction is intended to be given; and

(ii) evidence has been given that the property in respect of which the offender is being tried was found or had been in his possession.

Compulsory disclosures not to afford evidence

316.-(1) No person is liable to be convicted of any offence against sections **263, 264 (a), 279, 291** and **305** upon any evidence whatsoever in respect of any act done by him if, at any time previously to his being charged with such offence, he has first disclosed such act on oath in consequence of any compulsory process of any court of law or equity in any action, suit or proceeding which has been *bona fide* instituted by any person aggrieved.

(2) In any proceedings in respect of any offence against sections **263, 264 (a), 279, 291** and **305**, a statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy is not admissible in evidence against that person.

Division VI-Malicious Injuries to Property

CHAPTER XXXV-OFFENCES CAUSING INJURY TO PROPERTY

Arson

317. Any person who wilfully and unlawfully sets fire to-

- (a) any building or structure whatsoever, whether completed or not.. or
- (b) any vessel, whether completed or not; or
- (c) any stack of cultivated vegetable produce, or of mineral or vegetable fuel; or
- (d) a mine, or the workings, fittings or appliances of a mine,

is guilty of a felony, and is liable to imprisonment for life.

Attempts to commit arson

318. Any person who-

- (a) attempts unlawfully to set fire to any such thing as is mentioned in section **317**; or
- (b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section **317** is likely to catch fire from it,

is guilty of a felony, and is liable to imprisonment for fourteen years.

Setting fire to crops and growing plants

319. Any person who wilfully and unlawfully sets fire to-

- (a) a crop of cultivated produce, whether standing, picked or cut; or
- (b) a crop of hay or grass under cultivation, whether the natural or indigenous product of the soil or not, and whether standing or cut; or
- (c) any standing trees, saplings, or shrubs, whether indigenous or not, under cultivation,

is guilty of a felony, and is liable to imprisonment for fourteen years.

Attempting to set fire to crops, etc.

320. Any person who-

- (a) attempts unlawfully to set fire to any such thing as is mentioned in section **319**; or
- (b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section **319** is likely to catch fire from it,

is guilty of a felony, and is liable to imprisonment for seven years.

Casting away vessels

321. Any person who-

- (a) wilfully and unlawfully casts away or destroys any vessel, whether completed or not; or
- (b) wilfully and unlawfully does any act which tends to the immediate loss or destruction of a vessel in distress; or
- (c) with intent to bring a vessel into danger, interferes with any light, beacon, buoy, mark or signal used for purposes of navigation, or exhibits any false light or signal,

is guilty of a felony, and is liable to imprisonment for fourteen years.

Attempts to cast away vessels

322. Any person who attempts unlawfully to cast away or destroy a vessel, whether completed or not, or attempts unlawfully to do any act tending to the immediate loss or destruction of a vessel in distress, is guilty of a felony, and is liable to imprisonment for seven years.

Injuring animals

323. Any person who wilfully and unlawfully kills, maims or wounds any animal or bird capable of being stolen, is guilty of a misdemeanour.

Punishment for malicious injuries in general

324.-(1) Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanour, and he is liable, if no other punishment is provided, to imprisonment for two years.

In special cases destroying or damaging an inhabited house or a vessel with explosives

(2) If the property in question is a dwelling-house or a vessel, and the injury is caused by the explosion of any explosive substance, and if-

(a) any person is in the dwelling-house or vessel; or

(b) the destruction or damage actually endangers the life of any person, the offender is guilty of a felony, and is liable to imprisonment for life, with or without corporal punishment.

River bank or wall, or navigation works or bridges

(3) (a) If the property in question is a bank or wall of a river, canal, aqueduct, reservoir, or inland water, or work which appertains to a dock, reservoir, or inland water, and the injury causes actual danger of inundation or damage to any land or building; or

(b) if the property in question is a railway or is a bridge, viaduct, or aqueduct which is constructed over a highway, railway, or canal, or over which a railway, highway or canal passes, and the property is destroyed; or

(c) if the property in question, being a railway, or being any, such bridge, viaduct, or aqueduct, is damaged, and the damage is done with intent to render the railway, bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable, and the same or any part thereof is thereby rendered dangerous or impassable,

the offender is guilty of a felony, and is liable to imprisonment for life.

Wills and registers

(4) If the property in question is a testamentary instrument, whether the testator is living, or dead, or a register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, Baptisms, marriages, deaths or burials, or a copy of any part of any such register which is required by law to be sent to any public officer, the offender is guilty of a felony, and is liable to imprisonment for fourteen years.

Wrecks

(5) If the property in question is a vessel in distress or wrecked, or stranded, or anything which belongs to such vessel, the offender is guilty of a felony, and is liable to imprisonment for seven years.

Railways

(6) If the property in question is any part of a railway, or any work connected with a railway" the offender is guilty of a felony, and is liable to imprisonment for fourteen years.

Other things of special value

(7) (a) If the property in question, being a vessel, whether completed or not, is destroyed; or

(b) if the property in question, being a vessel, whether completed or not, is damaged, and the damage is done with intent to destroy it or render it useless; or

(c) if the property in question is a light, beacon, buoy, mark or signal used for the purposes of navigation, or for the guidance of persons engaged in navigation; or

(d) if the property in question is a bank or wall of a river, canal, aqueduct, reservoir or inland water, or a work which appertains to a dock, canal, aqueduct, reservoir or inland water, or which is used for the purpose of lading or unlading goods; or

(e) if the property in question, being a railway, or being a bridge, viaduct or aqueduct which is constructed over a highway, railway or canal, or over which a highway, railway or canal passes, is damaged, and the damage is done with intent to render the railway, bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable; or

(f) if the property in question, being anything in process of manufacture, or an agricultural or manufacturing machine, or a manufacturing implement, or a machine or appliance used or intended to be used for performing any process connected with the preparation of any agricultural or pastoral produce, is destroyed; or

(g) if the property in question, being any such thing, machine, implement or appliance as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question, or to render it useless; or

(h) if the property in question is a shaft or a passage of a mine, and the injury is done with intent to damage the mine or to obstruct its working; or

(i) if the property in question is a machine, appliance, apparatus, building, erection, bridge, or road, appertaining to or used with a mine, whether the thing in question is completed or not; or

(j) if the property in question, being a rope, chain or tackle of whatever material, which is used in a mine., or upon any way or work appertaining to or used with a mine, is destroyed; or

(k) if the property in question, being any such rope, chain or tackle, as last aforesaid, is damaged, and the damage is done with intent to destroy the thing in question or to render it useless; or

(l) if the property in question is a well, or bore for water, or the dam, bank, wall or floodgate of a millpond or pool,

the offender is guilty of a felony, and is liable to imprisonment for seven years.

Deeds and records

(8) If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty, of a felony, and is liable to imprisonment for seven years.

Attempts to destroy property by explosives

325. Any person who, unlawfully and with intent to destroy or damage any property, puts any explosive substance in any place whatsoever, is guilty of a felony, and is liable to imprisonment for fourteen years.

Communicating infectious diseases to animals

326. Any person who wilfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious disease to be communicated to or among any animal or animals capable of being stolen. is guilty of a felony, and is liable to imprisonment for seven years.

Removing boundary marks with intent to defraud

327. Any person who wilfully and unlawfully and with intent to defraud, removes or defaces any object or mark which has been lawfully erected or made as an indication of the boundary of any land, is guilty of a felony, and is liable to imprisonment for three years.

Wilful damage, etc. to survey and boundary marks

328. Any person who-

(a) wilfully removes, defaces or injures any survey mark or boundary mark which shall have been made or erected by or under the direction of any Government department or in the course of or the purposes of a Government survey; or

(b) being under an obligation to maintain in repair any boundary mark made or erected as aforesaid, neglects or refuses to repair the same; or

(c) wilfully removes, defaces, or injures any survey mark erected by or under the authority of any licensed surveyor or any mark erected by an intending applicant for any lease, licence or right under any

*Act relating to mines or minerals,

*Amended by Order 13th November, 1970.

is guilty of a misdemeanour, and is liable to imprisonment for three months or to a fine of forty dollars, and may further be ordered by the court to pay the cost of repairing or replacing the survey mark or boundary mark and of making any survey rendered necessary by the offender's act or neglect.

Penalties for damage, etc. to railway works

329. Any person who-

(a) wilfully damages, injures or obstructs any work, way, road, building, turnstile, gate, toll bar, fence, weighing machine, engine, tender, carriage, wagon, truck, material, or plant, acquired for or belonging to any railway works; or

(b) pulls up, removes, defaces, or destroys, or in any way interferes with, any poles, stakes, pegs, lines, marks, or anything driven or placed in or upon the ground, trees, stones or buildings, or any other material, belonging to any railway works; or

(c) commits any nuisance or trespass in or upon any land, buildings, or premises, acquired for or belonging to any railway works; or

(d) wilfully molests, hinders or obstructs the officer in charge of any railway or his assistants or workmen in the execution of any work done or to be done in reference to the construction or maintenance of any such railway,

is guilty of a misdemeanour, and is liable to imprisonment for three months, or to a fine of forty dollars.

Criminal intimidation

330. Any person who without lawful excuse-

(a) threatens another person or other persons whether individually or collectively, with any injury to his or their person or persons, reputation or property, or to the person, reputation or property of anyone in whom that person is or those persons are interested, with intent to cause alarm to that person or those persons, or to cause that person or those persons to do any act which that person is or those persons are not legally bound to do, or to omit to do any act which that person is or those persons are legally entitled to do, as the means of avoiding the execution of such threat; or

(b) directly or indirectly, knowingly causes a threat to be made to another person or other persons, whether individually or collectively, of any injury to his or their person or persons, reputation or property, or to the person, reputation or property of anyone in whom that person is or those persons are interested, with intent to cause alarm to that person or those persons, or to cause that person or those persons to do any act which that person is or those persons are not legally bound to do, or to omit to do any act which that person is or those persons are legally entitled to do, as the means of avoiding the execution of such threat,

is guilty of a misdemeanour.

If the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or with imprisonment for a term which may extend to seven years or more, or impute unchastity to a woman, he is guilty of a felony, and is liable to imprisonment for ten years.

(Substituted by 16 of 1960 s. 14.)

Division VII.-Forgery, Counterfeiting and Similar Offences

CHAPTER XXXVI-INTERPRETATION

Definitions for purposes of sections relating to forgery, etc.

331.-(1) In this Division, unless the context otherwise requires-

"banknote" includes any note or bill of exchange of the Bank of England or of any other person, body corporate or company carrying on the business of banking in any part of the world, and includes "bank bill", "bank post bill", "bank note", "blank bank bill of exchange" and "blank bank post bill";

"currency note" includes any note issued under the Central Monetary Authority of Fiji Act, any currency note issued by Her Majesty's Treasury under any Act of the Imperial Parliament, and any currency note (by whatever name called) which is legal tender in the country in which it is issued;

(Cap. 210)

(Amended by 6 of 1959, s. 7.)

"die" includes any plate, type, tool, or implement whatsoever, and also any part of any die, plate, type, tool, or implement, and any stamp or impression thereof or any part of such stamp or impression;

"revenue paper" means any paper provided by the proper authority for the purpose of being used for stamps, licences, permits, post office money orders, or postal orders, or for any purpose whatsoever connected with the public revenue;

"seal" includes any stamp or impression of a seal or any stamp or impression made or apparently intended to resemble the stamp or impression of a seal as well as the seal itself;

"stamp" includes a stamp impressed by means of a die as well as an adhesive stamp;

"treasury bill" includes Exchequer bill, Exchequer bond, Exchequer debenture, and War bond.

(2) References in this Division to any Government department shall, in relation to any functions performed by that department, be held to include references to any other Government department by which the same functions were previously performed.

Definition of forgery

332.-(1) Forgery is the making of a false document in order that it may be used as genuine, and in the case of the seals and dies mentioned in this Division the counterfeiting of a seal or die, and forgery with intent to defraud or deceive, as the case may be, is punishable as provided in this Division.

(2) It is immaterial in what language a document is expressed or in what place within or without the Commonwealth it is expressed to take effect.

(3) Forgery of a document may be complete even if the document when forged is incomplete, or is not or does not purport to be such a document as would be binding or sufficient in law.

(4) The crossing on any cheque, draft on a banker, post office money order, postal order, coupon, or other document the crossing of which is authorised or recognized by law, is a material part of such cheque, draft, order, coupon, or document.

False document

333.-(1) A document is false if the whole or any material part thereof purports to be made by or on behalf or on account of a person who did not make it nor authorise its making; or if, though made by or on behalf or on account of the person by whom or by whose authority it purports to have been made, the time or place of making, where either is material, or, in the case of a document identified by number or mark, the number or any distinguishing mark identifying the document, is falsely stated therein; and in particular a document is false-

- (a) if any material alteration, whether by addition, insertion, obliteration, erasure, removal, or otherwise, has been made therein; or
- (b) if the whole or some material part of it purports to be made by or on behalf of a fictitious or deceased person; or
- (c) if, though made in the name of an existing person, it is made by him or by his authority with the intention that it should pass as having been made by some person, real or fictitious, other than the person who made or authorised it.

(2) A document may be a false document for the purposes of this Division notwithstanding that it is not false in any such manner as is described in subsection (1).

Intent to defraud

334. An intent to defraud is presumed to exist if it appears that at the time when the false document was made there was in existence a specific person ascertained or unascertained capable of being defrauded thereby, and this presumption is not rebutted by proof that the offender took or intended to take measures to prevent such person from being defrauded in fact, nor by the fact that he had or thought he had a right to the thing to be obtained by the false document.

CHAPTER XXXVII-PUNISHMENT FOR FORGERY

Forgery of certain documents with intent to defraud

335.-(1) Forgery of any of the following documents, if committed with intent to defraud, is a felony, and punishable with imprisonment for life-

- (a) any will, codicil or other testamentary document, either of a dead or of a living person, or any probate or letters of administration, whether with or without the will annexed;
- (b) any deed or bond, or any assignment at law or in equity of any deed or bond or any attestation of the execution of any deed or bond;
- (c) any currency note or bank note, or any endorsement on or assignment of any bank note.

(2) Forgery of any of the following documents, if committed with intent to defraud, is a felony, and punishable with imprisonment for fourteen years-

- (a) any valuable security or assignment thereof or endorsement thereon, or, where the valuable security is a bill of exchange, any acceptance thereof;
- (b) any document of title to lands or any assignment thereof or endorsement thereon;
- (c) any document of title to goods or any assignment thereof or endorsement thereon;
- (d) any power of attorney or other authority to transfer any share or interest in any stock, annuity, or public fund of the United Kingdom or any country or territory of the Commonwealth or of any foreign state or country or to transfer any share or interest in the debt of any public body, company or society, British or foreign, or in the capital stock of any such company or society, or to receive any dividend or money payable in respect of such share or interest or any attestation of any such power of attorney or other authority;
- (e) any entry in any book or register which is evidence of the title of any person to any share or interest hereinbefore mentioned or to any dividend or interest payable in respect thereof;
- (f) any policy of insurance or any assignment thereof or endorsement thereon;
- (g) any charter-party or any assignment thereof;
- (h) any certificate of the Commissioner of Inland Revenue or any other Commissioners acting in execution of any Income Tax Act for the time being in force.

Forgery of certain documents with intent to defraud or deceive

336.-(1) Forgery of any of the following documents, if committed with intent to defraud or deceive, is a felony, and punishable with imprisonment for life:

Any document whatsoever having thereupon or affixed thereto the stamp or impression of the Public Seal of Fiji, the Great Seal of the United Kingdom, Her Majesty's Privy Seal, any privy signet of Her Majesty, Her Majesty's Royal Sign Manual, or any other of Her Majesty's official seals.

(2) Forgery of any of the following documents, if committed with intent to defraud or deceive, is a felony, and punishable with imprisonment for fourteen years:

- (a) any register or record of births, baptisms, namings, dedications, marriages, deaths, burials, or cremations, which now is, or hereafter may be, by law authorised or required to be kept in Fiji, relating to any birth, baptism, naming, dedication, marriage, death, burial, or cremation, or any part of any such register, or any certified copy of any such register, or of any part thereof;
- (b) any copy of any register of baptisms, marriages, burials, or cremations, directed or required by law to be transmitted to any registrar or other officer;
- (c) any certified copy of a record purporting to be signed by any officer having charge of public records in Fiji;

(d) any wrapper or label provided by or under the authority of the Commissioner of Inland Revenue or the Comptroller of Customs.

(3) Forgery of any of the following documents, if committed with intent to defraud or deceive, is a felony, and punishable with imprisonment for seven years:

(a) any official document whatsoever of or belonging to any court of justice, or made or issued by any judge, magistrate, officer or clerk of any such court;

(b) any register or book kept under the provisions of any law in or under the authority of any court of justice;

(c) any certificate, office copy or certified copy of any such document, register, or book or of any part thereof;

(d) any document which any magistrate is authorised or required by law to make or issue;

(e) any document which any person authorised to administer an oath under any law in force in Fiji is authorised or required by law to make or issue;

(f) any document made or issued by a head of a Government department or law officer of the Crown, or any document upon which, by the law or usage at the time in force any court of justice or any officer might act;

(g) any document or copy of a document used or intended to be used in evidence in any court of record, or any document which is made evidence by law;

(h) any certificate or consent required by any Act for the celebration of marriage;

(i) any licence for the celebration of marriage which may be given by law;

(j) any certificate, declaration or order under any enactment relating to the registration of births or deaths;

(k) any register, book, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale, under Part 1 of the Merchant Shipping Act, 1894, of the United Kingdom or any entry or endorsement required by the said Part of the said Act to be made in or on any of those documents;

(l) any permit, certificate or similar document made or granted by or under the authority of the Comptroller of Customs or a collector or officer of Customs;

(m) any certificate not heretofore specified.

Making false entries in the books of the Chief Accountant

337. Any person who wilfully makes any false entry in, or wilfully alters any word or figure in, any of the books of account kept by the Chief Accountant in which books the accounts of the owners of any stock, annuities or

other public funds which now are, or hereafter may be transferable at the Treasury are entered and kept, or in any manner wilfully falsifies any of the accounts of any of such owners in any of the said books, with intent in any of the cases aforesaid to defraud, or who wilfully makes any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable at the Treasury in the name of any person not being the true and lawful owner of such share or interest with intent to defraud, is guilty of a felony, and is liable to imprisonment for life.

Forging copies of certificates of records

338. Any person who, being the clerk of any court or other officer having the custody of the records of any court, or being the deputy of any such clerk or officer, utters any false copy or certificate of any record knowing the same to be false, and any person who delivers, or causes to be delivered, to any person any paper falsely purporting to be any such process, or a copy thereof, or to be any judgment, decree or order of any court of law, or a copy thereof, knowing the same to be false, or acts or professes to act under any such false process knowing the same to be false, is guilty of a felony, and is liable to imprisonment for seven years.

Forging registers of births, baptisms, marriages, deaths or burials

339. Any person who knowingly and unlawfully inserts, or causes or permits to be inserted, in any register of births, baptisms, marriages, deaths or burials which now is or hereafter shall be by law authorised or required to be kept in Fiji, or in any certified copy thereof, any false entry of any matter relating to any birth baptism, marriage, death or burial, or knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death or burial, or certifies any writing to be a copy or extract from any such register, knowing such writing, or the part of such register whereof such copy or extract shall be so given, to be false in any material particular, or offers, utters, disposes of or puts off any such register, entry, certified copy or certificate, knowing the same to be false, or offers, utters, disposes of or puts off any copy of any entry in any such register, knowing such entry to be false, is guilty of a felony, and is liable to imprisonment for life.

Making false entry in copies of register sent to registrar

340. Any person who knowingly and wilfully inserts, or causes or permits to be inserted, in any copy of any register directed or required by law to be transmitted to any registrar or other officer any false entry of any matter relating to any baptism, birth, marriage, or burial, or knowingly and wilfully signs or verifies any copy of any register so directed or required to be transmitted as aforesaid, which copy is false in any part thereof, knowing the same to be false, or for any fraudulent purpose takes from its place of deposit or conceals, any such copy of any register, is guilty of a felony, and is liable to imprisonment for life.

Forgery of other documents with intent to defraud or deceive a misdemeanour

341.-(1) Forgery of any document, which is not made felony under this or any other Act for the time being in force, if committed with intent to defraud, is a misdemeanour.

(2) Forgery of any public document which is not made felony under this or any other Act for the time being in force, if committed with intent to defraud or deceive, is a misdemeanour.

(3) Forgery of any passport is a misdemeanour.

Forgery of seals and dies

342.-(1) Forgery of any of the following seals, if committed with intent to defraud or deceive, is a felony, and punishable with imprisonment for life:

(a) the Public Seal of Fiji, the Great Seal of the United Kingdom, Her Majesty's Privy Seal, any privy signet of Her Majesty, Her Majesty's Royal Sign Manual, or any other of Her Majesty's seals;

(b) the seal of any court of record;

(c) the seal of the office of the Registrar-General.

(2) Forgery of any of the following seals, if committed with intent to defraud or deceive, is a felony, and punishable with imprisonment for fourteen years:-

(a) the seal of any registry office relating to births, baptisms, marriages, or deaths;

(b) the seal of any burial authority or of any local authority performing the duties of a burial authority;

(c) the seal of or belonging to any office for the registry of deeds or titles to lands.

(3) Forgery of any of the following seals, if committed with intent to defraud or deceive, is a felony, and punishable with imprisonment for seven years:-

(a) the seal of any court of justice other than a court of record;

(b) the seal of a notary public.

(4) Forgery, of any of the following dies, if committed with intent to defraud or to deceive, is a felony, and punishable with imprisonment for fourteen years:-

(a) any die provided, made or used by the Commissioner of Inland Revenue or the Commissioner of Stamp Duties or the Comptroller of Customs;

(b) any die which is or has been required or authorised by law to be used for the marking or stamping of gold or silver plate, or gold or silver wares.

(5) Forgery of any of the following dies, if committed with intent to defraud or deceive, is a felony, and punishable with imprisonment for seven years

Any stamp or die provided, made or used in pursuance of the Stamp Duties Act or the Post Office Act.
(*Cap. 205*) (*Cap. 171*)

Uttering

343.-(1) Any person who knowingly and fraudulently utters any forged document, seal or die is guilty of any offence of the like degree (whether felony or misdemeanour) and is liable to the same punishment as if he himself had forged the document, seal or die.

(2) It is immaterial where the document, seal or die was forged.

Uttering cancelled or exhausted documents

344. Any person who knowingly utters as and for a subsisting and effectual document, any, document which has by any lawful authority been ordered to be revoked, cancelled or suspended, or the operation of which has ceased by effluxion of time, or by death, or by the happening of any other event, is guilty of any offence of the same kind, and is liable to the same punishment, as if he had forged the document.

Demanding property on forged documents

345. Any person who, with intent to defraud, demands, receives, or obtains, or causes or procures to be delivered, paid or transferred to any person, or endeavours to receive or obtain or to cause or procure to be delivered, paid or transferred to any person any money, security for money or other property, real or personal-

- (a) under, upon, or by virtue of any forged instrument whatsoever, knowing the same to be forged; or
- (b) under, upon, or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration have been obtained to have been forged, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation or affidavit,

is guilty of a felony. and is liable to imprisonment for fourteen years.

Possession of forged documents, seals and dies

346.-(1) Any person who, without lawful authority, or excuse, the proof whereof lies on the accused, imports into Fiji, or purchases or receives from any person, or has in his custody, or possession, a forged currency note or bank note, knowing the same to be forged, is guilty of a felony, and is liable to imprisonment for fourteen years.

(2) Any person who, without lawful authority or excuse, the proof whereof lies on the accused, and knowing the same to be forged, has in his custody or possession-

- (a) any forged die required or authorised by law to be used for the marking of gold or silver plate, or of gold or silver wares, or any. ware of gold, silver or base metal bearing the impression of any such forged die; or
- (b) any, forged stamp or die as defined by the Stamp Duties Act or the Post Office Act; or
(*Cap. 205.*) (*Cap. 171.*)
- (c) any forged wrapper or label provided by or under the authority of the Commissioner of Inland Revenue, the Commissioner of Stamp Duties or the Comptroller of Customs,

is guilty of a felony, and is liable to imprisonment for fourteen years.

(3) Any person who, without lawful authority or excuse, the proof whereof lies on the accused, and knowing the same to be forged, has in his custody, or possession any forged stamp or die, resembling or intended to resemble

either wholly or in part any stamp or die which at any time whatsoever has been or may, be provided, made or used by or under the direction of the local authority for the purposes of the Stamp Duties Act or the Post Office Act, is guilty of a felony, and is liable to imprisonment for seven years.

(Cap. 205.) (Cap. 171.)

Making or having in possession paper or implements for forgery

347. Any person who, without lawful authority or excuse, the proof whereof lies on the accused-

(a) makes, uses, or knowingly has in his custody or possession, any, paper intended to resemble and pass as-

(i) special paper such as is provided and used for making any currency note, bank note or treasury bill; or

(ii) revenue paper; or

(b) makes, uses, or knowingly has in his custody or possession, any frame, mould, or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines or devices peculiar to and used in or on any such paper; or

(c) engraves or in anywise makes upon any plate, wood, stone or other material any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any currency note or bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund or debt or any country or territory of the Commonwealth or of any foreign state, or in any stock, annuity, fund or debt of any body corporate, company or society, whether within or without Her Majesty's dominions; or

(d) uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, figures, letters, marks, lines or devices have been engraved or in anywise made as aforesaid; or

(e) uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines or devices have been printed or in anywise made as aforesaid,

is guilty of a felony, and is liable to imprisonment for seven years.

Purchasing or having in possession certain paper before it has been stamped and issued

348. Any person who, without lawful authority or excuse, the proof whereof lies on the accused, purchases, receives, or knowingly has in his custody or possession-

(a) any special paper provided and used for making currency notes, treasury bills or any revenue paper before such paper has been duly stamped, signed and issued for public use; or

(b) any die peculiarly used in the manufacture of any such paper; or

(c) any facsimile of the signature of any member of the Central Monetary Authority of Fiji, or of any person who has held office as such a member and whose signature appears on currency notes still in circulation; or

(d) any unfinished or incomplete note purporting to be issued by the Central Monetary Authority of Fiji,

is guilty of a misdemeanour.

(Amended by 13 of 1977 s. 4).

Falsifying warrants for money payable under public authority

349. Any person who, being employed in the public service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority, for a greater or lesser amount than that to which the person on whose behalf the warrant is made out is entitled, is guilty, of a felony, and is liable to imprisonment for seven years.

Procuring execution of documents by false pretences

350. Any person who, by means of any false and fraudulent representations as to the nature, contents or operation of a document, procures another to sign or execute the document, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had forged the document.

Letter written for certain persons to be signed, etc. by writer

351.-(1) Any person who writes a letter or petition at the request or in the name of a person who is unable to read the language in which the letter or petition is written, shall write thereon his own name and address; and his doing so shall imply a statement by him that he was instructed to write the letter or petition by the said person, and that it conveys neither more nor less than the meaning intended by that person, and (if it is or purports to be signed or executed by him) that it was read over and explained to him and that he fully understood the contents thereof before he signed or executed it, and that the mark or signature thereon which purports to be his, is his mark or signature. If the writer does not write his own name and address on such letter or petition, or if (having done so), the statement implied as aforesaid is in any particular untrue, he is guilty of an offence, and is liable to a fine of ten dollars.

(2) For the purposes of this section "own name" means full, true and proper country or native name, where a person has a country or native name, otherwise a person's true and proper surname and his Christian name if any.

**CHAPTER XXXVIII-OFFENCES RELATING TO COIN, AND BANK
AND CURRENCY NOTES**

Definitions for purposes of sections relating to coin

352. In this chapter-

(a) "copper coin" includes any coin of any metal or mixed metal not being a gold or silver coin;

(b) a coin shall be deemed to be current if it has been coined in any of Her Majesty's Mints, or is lawfully current, by virtue of any proclamation or otherwise, in any country or territory of the Commonwealth, whether within Fiji or otherwise, or is lawfully current in any foreign country;

(c) a coin apparently intended to resemble or pass for any current coin shall be deemed to resemble that current coin;

(d) a current coin which has been gilt, silvered, washed, coloured or cased over or in any manner altered so as to resemble any current coin of a higher denomination shall be deemed to be false or counterfeit coin resembling a current gold or silver coin.

Counterfeiting

353.-(1) Any person who falsely makes or counterfeits any coin resembling any current coin is guilty of a felony, and is liable-

(a) in a case where the coin resembles a current gold or silver coin, to imprisonment for life; and

(b) in a case where the coin resembles a current copper coin, to imprisonment for seven years.

(2) The offence of falsely making or counterfeiting a coin is deemed to be complete although the coin made or counterfeited is not in a fit state to be uttered or the making or counterfeiting thereof has not been finished or perfected.

Gilding, silvering, filing and altering coin

354. Any person who-

(a) gilds or silvers, or with any wash or materials capable of producing the colour or appearance of gold or silver or by any means whatsoever, washes, cases over or colours-

(i) any coin whatsoever resembling any current gold or silver coin; or

(ii) any current copper coin, with intent to make it resemble or pass for any current gold or silver coin; or

(iii) any piece of silver or copper or of coarse gold or coarse silver or of any metal or mixture of metals, being of a fit size and figure to be coined, with intent that it shall be coined into false and counterfeit coin resembling any current gold or silver coin; or

(b) gilds, or, with any wash or materials capable of producing the colour or appearance of gold or by any means whatsoever, washes, cases over or colours, any current silver coin with intent to make it resemble or pass for any current gold coin; or

(c) files or in any manner alters-

(i) any current silver coin with intent to make it resemble or pass for any current gold coin; or

(ii) any current copper coin with intent to make it resemble or pass for any current gold or silver coin,

is guilty of a felony, and is liable to imprisonment for life.

Impairing gold or silver coin and unlawful possession of filing, etc.

355.-(1) Any person who impairs, diminishes or lightens any current gold or silver coin with intent that the coin so impaired, diminished or lightened may pass for a current gold or silver coin, is guilty of a felony, and is liable to imprisonment for fourteen years.

(2) Any person who unlawfully has in his possession any filing or clipping, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which has been produced or obtained by impairing, diminishing or lightening any current gold or silver coin, knowing that it has been so produced or obtained, is guilty of a felony and is liable to imprisonment for seven years.

Uttering and possession with intent to utter counterfeit coin

356.-(1) Any person who tenders, utters or puts off any false or counterfeit coin resembling any current coin knowing it to be false or counterfeit, is guilty of a misdemeanour, and is liable to imprisonment for one year.

(2) Any person who tenders, utters or puts off any false or counterfeit coin resembling any current gold or silver coin, knowing it to be false or counterfeit, and-

(a) at the time of the tendering, uttering or putting off has in his possession, besides that coin, any other such false or counterfeit coin; or

(b) on the day of the tendering, uttering or putting off, or within the period of ten days next following, tenders, utters or puts off any other such false or counterfeit coin, knowing it to be false or counterfeit,

is guilty of a misdemeanour, and is liable to imprisonment for two years.

(3) Any person who has in his possession three or more false or counterfeit, coins resembling any current gold or silver coin, knowing them to be false or counterfeit, and with intent to utter or put off the said coins or any of them, is guilty of a misdemeanour, and is liable to imprisonment for five years.

(4) Any person who has in his possession three or more false or counterfeit coins resembling any current copper coin, knowing them to be false or counterfeit, and with intent to utter or put off the said coins or any of them, is guilty of a misdemeanour, and is liable to imprisonment for one year.

(5) Any person who commits-

(a) any misdemeanour under subsection (1) in respect of a coin resembling a current gold or silver coin; or

(b) any misdemeanour under subsection (2) or subsection (3),

having been previously convicted of any such misdemeanour or of any felony under this chapter, is guilty of a felony, and is liable to imprisonment for life.

(6) Any person who, with intent to defraud, tenders, utters or puts off as or for any current gold or silver coin-

(a) any coin not being that current coin and being of less value than that current coin; or

(b) any medal or piece of metal or mixed metals resembling in size, figure and colour that current coin and being of less value than that current coin,

is guilty of a misdemeanour, and is liable to imprisonment for one year.

(7) The offence of tendering, uttering or putting off a false or counterfeit coin is deemed to be complete although the coin is not in a fit state to be uttered or the counterfeiting thereof has not been finished or perfected.

Buying or selling, etc. counterfeit coin for lower value than its denomination

357.-(1) Any person who, without lawful authority or excuse, the proof whereof lies on the accused, buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, any false or counterfeit coin resembling any current coin at or for a lower rate or value than the false or counterfeit coin imports, or apparently is intended to import, is guilty of a felony, and is liable-

(a) in a case where the coin resembles a current gold or silver coin, to imprisonment for life; and

(b) in a case where the coin resembles a current copper coin, to imprisonment for seven years.

(2) Any offence under this section shall be deemed to be complete although the coin bought, sold, received, paid or put off, or offered to be bought, sold, received, paid or put off, is not in a fit state to be uttered, or the counterfeiting thereof has not been finished or perfected.

Importing and exporting counterfeit coin

358.-(1) Any person who, without lawful authority or excuse, the proof whereof lies on the accused-

(a) imports or receives into Fiji from beyond the seas any false or counterfeit coin resembling any current gold or silver coin, knowing it to be false or counterfeit; or

(b) exports from Fiji, or puts on board any ship, vessel or boat for the purpose of being so exported, any false or counterfeit coin resembling any current coin, knowing it to be false or counterfeit,

is guilty, in the case of importing or receiving, of a felony, and, in the case of exporting or putting on board, of a misdemeanour, and is liable to imprisonment for fourteen years.

(2) Nothing in this section shall affect the provisions relating to the importation of coin and counterfeit coin contained in any Customs Act for the time being in force.

Making, possessing and selling medals resembling gold or silver coin

359. Any person who, without lawful authority or excuse, the proof whereof lies on the accused, makes, sells, offers for sale or has in his possession for sale, any medal, cast, coin, or other like thing made wholly or partially of metal or any mixture of metals, and either-

(a) resembling in size, figure and colour any current gold or silver coin; or

(b) having thereon a device resembling a device on any such current coin; or

(c) being so formed that it can, by gilding, silvering, colouring, washing or other like process be so dealt with as to resemble any such current coin,

is guilty of a misdemeanour, and is liable to imprisonment for one year.

Making, mending and having possession of coining implements.

360.-(1) Any person who, without lawful authority or excuse, the proof whereof lies on the accused, knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession, any puncheon, counter puncheon, matrix, stamp, die, pattern or mould in or upon which there is made or impressed, or which will make or impress, or which is adapted and intended to make or impress, the figure, stamp or apparent resemblance of both or either of the sides of any current gold or silver coin, or any part of both or either of those sides, is guilty of a felony, and is liable to imprisonment for life.

(2) Any person who, without lawful authority or excuse, the proof whereof lies on the accused, makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession-

(a) any edger, edging or other tool, collar, instrument or engine adapted and intended for the marking of coin round the edges with letters, grainings or other marks or figures apparently resembling those on the edges of any current gold or silver coin, knowing it to be so adapted and intended as aforesaid; or

(b) any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance round blanks out of gold, silver or other metal or mixture of metals, or any other machine, knowing the press to be a press for coinage or knowing the engine or machine to have been used or to be intended to be used for the false making or counterfeiting of any current gold or silver coin,

is guilty of a felony, and is liable to imprisonment for life.

(3) Any person who, without lawful authority or excuse, the proof whereof lies on the accused knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession, any instrument, tool or engine adapted and intended for the counterfeiting of any current copper coin, is guilty, of a felony, and is liable to imprisonment for seven years.

Breaking up coin suspected to be counterfeit

361.-(1) If any person suspects any coin tendered to him as current gold or silver coin to have been diminished otherwise than by reasonable wearing or to be counterfeit, it shall be lawful for him to break the coin.

(2) If any coin when so broken appears to have been diminished otherwise than as aforesaid or to be counterfeit the person tendering it shall bear the loss thereof, but if it is of due weight and appears to be lawful coin the person breaking it shall receive it at the rate it was coined for.

(3) If any dispute arises whether any coin so broken has been diminished otherwise than as aforesaid or is counterfeit it shall be heard and finally determined in a summary manner by a magistrate.

(4) In this section reference to breaking shall include references to cutting, bending and defacing.

Evidence of coin being counterfeit

362. Where a person is charged with an offence against this Chapter the fact that a coin produced in evidence against him is false or counterfeit may be proved by the evidence of any credible witness.

Defacing and uttering defaced coin

363.-(1) Any person who defaces any current coin, whether the coin is or is not thereby diminished or lightened, is guilty of a misdemeanour, and is liable to imprisonment for one year.
(Amended by 37 of 1966, s.5.)

(2) A tender of payment in money made in any coin which has been defaced is not legal tender.
(Amended by 37 of 1966, s.5.)

(3) Any person who tenders utters or puts off any coin which has been defaced as aforesaid is guilty of an offence, and is liable to a fine of four dollars:

Provided that no proceedings shall be instituted under this subsection without the consent of the *Director of Public Prosecutions.

*Amended by Order 8th October. 1970.

Melting down of currency

364. Any person who melts down, breaks up or uses otherwise than as currency any coin current for the time being in Fiji, is guilty of a misdemeanour, and is liable to imprisonment for six months.
(Amended by 37 of 1966, s.5.)

Mutilating or defacing currency notes

365. Any person who, without lawful authority or excuse, the proof whereof lies on the accused, mutilates or in any way defaces a currency note, whether by writing, printing, drawing or stamping thereon, or by attaching or affixing thereto anything in the nature or form of an advertisement, is guilty of a misdemeanour, and is liable to a fine of forty dollars.

Imitation of currency

366.-(1) Any person who, without lawful authority or excuse, the proof whereof lies on the accused, sells, or offers or exposes for sale, any article which bears a design in imitation of any currency note or bank note or coin in current use in Fiji or elsewhere, is guilty of a misdemeanour, and is liable to imprisonment for six months.

(2) Any person who makes or causes to be made or uses for any purpose whatsoever any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency note, or any part thereof, is guilty of a misdemeanour, and is liable to a fine of ten dollars in respect of each such document.

(3) Any person whose name appears on any document the making of which is an offence under this section who refuses to disclose to a police officer the name and address of the person by whom it was printed or made, is guilty of a misdemeanour, and is liable to a fine of twenty dollars.

(4) Where the name of any person appears on any document in respect of which any person is charged with an offence under this section or on any other document used or distributed in connexion with that document, it shall be *prima facie* evidence that that person caused the document to be made.

**Evidence of counterfeiting, etc.*

367. Where a person is charged with an offence against this Chapter, a written report in the form of an affidavit by a qualified coin, bank note or currency note expert shall be admitted in evidence.

**Inserted by Act No. 11 of 1971.*

Forfeiture of forged bank notes, currency notes, etc.

368. Where any forged bank note, currency note or any counterfeit coin or any machinery, implement, utensil or material used or intended to be used for the forging of a bank note or currency note or for counterfeiting coin, is seized under a search warrant or by any police officer, the bank note, currency note, counterfeit coin, machinery, implement, utensil or material, as the case may be, shall be delivered up to the Minister, or to any person authorised by him for the purpose, by order of the court before which the offender is tried or if there is no trial by order of the court issuing the search warrant or by the police officer seizing such note, coin, machinery, implement, utensil or material, and upon delivery to the Minister or to any person authorised by him, such note, coin, machinery, implement, utensil or material shall be deemed forfeit. (*Substituted by 6 of 1959, s. 8*)

CHAPTER XXXIX-PERSONATION

Personation in general

369. Any person who, with intent to defraud any person, falsely represents himself to be some other person, living or dead, is guilty of a misdemeanour.

If the representation is that the offender is a person entitled by will or operation of law to any specific property and he commits the offence to obtain such property or possession thereof, he is liable to imprisonment for seven years.

Falsely acknowledging deeds, recognisances, etc.

370. Any person who, without lawful authority or excuse, the proof of which lies on him, makes, in the name of any other person, before any court or person lawfully authorised to take such an acknowledgement, an acknowledgement of liability of any kind, or an acknowledgement of a deed or other instrument, is guilty of a felony, and is liable to imprisonment for seven years.

Personation of a person named in a certificate

371. Any person who utters any document which has been issued by lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognized by law for any purpose, or to be the holder of any office, or to be entitled to exercise any profession, trade, or business, or to be entitled to any right or privilege, or to enjoy any rank or status, and falsely represents himself to be the person named in the document, is guilty of an offence of the same kind and is liable to the same punishment as if he had forged the document.

Lending, etc. certificate for personation

372. Any person who, being a person to whom any document has been issued by lawful authority whereby he is certified to be a person possessed of any qualification recognized by law for any purpose, or to be the holder of any office or to be entitled to exercise any profession, trade or business, or to be entitled to any right or privilege, or to enjoy any rank or status, sells, gives or lends the document to another person with intent that that other person may represent himself to be the person named therein, is guilty of a misdemeanour.

Personation of person named in a testimonial of character

373. Any person who, for the purpose of obtaining any employment, utters any document of the nature of a testimonial of character given to another person, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Lending, etc. testimonial for personation

374. Any person who, being a person to whom any such document as is mentioned in section **373** has been given, gives, sells or lends such document to another person with intent that that other person may utter such document for the purpose of obtaining any employment, is guilty of a misdemeanour.

CHAPTER XL-SECRET COMMISSIONS AND CORRUPT PRACTICES

Interpretation for purposes of sections dealing with corrupt practices, etc.

375.-(1) For the purpose of this Chapter, the expression "consideration" includes valuable consideration of any kind; the expression "agent" includes any person employed by or acting for another; and the expression "principal" includes an employer.

*(2) A person serving under the Crown or under any town council or under any other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, and a member of any such town council or other public body, is an agent within the meaning of this Chapter.

* Amended by Act 24 of 1976 s. 2

Corrupt practices

376. If-

(a) any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or

forbearing to do or for having done or forborne to do, any act in relation to his principal's affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(b) any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(c) any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

he is guilty of a misdemeanour, and is liable to imprisonment for two years or to a fine of six hundred dollars.

Secret commission on government contracts

***377.** Any person committing an offence under this Chapter is, where the matter of transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any Government department or a town council or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, or a sub-contract to execute any work comprised in such contract, liable to imprisonment for seven years, or to a fine of one thousand dollars.

* Amended by Act 24 of 1976 s. 2

Presumption as to corrupt practices

***378.** Where in any proceedings against a person for an offence under this Chapter it is proved that any money, gift or other consideration has been paid or given to or received by a person in the employment of the Crown or any Government department or a town council or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, by or from a person or agent of a person holding or seeking to obtain a contract from the Crown or any Government department or town council or other public body having power to impose rates or entrusted with the expenditure of any Government funds or grants, the money, gift or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in this Chapter, unless the contrary is proved.

* Amended by Act 24 of 1976 s. 2

Consent to prosecution

379. A prosecution for an offence under this Chapter shall not be instituted without the sanction of the †Director of Public Prosecutions.

† Amended by Order 8th October, 1970.

*Division VIII.-Attempts and Conspiracies to Commit Crimes and Accessories
After the Fact*

CHAPTER XLI-ATTEMPTS

Attempt defined

380. When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his part for completing the commission of the offence, or whether the complete fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists of his own motion from the further prosecution of his intention.

It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

Attempts to commit offences

381. Any person who attempts to commit a felony or misdemeanour is guilty of an offence, which, unless otherwise stated, is a misdemeanour.

Punishment of attempts to commit certain felonies

382. Any person who attempts to commit a felony of such a kind that a person convicted of it is liable to the punishment of death or imprisonment for a term of fourteen years or upwards, with or without other punishment, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for seven years.

Soliciting or inciting others to commit offence in Fiji or elsewhere

383. Any person who solicits or incites or attempts to procure another to do any act, or make any omission, whether in Fiji or elsewhere, of such a nature that, if the act were done or the omission were made, an offence would thereby be committed, under the laws of Fiji, or the laws in force in the place where the act or omission is proposed to be done or made, whether by himself or by that other person, is guilty of an offence of the same kind and is liable to the same punishment as if he had himself attempted to do the same act or make the same omission in Fiji:

Provided that-

(a) if the act or omission is proposed to be done or made at a place not in Fiji, the punishment shall not exceed that which he would have incurred under the laws in force where the act or omission was proposed to be done or made, if he had himself attempted to do the proposed act or make the proposed omission;

(b) in the last-mentioned case, a prosecution shall not be instituted except at the request of the Government of the country having jurisdiction in the place where the act or omission was proposed to be done or made.

Neglect to prevent felony

384. Every person who, knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof, is guilty of a misdemeanour.

CHAPTER XLII-CONSPIRACIES

Conspiracy to commit felony

385. Any person who conspires with another to commit any felony, or to do any act in any part of the world which if done in Fiji would be a felony, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for seven years, or, if the greater punishment to which a person convicted of the felony in question is liable is less than imprisonment for seven years, then to such lesser punishment.

Conspiracy to commit misdemeanour

386. Any person who conspires with another to commit a misdemeanour, or to do any act in any part of the world which if done in Fiji would be a misdemeanour, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour.

Other conspiracies

387. Any person who conspires with another to effect any of the purposes following, that is to say-

- (a) to effect any unlawful purpose; or
- (b) to effect any lawful purpose by any unlawful means,

is guilty of a misdemeanour.

CHAPTER XLIII-ACCESSORIES AFTER THE FACT

Definition of accessories after the fact

388. A person who receives or assists another who is, to his knowledge, guilty of an offence, in order to enable him to escape punishment, is said to become an accessory after the fact to the offence.

A wife does not become an accessory after the fact to an offence of which her husband is guilty by receiving or assisting him in order to enable him to escape punishment; or by receiving or assisting in her husband's presence and by his authority another person who is guilty of an offence in the commission of which her husband has taken part, in order to enable that other person to escape punishment: nor does a husband become an accessory after the fact to an offence of which his wife is guilty by receiving or assisting her in order to enable her to escape punishment.

Punishment of accessories after the fact to felonies

389. Any person who becomes an accessory after the fact to a felony is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for three years.

Punishment of accessories after the fact to misdemeanours

390. Any person who becomes an accessory after the fact to a misdemeanour, is guilty of a misdemeanour.

Controlled by Ministry of the Attorney-General
