

14. The words “servant of the Government” include all officers or servants continued, appointed or employed under the authority of the Constitution, or by or under the authority of the President of the Union. “ Servant of the Govern- ment.”

X5-X6. * * * *

17. The word “ Government ”² denotes the person or persons authorized by law to administer executive government in any part of the Union of Burma. “ Govern- ment.”

18. * * * *

19. The word “ Judge ” denotes not only every person who is officially designated as a Judge, but also every person

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations

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

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

(c) □□□□

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

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

21. The words “ public servant ” denote a person falling under any of the descriptions hereinafter following namely :— “ Public servant.”

First.—Every covenanted servant of the Government :

⁴ *Second.*—Every commissioned Officer in the Military, Naval or Air Forces of the State j

Third.—Every Judge :

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

¹ Substitute 1 by the Union of Burma (Adaptation of Laws) Order, 1948.

¹ See also s. 263A (4) *infra*.

* The Bengal Rent Act, 1859.

⁴ Amended by the Union of Burma (Adaptation of Laws) Order, 1948.

Fifth.—Every juryman, assessor, or member of a village committee assisting a Court of Justice or public servant ;

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

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

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

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty (or every member of the Government) j¹

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

Eleventh.—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.

Illustration

A Municipal Commissioner is a public servant.

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

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

Explanation 3.—The word “ election ” means the selection, by any method which is by law prescribed as by election, of any person as a member or officer of or to any office in the Union Parliament or any municipal or other' public authority.

* Added by the Union of Burina (Adaptation of Laws) Order, 1948.

22. The words “ moveable property ” are intended to include corporeal " Moveable property of every description, except land and things attached to the earth or property- permanently fastened to anything which is attached to the earth.

23. “Wrongful gain” is gain by unlawful mean³ of property to which “Wrongful the person gaining is not legally entitled. gam’

“ Wrongful loss ” is the loss by unlawful means of property to which the “ Wrongful person losing it is legally entitled. lo*®’

A person is said to gain wrongfully when such person retains wrongfully, Gaining as well as when such person acquires wrongfully. A person is said to lose ££^o“ fgUly’ wrongfully when such person is wrongfully kept out of any property, ai well wrongfully, as when such person is wrongfully deprived of property.

24. Whoever does anything with the intention of causing wrongful gain Dishon- to one person or wrongful loss to another person, is said to do that thing e8ty’ “ dishonestly.”

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

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

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

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

28. A person is said to “ counterfeit ” who causes one thing to resemble “ Counter- another thing, intending by means of that resemblance to piactise deception or feit’ knowing it to be likely that deception will thereby be practised.

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanatoin 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.

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