

CRIMINAL LAW AND PROCEDURE.

TO AMEND THE LAW AND PROCEDURE IN CRIMINAL CASES.

1 OF 1886.⁽¹⁾

HENRY BULWER.]

[March 20, 1886.]

PART 1.

As to certain Punishments.

1. In this Law :—

“ Detention for life ” means the punishment defined in Article 23 of the Ottoman Penal Code;

“ Temporary detention ” means the punishment defined in Article 24 of the said Code;

“ Exile for life ” means the punishment defined in Article 28 of the said Code;

“ Temporary exile ” means the punishment defined in Article 35 of the said Code;

“ Hard labour ” means the punishment defined in Article 19 of the said Code as hereinafter amended;

“ Imprisonment ” means the punishment defined in Article 34 of the said Code.

Interpreta-
tion.*repealed
by Criminal
Code 1928*

2. No person shall be sentenced for any offence to undergo the punishment of detention or that of exile.

Detention
and exile
abolished.

3. Any person who if this Law had not been passed might have been sentenced to detention for life, or temporary detention, shall be liable to be sentenced to undergo hard labour for any term not exceeding the maximum term of detention to which he might have been sentenced if this Law had not been passed, or imprisonment for any term, as the Court by which he is convicted may direct.

Punishment
substituted
for detention.

4. Any person who if this Law had not been passed might have been sentenced to exile for life shall be liable to be sentenced to undergo hard labour for any term not exceeding twenty years, or imprisonment for any term, as the Court by which he is convicted may direct.

Punishment
substituted
for exile for
life.

5. Any person who if this Law had not been passed might have been sentenced to temporary exile shall be liable to be sentenced to undergo imprisonment for any term not exceeding three years.

Punishment
substituted
for temporary
exile.

(1) For contents see Index p. 995.

Death
penalty
abolished in
certain cases.

2. 1908, 2.

Man-
slaughter.

12. 1914, 5.

Indecent
assault.

12. 1914, 6.

Amendment
of the Penal
Code,
Article 224.

3. 1922, 2.

Abolition of
minimum
penalties.

12. 1914, 2.

Power to
impose fines
and bind
over.

12. 1914, 3.

6.—(1.) Any person convicted under any of the Articles 59, 60, 61 and 163 of the Ottoman Penal Code shall be liable to imprisonment with hard labour for life or for any shorter term but shall not be liable to the punishment of death.

(2.) Any person who commits homicide without premeditation shall be liable to imprisonment for life or for any less term with or without hard labour.

(3.) Any person who commits the second offence referred to in the Addition to Article 202 of the Ottoman Penal Code, dated 3 Jemazi' ul-Akhir, 1277 (indecent assault), shall be liable to imprisonment for any term not exceeding one year.

(4.) Any person convicted under the Ottoman Penal Code, Article 224, shall be liable to imprisonment for any term not exceeding three years, without prejudice to any other punishment prescribed in the said Article.

(5.) All enactments of the Ottoman Penal Code or any amendment thereof which provide that a minimum punishment shall be imposed for any offence, except enactments whereby a person is punishable for treason or homicide punishable by death, shall be read as though they contained no provision as to the minimum punishment to be imposed for such offence and where one term of imprisonment only is provided it shall be considered the maximum term only.

(6.) Whenever any person shall be convicted under the Ottoman Penal Code or any amendment thereof or the Press Law, 2 Shaban, 1281, in respect of any of the offences in this section referred to which is punishable by imprisonment not exceeding three years, the Court may, if it shall think fit, in lieu of the punishments by the law authorized, fine the offender, and on conviction of any offence in this section referred to the Court may in addition to any other punishment require the person convicted to enter into his own recognizance with or without sureties to keep the peace and to be of good behaviour. The offences above referred to are as follows:—

Larceny.

Malicious damage to property.

Forgery.

Coining.

Offences against the person except such as are punishable with death.

Perjury.

Libel.

(7.)—(i.) In any case in which a person is convicted of an offence punishable with imprisonment for not more than three years, if it appears to the Court before which he is convicted, that (regard being had to all or any of the following matters, namely, the youth, character and antecedents of the offender, the trivial nature of the offence, and any extenuating circumstances under which the offence was committed) it is expedient that the offender be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a recognizance, with or without sureties, within such period as the Court may direct, to appear and receive sentence when called upon and in the meantime to keep the peace and be of good behaviour.

(ii.) The Court may, if it thinks fit, order that the offender shall pay the costs of the prosecution, or some portion of them, within such period and by such instalments as the Court may direct.

(iii.) If a Court having power to deal with the offender in respect of his original offence, or any Court of summary jurisdiction, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(iv.) An offender, when apprehended on any such warrant, shall, if not brought forthwith before the Court having power to sentence him, be brought before a Magisterial Court, and that Court may either remand him by warrant until the time at which he was required by his recognizance to appear for judgment, or until the next sitting of a Court having power to deal with his original offence, or may admit him to bail with a sufficient surety conditioned for his appearing for judgment.

(8.)—(i.) In this sub-section:—

“Child” means a person who in the opinion of the Court is under the age of fourteen years;

“Young person” means a person who in the opinion of the Court is fourteen years of age or upwards and under the age of sixteen years.

(ii.) Sentence of death shall not be pronounced on or recorded against a child or young person but in lieu thereof the Court shall sentence the child or young person to be detained during the High Commissioner's pleasure and if so sentenced he shall be liable to be detained in such place and under such conditions as the High Commissioner may direct and whilst so detained shall be deemed to be in legal custody: Provided that no such period of detention shall in any case exceed ten years.

First offenders.

12. 1914, 4.

Abolition of death sentence in case of children and young persons.

4. 1909.
4. 1911.

Labour in chains not to form part of punishment awarded by Court.

Use of irons permitted in certain cases.

7.—(1.) The wearing of leg-irons shall not form part of the punishment of any person under any sentence passed by any Court of Justice in this Island; and such parts of Articles 19, 20, and 21 of the Ottoman Penal Code as provide that the wearing of leg-irons shall form part of any such punishments are hereby repealed.

(2.) Nothing in this Law shall be construed so as to prevent the use of leg-irons in cases where the wearing thereof may be lawfully imposed as a punishment for any breach of prison discipline, nor when the use of such irons is necessary for the better securing of prisoners.

PART 2.

Accomplices and Receivers.

Interpretation.

8. In this Part of this Law "Offence" means any act made punishable by the Ottoman Penal Code or any article or articles thereof, or by any other law of the Ottoman Empire which was in force in Cyprus on the 13th day of July, 1878, or by any Order of Her Majesty the Queen in Council applicable in Cyprus, or by any Law enacted by the Legislative Council of Cyprus, except such offences as are punishable with no greater punishment than those mentioned in Article 5 of the Ottoman Penal Code.

Accomplices.

9. Accomplices in offences are of two kinds, viz., accomplices in the commission of offences and accomplices after the commission of offences.

Who are accomplices in the commission of an offence.

10.—(1.) An accomplice in the commission of an offence is:—

(a.) A person who, in furtherance of a common purpose formed by him and others to commit an offence and with knowledge that such offence is to be committed, accompanies the person who actually commits it at the time when it is committed, whether he so attends in order to witness the commission of the offence or to assist, encourage, exhort, or compel the commission thereof, or to aid or assist the perpetrators thereof or any of them to escape detection, pursuit, or apprehension after the commission thereof, or in order in any other manner to further the common purpose formed by him and his associates;

(b.) A person who, though he be not present at the time when the offence is committed, procures, commands, or in any way assists or incites another to commit an offence, whether he does so directly or through the medium of a third person.

(2.) Where an offence is committed by an innocent person on the instigation of another, the instigator of the offence shall be deemed to be the actual perpetrator thereof.

(3.) If any person who has procured, commanded, or in any way incited or assisted another to commit an offence shall before the commission thereof have countermanded the commission thereof, he shall not be deemed to be an accomplice in the offence if it is subsequently committed.

(4.) Where the acts which constitute an offence are committed partly by one person and partly by another or others, every such person, if he acted with a knowledge that he was thereby contributing to or assisting in the commission of an offence, shall be deemed to be an actual perpetrator thereof.

11. An accomplice after the commission of an offence is:—

Who are accomplices after the commission of an offence.

(a.) A person (other than the father, mother, son, daughter, or other relative in the direct line of relationship, or the brother or sister, husband or wife of the offender) who, knowing an offence to have been committed by another person, receives, relieves, comforts, or assists him in order to hinder his being apprehended or tried for his offence or to hinder his suffering any punishment to which he may have been condemned therefor;

(b.) A person who, by himself or by an agent, receives or wilfully takes upon himself, either alone or jointly with any other person, the control or disposition of any property whatsoever knowing it to have been stolen.

12. Every person who, in furtherance of a common purpose formed by him and others to commit an offence and with knowledge that such offence is to be committed, accompanies the person who actually commits it at the time when it is committed, whether he so attends in order to witness the commission of the offence or to assist, encourage, exhort, or compel the commission thereof, or to aid or assist the perpetrators thereof or any of them to escape detection, pursuit, or apprehension after the commission thereof, or in order in any other manner to further the common purpose formed by him and his associates, is an accomplice not only in the commission of the offence committed in the pursuance of the common purpose, but in the commission of every offence actually committed with the object of executing or in the attempt to execute the common purpose.

An accomplice present at commission of an offence is an accomplice in commission of all offences committed incidentally to execution of criminal design.

13. Every person who, though not present at the time when the offence is committed, procures, commands, or in any way assists or

One who counsels an offence is an