THE IMPERIAL
OTTOMAN PENAL CODE.

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OTTOMAN PENAL CODE

A TRANSLATION

FROM

THE TURKISH TEXT

WITH LATEST ADDITIONS AND AMENDMENTS TOGETHER WITH ANNOTATIONS AND EXPLANATORY COMMENTARIES UPON THE TEXT AND CONTAINING AN APPENDIX DEALING WITH THE SPECIAL AMENDMENTS IN FORCE IN CYPRUS AND THE JUDICIAL DECISIONS OF THE CYPRUS COURTS,

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PREFATORY NOTE.

THE inherent difficulties in the preparation of this volume were increased by the absence in Cyprus of any really satisfactory library of works of reference. The authors have however endeavoured to make the best use of such material as was at their disposal.

Mr. Utidjian is responsible for the accuracy of the translation from the Turkish Text; Mr. Bucknill for that of the remainder of this work.

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INTRODUCTION.

THE practical history of Ottoman Criminal Law is comparatively simple. From the earliest days of Islam down to the nineteenth century the determination of what constituted an offence and the designation of its proper punishment rested substantially on the "Sher'" *—the Sacred Moslem law.

The Sher' law is "the Law of God"; its authorities are the Quran, the traditions handing down the unwritten sayings of the Great Prophet, the traditions as to the sayings and acts of his companions and immediate successors and matter founded on reasoning and analogy thereunder.

During the long period of time which elapsed between the issue of the original sources of the Sher' and the first spring of reform, the Moslem jurists, with scrupulous veneration for the letter of their divine precepts, endeavoured, with painful mental feats veering sometimes towards ingenuity and sometimes towards ingenuousness, to extract from their patriarchally primitive material rules for guidance in circumstances to which, in the ever growing complexity of their national and social environment, it was quite incapable of reasonable adaptation.

Broadly, however, it may be said that in the early years of the nineteenth century a very tangible classification of the Ottoman Criminal and Penal law as founded on and derived from the Sher' already existed; peculiar though its scheme and presentation may appear to western minds.

Offences were divided into two categories, namely, those punishable by definitely fixed penalties and those punishable by penalties not definitely fixed.

The fixed penalties were certain punishments (usually of great severity) definitely prescribed by the Sher' for certain offences; these penalties were unalterable by the Sultan, by a Court, or by any other power, and were absolutely immutable.

* *Note.*—"Sher'"; pronounced as the French "chérie."

The penalties not definitely fixed were those the infliction of which was delegated to the Courts; sometimes in cases in which the Sher' law, though declaring an offence punishable, did not fix the penalty; sometimes in those cases in which an offence was one of which the Sultan might have thought fit to order suppression; sometimes in those cases in which an offence was one of which the suppression itself had been left to the legal tribunals; but the powers of punishment in such cases were limited to sentences of exile, imprisonment, the bastinado, fine and compensation.

The fixed penalties indicated two underlying ideas; expiation to God and compensation to injured individuals.

Of the former class were prohibited cohabitation; false charges of prohibited cohabitation; the drinking of intoxicating liquors; theft of certain types; highway robbery; forsaking the Moslem faith; and rebellion.

Of the latter class were homicide; assaults causing the loss of any member of the body; and wounding.

The fixed punishments prescribed by the Sher' included amongst others stoning to death as a penalty for prohibited cohabitation in extreme cases; the lash for indulging in inebriating beverages; the cutting off of a hand for larceny and of the right hand and left foot for highway robbery, and death for recalcitrant apostates or rebels.

The penalties for homicide, for assaults causing the loss of a member of the body and for wounding were highly elaborated but may be generalized as divisible into two categories, one a "lex talionis" and the other a system of "blood money"—the choice of the application of either lying substantially in the hands of the injured person or of his heirs who indeed might even renounce any demand for punishment or compensation whatsoever.

Homicide was ranged in six classes commencing with "intentional homicide" in which the offender, armed with a lethal weapon, purposely killed his victim, and passing downward in gravity through homicide by poisoning, (not regarded as so grave a crime), by culpable carelessness, by want of foresight and by negligence, to homicide of which the author was unknown.

Death, at the demand and commutable at the option of the heirs of the murdered person to a blood-price, punished the first of these crimes; for the rest blood-money sufficed though in the more serious categories there were attached also some civil disabilities and threatened miseries in the world to come.

To an attack causing the loss of a member of the body the primitive doctrine of "an eye for an eye"—the real "lex talionis" of the Old Testament and the Quran—was applicable, similarly on the claim and commutable to a monetary compensation at the wish of the injured party.

Lengthy schedules of the amounts payable in cash or camels for different sorts of injuries and in respect of different classes of persons injured were prescribed.

To enter into further details of these curious particulars would be out of place here, but an admirable summary may be with advantage consulted in the 2nd Volume of Heidborn's Droit Public et Administratif de l'Empire Ottoman.

The tendency towards an avoidance of the rigid penalties of the Sher', the desire to provide suitable punishment for offences for which the Sacred law either did not prescribe any redress or to which it did not refer, and the wish to enlarge the discretion of the criminal tribunals in the infliction of sentences, were all probably present in some measure in the minds of the less conservative Ottoman authorities for very many years.

Of the first the adroit and increasing evasions rendered possible by subtle legal technicalities were a clear sign; of the second a reflection perhaps shows itself in now long forgotten criminal decrees such as those promulgated by the Sultan Suleiman Qanuni (the "Law-Giver") who reigned from 1520 to 1566; whilst of the third the first modern projected reforms were no doubt some form of expression.

Thus perhaps stirred, arose the ambitious projects designed by the Sultan Mahmud to ameliorate the then existing chaos of internal government, both administrative and judicial, which were cut short by the victorious revolt of Egypt and their author's death in 1839.

So far, however, had his schemes matured, that Rashid Pasha, that deceased Sultan's Foreign Minister and Grand Vizier to his youthful successor Abd-ul-Mejid, was, when by the intervention of the Great Powers the storm had passed, able to issue in the latter part of the same year the famous "Decree of Gulkhané"—more commonly known as the "Khatt-i-Sherif" or "the Law of Tanzimat"—promulgated with vast pomp on the plain from which the Decree takes its name on the 3rd of November, 1839 (26 Shaban, 1255), in the presence of a huge concourse of persons.

Guarantees of security of life and property, and propriety in the assessment and collection of taxation, and in the enlistment and duration of service of the soldiery, were the cardinal features of this Rescript garnished with flowery phrases.

It condemned in unmeasured terms the practice of farming out the taxes; indicated the desirability of the introduction of new laws to cope with new conditions, referred to some few instances in which the Criminal law required amplification or clarity and promised enactments to effect such requirements.

Accordingly in May, 1840, (1 Rebi' ul Akhir, 1256)—the following year—a decree made its appearance consisting of thirteen Articles and an Epilogue; these dealt with a variety of matters such as treason, incitement to rebellion, embezzlement of the Public Revenue, refusal to pay taxes, resistance to authority and some few alterations in penalties and procedure.

A few months later (21 Ramazan, 1256) some additional Articles were produced the most important of which was one which added to the penalty of blood-money, capable of being claimed from a person who had killed someone by the heirs of the individual killed, the punishment of imprisonment with hard labour; joining here for the first time the punishment demanded by society with that prescribed by the Sacred law for the satisfaction of the private wrongs of the individuals injured.

Again in 1851, (15 Rejeb, 1267) yet another set of orders were promulgated; dealing with forgery, abduction of girls

and the making of indecent advances, besides containing in its three Articles and Preface some regulations as to the treatment of sick and pauper prisoners and the punishment of slaves.

But notwithstanding these, now only academically interesting, enactments the practical result of the Khatt-i-Sherif was really nugatory; circumstances familiar to students of that period of history combining to render them ineffective and illusory; the few trifling reforms to which reference has been made were of little real utility, and it was not until 1858 that a variety of circumstances led up to the passage of matter more comprehensive and important. This was "The Imperial Penal Code of Turkey," usually called "The Ottoman Penal Code," one of those somewhat elaborate and hastily launched enactments after the Crimean war.

In January, 1856, Turkey had definitely decided upon certain reforms which included that of the criminal law and later in the same year (18th February, 1856=10 Jemazi' ul-Akhir, 1272) the Sultan Abd-ul-Mejid promulgated the "Khatt-i-Humayun" confirming the Khatt-i-Sherif and detailing the reforms to be introduced.

This Imperial Rescript is an extremely interesting document; it guaranteed equality of treatment to all Ottoman subjects and tolerance to all sects; it delegated all civil and criminal matters between Moslems and non-Moslems to the jurisdiction of the mixed tribunals, and of one part the text translated runs: "That . . . the Penal and Commercial laws and the rules and regulations as to procedure in the mixed tribunals be completed, taken down in writing and codified in a volume as expeditiously as possible, and be published and promulgated after being translated into the various languages used in our divinely protected Imperial Dominions."

One of the earliest results of the above Charter was "The Imperial Penal Code," the subject of this volume. This body of law was submitted to the Grand Vizier by the Mejlis-i-Tanzimat (Board of Legislation) by a Mazbata (Report) dated 21 Zilhijjeh, 1274 (2nd August, 1858) for the necessary Imperial sanction of the Sultan. This report recommended that 4,000 copies of the Code should be printed and issued

for immediate use in the Courts and for sale to the public throughout the Empire, thus replacing all penal laws then in force in the Ottoman Empire.

The draft Code and the Report were forwarded by the Grand Vizier to the Principal Private Secretary of the Sultan with a covering letter, dated 27 Zilhijjeh, 1274 (8th August, 1858) embodying the gist of the Report and requesting that the Imperial sanction might be given for the bringing into operation of the law.

The Principal Private Secretary returned the draft Code to the Grand Vizier with the Imperial Iradé (written order) of approval appended to it on 28 Zilhijjeh, 1274 (9th August, 1858). This date, *i.e.*, 28 Zilhijjeh, 1274 (9th August, 1858) is the actual date given to the Code. It was communicated to the Embassies at Constantinople on April 17th, 1859, accompanied by what purported to be an official French rendering of the text but which, however, was, in the main, merely a loose paraphrase of the Turkish original.

The Code has been from time to time added to and amended; it was re-published with its amendments on August 21st, 1863 (6 Rebi' ul Evvel, 1280); it duly appeared, with amendments, up to date, in the first volume of the "Destur" * (Vol. I, p. 537)—a Government production issued at irregular intervals containing the text of the laws of the Ottoman Empire—which appeared in 1873.

Later amendments lie scattered in later volumes of the same publication. The Ottoman Parliament in 1911 repealed and re-issued in modified form numerous Articles of the Code which it also amplified extensively by Addenda.

In 1869 a Mr. D. Nicolaides, a Constantinople editor, published in a work entitled "Ὀθωμανικοὶ Κώδικες"—a collection of the Laws, Regulations, Decrees and Instructions in force in the Ottoman Dominions—a Greek translation of the Penal Code direct from the Turkish text, and for this work high praise is due as it is an accurate and useful rendering to which unfortunately the lack of an intimate knowledge of modern Greek by the vast majority of Europeans debars access.

* "Destur" is a Persian word with numerous meanings one of which is "a collection of laws." Four volumes of the "Destur" appeared and four appendices known as "Zeyl-i-Destur," "Zeyl" means "appendix" or "addendum."

In 1873 a Greek journalist residing at Constantinople, a gentleman named Aristarchi Bey, published in the second volume of a work entitled "Legislation Ottomane (ou recueil des lois, réglements, ordonnances, traités, capitulations et autres documents officiels de l'Empire Ottoman)" the French paraphrase of the Code—with most of its amendments—as issued to the Legations.

In 1888 Mr. C. G. (now Sir Charles) Walpole, then President of the District Court of Larnaca, Cyprus, published a translation from the French text of Aristarchi Bey and this, though naturally possessing those inevitable demerits resulting from a translation, is, fairly faithful though it may be to the French, in no way more than is the latter a correct rendering of the Turkish original.

In 1890 Mr. D. Nicolaides published a second edition of the "Ὀθωμανικοὶ Κώδικες" in the third volume of which appeared the Ottoman Penal Code with many of the additions made since the appearance of the first edition of his work.

In 1906 Mr. George Young, M.V.O., of the English Embassy, re-published (with the additions to date) the French text in the seventh volume of his "Corps de Droit Ottoman."

Several commentaries have appeared in comparatively recent years published in Turkish; they are at times instructive though as a rule too elementary to be of serious value.

The preponderance of French influence in Ottoman counsels at that period causes one to turn at once to the French model to find the source of the Code.

The general scheme of the Ottoman Penal Code follows that of the French Code Pénal both in its classification of offences and in its main divisions; but in detail there are many differences and indeed although a number of Articles in the Ottoman Code have been bodily translated from the French whilst the large majority of the former have some sort of counterpart in the latter yet some of the clauses in the Turkish enactment are substantially original. Hastily prepared and precipitated upon an entirely indifferent if not unwilling public, it is surprising to find that as a legislative production and as a whole the Ottoman Penal Code is, broadly, comparatively simple and tolerably well adapted

to the circumstances which it was designed to meet, but when necessity compels it to be applied practically its inexhaustive character and lack of precision become constantly patent.

Walpole's translation has been of great utility to the Englishmen who have had to administer justice in Cyprus but is of little service for accurate work, and for this reason and with the hope that it may be of more wide value the present practically literal English rendering of the Turkish text accompanied by such annotations as seemed advantageous has been prepared.

In attempting a faithful translation into English no one unacquainted with the intrinsic difficulties of the Turkish language can realize the awkward construction and indefinite phrasing which have constantly to be encountered, whilst to these normal embarrassments have in the present case to be added other and more serious defects in the text due to hurried production, haste or carelessness coupled with either lack of erudition or an incomplete mastery of the Ottoman tongue admittedly not peculiarly suitable for the conveyance of purely western ideas in western legal formularies.

The original Ottoman Penal Code is still, modified as indicated above, in force in the Ottoman Empire.

In Cyprus it is, together with all amendments made prior to the 13th July, 1878, (the date of the assumption by Great Britain of the administration of the Island,) also the law to which Ottoman subjects are amenable but, as not a few of its provisions have been repealed, altered or amplified by local or locally effective legislation and explained by decisions of the Cyprus Courts, a special appendix dealing with such points peculiar to Cyprus has been added.

JOHN A. BUCKNILL.
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January, 1913.

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THE OTTOMAN PENAL CODE.

Let action be taken according to the copy of the Imperial Rescript.[1]

NOTE.—[1] The procedure would be as follows:—The Original Code would be placed before His Imperial Majesty the Sultan for his sanction His Majesty would, with his own hand, write on it words such as "let action be taken accordingly" in this way giving validity to the enactment.

PRELIMINARY.

PART I.

SETS FORTH THE GRADES AND DEGREES OF OFFENCES AND PUNISHMENTS IN GENERAL AND ALSO CERTAIN GENERAL PRINCIPLES.

ART. 1.[1]—Whereas the punishment of offences taking place directly against the Government lies with the State, and the consideration that offences taking place against a person disturb the public tranquillity likewise concerns the State, this Code also guarantees and secures the determination of the degrees of the punishment[2] the fixing and execution of which lie with the order of the Supreme Authority[3] according to the Sher'[4]; without prejudice, however, in any case to the personal rights prescribed by the Sher'.[5]

ART. 1 NOTES.—[1] The Turkish text of this article makes any literal translation into English read somewhat awkwardly. The sense, however, is tolerably clear and might be shortly expressed as follows: "The State is obviously concerned in dealing with offences against itself; it is equally bound to deal with offences against individuals in order to preserve the public peace. His Majesty the Sultan having, by the fundamental principles of the Moslem Sacred law, the power to prescribe and give effect to such punishments as he may think fit, has by the present Code fixed certain punishments and guaranteed their execution. But such punishments do not deprive anyone of any rights or claims which the Moslem Sacred law gives."

[2] "punishment," more literally "chastisement" or "correction."

[3] "supreme authority," lit. "Master of Commands." The expression means "The Sultan."

[4] "the Sher'": the Sacred law of Islam. This is derived from four sources: (*a*) the Quran; (*b*) traditions as to the sayings of the Prophet; (*c*) traditions as to the acts and sayings of the companions and immediate successors of the Prophet; (*d*) reason and analogy.

The Law of God, as the Sher' law is also sometimes designated, purports to be in itself a complete and comprehensive system of law capable of application to any set of circumstances but, with the advance of western influences into Ottoman affairs, its practical unsuitability for regulating the complex questions which arose in many phases of modern life has long been recognised by the introduction at the instance of the Western Powers of a variety of enactments in the form of Codes, Regulations, Imperial Orders and the like ancillary to but naturally forming no part of the Sher'. These productions of which the Land, Commercial, Maritime and Penal Codes are good examples are usually collectively referred to as Nizam law in contradistinction to that of the Sher'.

[5] "Rights prescribed by the Sher'." The rights here referred to are those possibilities of retaliation and compensation which have already been briefly mentioned in the Introduction.

In theory they exist up to the present day but in practice they have for the most part fallen into desuetude for reasons which will be explained later in this note.

Briefly these personal rights consisted of two principal and alternative schemes of penalty, one called "*Qisas*," which was a "Lex talionis," and the other called "*Diyet*," which was compensation by payment of a blood-price.

Qisas and Diyet were based on the Quran itself which in passages—vividly recalling similar portions of the Old Testament—sets out the doctrine very clearly thus: "Et nous leur avons prescrit vie pour vie, œil pour œil, nez pour nez, oreille pour oreille, dent pour dent, et le talion pour blessures, et s'il le pardonne ainsi qu'une aumône, c'est une expiation. Ceux qui ne jugent pas suivant ce qui a été envoyé par Allah, ce sont les injustes;" and again, "O vous croyants, le talion vous est prescrit pour l'homicide, l'homme libre pour l'homme libre, l'esclave pour l'esclave et la femme pour la femme et celui à qui son frère a pardonné, qu'on le traite avec clémence et que l'indemnité soit large."

Qisas consisted in the putting to death of an individual by whom another had been intentionally killed, and in the destruction of a member of the body of an individual who had intentionally destroyed a member of another individual's person.

Diyet consisted in the payment of compensation by an individual who had killed a person to the heirs of the person killed, and also in the payment of compensation by an individual who had caused the destruction of a member of the body of another individual to the person so maimed.

The penalties of Qisas and Diyet were not obligatory being only enforceable on the demand of the heirs of a murdered individual or on a claim by an injured party.

A claim for Qisas could always be commuted to one of Diyet at the wish of the claimants or claimant who might even renounce any demand for either penalty.

The carrying into effect of a claim for the execution of the death penalty under the doctrine of Qisas was rendered a matter of considerable difficulty owing to the numerous conditions the strict observance of which was necessary.

In the first place it was only applicable in the case of a murder of the most serious of the six types, that is to say, to a person who had intentionally killed another with a lethal weapon; all the heirs of the killed person must participate in the demand for the murderer's death and be present at it, the omission or refusal of even one heir to claim or appear at the execution effectually stopping the carrying out of the penalty: the murderer must be of full mental capacity, must not be an ancestor of the victim and must not have committed the crime under involuntary compulsion; no one of the heirs must be the child or grandchild of the criminal; a man's life can only be claimed for having killed a man, a woman's for having killed a woman and so forth. The murderer must be beheaded with a sword by the heirs or their agents. In short, the death penalty by way of Qisas was not encouraged.

The scheme of Qisas when applied to reprisals not involving death was also amenable to considerable restrictions, the retaliatory measures having to correspond exactly with the injury caused; for example, the Qisas applicable to an individual who had caused the loss of another's *right* hand would be for the malefactor to have his *right* hand cut off.

Diyet was blood-money; it could be claimed by the heirs of a person killed or by an individual who had been caused the loss of a member of his body; also in respect of injury causing a miscarriage. But in addition to the strict Diyet it was also possible to obtain a monetary compensation for wounds or injuries not causing mutilation, the amount being in some few instances as in the case of injuries to the face or head fixed by the Sher' and in others determined by the Court. The amount of Diyet as well as the sources from which it could be obtained varied. For the former the Sher' prescribed a regular and most elaborate tariff of what was payable dependent upon the sex and status of the killed or injured person, the nature of the crime and extent of the injury.

The Diyet payable for the death or mutilation of a female was half that payable for a male; for a slave according to their actual value if killed or the loss to their value occasioned by their mutilation.

In cases of wilful homicide which includes both intentional homicide with a lethal weapon, by poison or by other means; in cases of injury involving the loss of a member of which the body has but one (*e.g.*, nose, tongue, genital organ) or of the reason, or of two members of which the body possesses a pair (*e.g.*, hand, foot, ear, lip, eye, eyebrow) or of four members of which the body possesses four (*e.g.*.. eyelashes, eyelids); and in cases of injury involving incontinence of the bladder, a full Diyet was payable: a full Diyet in the case of a free man was one hundred female camels, or one thousand dinars of gold or ten thousand dirhams of silver. This represents approximately two hundred and fifty pounds English. In cases of homicide committed otherwise than as above the Diyet payable was eighty female and twenty male camels when paid thus but without differentiation when calculated in money.

The breast and nipple of a woman were each regarded as a member for the purposes of Diyet but not those of a male though a male could, of course, recover for any such injury monetary compensation to be determined by the Court. The loss of any one member of which the body has a pair involved the payment of half a full Diyet; for the loss of any one of those members of which the body has four the fourth of a full Diyet was payable; the loss of a finger or toe was assessed at one-tenth of a full Diyet and of a joint of a finger or toe at one-half or one-third of one-tenth according as the finger or toe consisted of two or three joints; a tooth was worth one-twentieth of a full Diyet; an injury causing a miscarriage met with a blood price of five hundred dirhams of silver.

The arrangements as to the sources from which the payment of Diyet was to be forthcoming were interesting.

In the case of intentional homicide Diyet was obtainable primarily from the murderer, and in case of his inability to pay then from his parents and in case of their inability from the State Treasury. In the case of homicide the author of which was unknown the payment was exigible from the people in whose vicinity the body was discovered, such as for example the inhabitants of a village or quarter, the crew and passengers of a vessel or the proprietor of an hotel; if found in a mosque or on the highway the State was bound to pay, but if in the victim's own house no claim could be made at all.

In the other four cases of homicide Diyet was payable primarily by the members of the offender's guild or corps or tribe, secondarily by his parents, thirdly by him himself and as a last resort by the State. For loss of a limb or injury the payment of Diyet or compensation fell on the offender.

It may be noted that, except in cases of homicide which involved some slight ulterior consequences in certain instances such as the loss of the right to succession and the compulsory manumission of a slave, the suffering of Qisas or the payment of Diyet avoided any other penalty.

The above remarks summarize shortly the theory of the Sher' Penal law which exists nominally even now.

It is more difficult to trace accurately the gradual desuetude into which most of its practice has fallen.

Reprisal by mutilation was probably the first to disappear, lingering, though discouraged, in remote and rude communities.

The Khatt-i-Sherif (November 2nd, 1839) whilst professing to promise reform of abuses was purposely couched in language calculated not to offend the religious susceptibilities of the conservative custodians of the Sher' and indeed advocated adherence to it. But in the additional Articles to the Law of 1840, which were published in the same year (21 Ramazan, 1256) it was laid down that a person found guilty of homicide should suffer a period of penal servitude even though Diyet should have been paid; this period was less if Diyet was paid than in case of non-payment.

The promulgation of the Ottoman Penal Code (28 Zilhijjeh, 1274=8th August, 1858) brought into force a totally new Criminal scheme without, however, abrogating the old and the dual systems stand in theory side by side. Merely a cursory examination discloses points at which they would clash but time and habit have smoothed a path on which they both travel fairly smoothly. There have been some instances in which difficulties have had to be cleared up by formal and authoritative ministerial circulars of instruction or orders: for example, by a Vizierial instruction dated 15th August, 1292=27th August, 1876 (*vide* Destur, Vol. IV., p. 372; Nicolaides, Ott. Cod., p. 2479,) it was laid down that if a Sher' Court had ordered that Diyet should be paid by a murderer and if the murderer died before the payment the heirs of the murdered person could recover the Diyet from the murderer's estate, but if such estate was insufficient the surplus would not be paid by the Public Treasury; and similarly in a case in which a murderer had been executed by order of the Nizam Court the heirs of the murdered person who might have been awarded Diyet by the Sher' Court cannot if the murderer's assets are insufficient to meet the amount claim anything from the State purse. Another similar instruction dated 20 Shevwal, 1296=7th October, 1879 (*vide* Destur, Vol. IV., p. 372; Nicolaides, Ott. Cod., p. 2421) provided that when a murderer had been sentenced to death by the Nizam Court and was also amenable to the death penalty by way of Qisas the heirs of the victim should be consulted in order that their intentions as to their willingness to accept Diyet might be communicated to the Sultan before the Imperial Order authorizing the murderer's execution was actually issued.

Actual conflicts between the dual systems are avoided in a variety of ways. The Penal Code itself provides numerous cases in which special provision is made for assessment according to the Sher' law and generally of compensation for injuries (*e.g.*, Arts. 171, 177, 178, 179, 180, 182, 183, 192, 194, etc.) and the practice is that whilst prosecutions are, in the first instance dealt with in the Nizam Court such Court in the event of an injured party desiring to claim his rights under the Sher' law remits the matter, after it has pronounced sentence, to the Sher' Court for assessment of the compensation thus claimed, and the award of Diyet or compensation does not prevent or affect the carrying out of the sentence of the Nizam Court.

The death penalty is comparatively seldom carried out; if pronounced by a Nizam Court the Sultan has the power, which is often exercised, under Art. 47 of the Code to commute it; if the Nizam Court has passed a sentence of less than death upon a person on whom the heirs of the victim persist in claiming from the Sher' Court capital punishment under the Sher' law by way of Qisas, the difficulty is sometimes avoided by the issue of an Iradé by the Sultan ordering the heirs to renounce their demand for Qisas and to be satisfied with a blood-price, *i.e.*, Diyet.

Qisas by way of deprival of a member of an offender's body has long disappeared.

Claims for Diyet are far rarer than they were a comparatively short time ago and though it is not probable nor on the whole desirable that they should vanish altogether there can be little doubt that the Ottoman Public has by now generally become habituated to and satisfied with the powers and the administration of their Nizam tribunals.

It need perhaps hardly be added that if an accused person is acquitted no personal rights can be claimed from him by the injured person, though if an accused person is found, though guilty, not resposnible for his act (*e.g.*, insane or a minor) the injured party might sue for compensation in a civil court whilst, again, a civil action might, of course, lie at the suit of an injured person against the person responsible for such injury even though no criminal offence had been committed.

The difference between the reservation of the rights under the Sher' provided for by this Art. (1) and the claims the safe-guarding of which is prescribed under Art. 9 should also be noticed.

ART. 2.[1]—Offences punished by law are of three kinds. The first is Jinayet, the second is Junha, and the third is Qabahat.

ART. 2 NOTES,—[1]It is not possible to translate concisely the three words "Jinayet," "Junha" and "Qabahat" into English expressions which would maintain any literal accuracy and at the same time convey any legally intelligible meaning. The scheme adopted in the Ottoman Penal Code of separating offences into three categories is taken from the French Code Pénal, the first Article of which reads thus :—

Art. 1er.—"L'infraction que les lois punissent des peines de police est une *contravention*. L'infraction que les lois punissent de peines correctionelles est un *délit*. L'infraction que les lois punissent d'une peine afflictive ou infamante est un *crime*." It is doubtful if there are any words in the Ottoman language which the draftsman of the Ottoman Penal Code could well have utilized in order to render an exact equivalent of the three French expressions "Crime," "Délit" and "Contravention" but, in any case, the terms "Jinayet." "Junha" and "Qabahat" are in fact merely words made use of for convenience and for lack of others of greater suitability. These three words are all really Arabic and are thus translated by Redhouse :

"Jinayet" : a wrong, offence, crime ; especially an offence against the person resulting in a wound or mutilation.

"Junha" : a crime, offence, fault.

"Qabahat" : a fault, offence, a sin, guilt. The French rendering of the Ottoman Penal Code not unnaturally uses the words of the French Code Pénal.

Walpole in his English translation from the French makes use of the terms "Felony," "Misdemeanour" and "Police Offence."

Nicolaides in his Greek translation of the Turkish text in the "Οθωμανικοὶ Κώδικες" renders "Jinayet" as "τὰ κακουργήματα," "Junha" as "τὰ πλημμελήματα" and "Qabahat" as "τὰ πταίσματα."

For the purposes of an English translation the first two of the three expressions "Felony," "Misdemeanour" and "Police Offence" used by Walpole appear very unsuitable and, indeed, liable to cause confusion ; for, although they may popularly indicate some idea of degree in the gravity of offences, their use is from a legal point of view open to rather serious objection. The word "Felony" is not only not a term equivalent to the French expression "Crime" as used in the exact sense defined in the French "Code Pénal," but has a meaning in English law peculiar to itself and of which there is no direct counterpart in French or Ottoman Jurisprudence.

Similar criticism applies to the word "Misdemeanour" when called to serve as an equivalent of "Délit."

As for the third expression "Police Offence" this, though only a paraphrase of the French "Contravention," has at any rate the merit of possessing no proper and precise meaning or place in English legal phraseology and its use is, therefore, less open to adverse comment whilst it has the further advantage of corresponding substantially to the exact sense which is assigned in the Code Pénal to the word "Contravention." The fact is that the words used both in the French and Ottoman Codes to designate the three categories into which offences are divided are of little, if any, intrinsic value as indicative, without definition, of any gradation in gravity but are merely words of convenience the local meanings of which as used in the Codes are limited and explained by the Codes themselves. As, therefore, it seems unsatisfactory and inadvisable to use in translating the Turkish text English words any of which possess a meaning in English law differing materially from the sense with which they would have to be regarded when read in relation to the Code, it has been thought best to retain the terms "Jinayet," "Junha" and "Qabahat" throughout.

ART. 3.[1]—Jinayet are acts which call for[2] deterrent[3] punishment.

Deterrent punishments are execution[4]; perpetual or temporary kyurek[5] accompanied by exposal in public[6]; confinement in a fortress[7]; perpetual exile[8]; perpetual deprivation of rank and office[9]; loss of civil rights.[10]

ART. 3 NOTES.—[1] Compare Arts. 6, 7 and 8 of the French Code Pénal. Art. 6. Les peines en matière criminelle sont ou afflictives et infamantes, ou seulement infamantes.

Art. 7.—Les peines afflictives et infamantes sont:—1. La mort; 2. Les travaux forcés à perpétuité; 3. La déportation; 4. Les travaux forcés à temps; 5. La détention; 6. La réclusion.

Art. 8.—Les peines infamantes sont:—1. Le banissement; 2. La dégradation civique.

[2] "call for," more literally "render necessary."

[3] "deterrent," lit. "terrifying." The French rendering is "afflictive." Walpole uses "severe." Nicolaides translates as "ἐκφοβιστικὴν." The French Code Pénal reads "afflictive ou infamante."

[4] "execution," more literally "killing."

[5] "kyurek": a Turkish word the original meaning of which is an oar or shovel. It later obtained the meaning as given by Redhouse, "the galleys, as a punishment" and hence generally roughly corresponds to "imprisonment with hard labour."

Rowing in chains in Government boats was formerly a well recognized mode of punishment in Turkey. The French rendering uses the words "les travaux forcés." Walpole uses "hard labour." Nicolaides "τὰ δεσμά." The French Code Pénal reads "les travaux forcés."

It has been thought advisable to retain the Turkish word in this translation. For details as to the exact nature of "kyurek" see Art. 19 below.

[6] "exposal in public"; for details see Art. 19.

[7] "confinement in a fortress"; for details see Arts. 23, 24 and 25.

[8] "perpetual exile"; for details see Art. 28.

[9] "office" means always in this connection employment in the service of the State; for details of deprivation of rank and office see Art. 29.

[10] "loss of civil rights." This is as a rule a permanent punishment; for details see Art. 31.

ART. 4.—Junha are acts which call for corrective[1] punishment. Corrective punishments are[2] imprisonment for more than one week[3]; temporary exile[4]; dismissal from office[5]; fine.[6]

ART. 4 NOTES.—[1] "Corrective," more literally "educative." The French rendering gives the word from the French Code Pénal "correctionelles." Walpole uses "corrective" and Nicolaides "ἐπανορθωτικαί."

[2] Compare Art. 9 of the French Code Pénal. Art. 9. Les peines en matière correctionelle sont:—1. L'emprisonnement à temps dans un lieu de correction; 2. L'interdiction à temps de certains droits civiques, civils ou de famille; 3. L'amende.

[3] "imprisonment"; for details see Art. 34.

[4] "temporary exile"; for details see Art. 35.

[5] "dismissal from office"; for details see Art. 36.

[6] "fine," more literally "cash penalty"; see Art. 37.

The minimum fine for an offence of the Junha category is one hundred piastres or very nearly eighteen shillings.

ART. 5.—Qabahat are acts and conduct which call for admonitory[1] treatment.

Admonitory treatment is imprisonment for from twenty-four hours to one week or fine not exceeding one hundred piastres.[2]

ART. 5 NOTES.—[1] "admonitory," more literally "reprimanding." The French rendering leaves the Turkish text and adopts that of the French Code Pénal using the phrase "des peines de police" which Walpole boldly paraphrases as "punishable by a court of summary jurisdiction." Nicolaides translates "αἱ πράξεις, καθ' ὧν ὁ νόμος ὁριζει ποινήν τινα λυπουσαν τον πράξαντα (ἀστυνομικήν)."

[2] "piastres." Fines for penalties are payable in gold currency. One hundred piastres go to the Turkish pound or Lira which is about equivalent to eighteen shillings in English money. Walpole gives "100 *silver* piastres (18*s*.)" but though the amount in English money is accurate the currency as stated by him is not.

ART. 6.—Where prescribed by the law these punishments are sometimes awarded and carried out singly and sometimes together.[1]

ART. 6 NOTES.—[1] "together." The French rendering is "cumulativement." Walpole follows with "cumulatively," Nicolaides translates as "συλλήβδην."

What is meant is simply that when the law so prescribes, more than one sort of penalty may be awarded in respect of the same offence; it does not refer to the question whether such different penalties so awarded are to be undergone consecutively or concurrently this point being practically regulated by those various articles of the Code which permit the infliction of more than one kind of penalty for the same misdeed.

ART. 7.[1]—If persons who have incurred the punishments of temporary exile, imprisonment,[2] temporary confinement in a fortress or temporary kyurek run away from their place of punishment, their punishment, on being captured, is increased by an addition to the remainder of their term of a term equal to from one-third to one-half of their original period of punishment, and if a person who has incurred the punishment of perpetual exile runs away from his place of exile he is confined in a fortress in perpetuity, and a person who runs away from perpetual confinement in a fortress is placed in kyurek in perpetuity.

ART. 7 NOTES.—[1] Sami in his Commentary states that the provisions of Art. 7 apply only to persons upon whom sentence has been pronounced and whose conviction is not still liable to review but that, nevertheless, an escape from custody of a prisoner either not actually sentenced or whose sentence may be capable of being reviewed may form the subject matter of an entirely separate prosecution.

The article is an inexhaustive one as it does not make provision for the case of an escape from perpetual kyurek the penalty for which ought, according to Sami, logically to be death which, however, he considers expediency would not justify. Presumably a prisoner who escaped from perpetual kyurek would return, on being captured, merely to his old durance with a more severe prison discipline.

[2] "imprisonment." This word is not governed by the adjective "temporary" but as imprisonment is only a temporary punishment in any case (see Art. 34) it needs no qualification.

Art. 7 was amplified by an addendum dated 18 Jemazi'ul-Evvel, 1284 (17 Sept., 1867) of which the following is the text :—

If[1] by persons undergoing the punishment of temporary[2] kyurek, confinement in a fortress, exile or imprisonment a Jinayet or Junha or Qabahat is perpetrated during the period of their punishment, (whether such offence of theirs be of less gravity than or of the same category[3] as or more serious than the Jinayet, Junha or Qabahat which they originally committed), then, if the punishment prescribed by law in respect thereof is a determinate[4] one the whole thereof and if it is divided into different degrees[5] the lowest degree thereof shall be inflicted upon them after the expiration of the remainder of the period for which they are sentenced.

And if persons who are perpetual exiles dare to commit likewise during their sentence a Junha, or a Qabahat, or a Jinayet which calls for temporary punishment, then, whatever may be the nature of the punishment to which they are sentenced therefor, they shall, after it has been caused to be undergone by them in the place to be approved by the State, be remitted to their former condition and place[6] ; and, if they commit a Jinayet necessitating perpetual kyurek or perpetual confinement in a fortress then the requirement of the law[7] in respect thereof shall be carried out, but, if the Jinayet which they have dared to commit calls for perpetual exile, in that case they shall, in lieu thereof, be confined in a fortress for a period of four years and, at the expiration of this period, shall be remitted to the place of their exile. And if the punishment prescribed by law for the Jinayet or Junha or Qabahat so committed by persons who are perpetually confined in a fortress or are undergoing perpetual kyurek is one for a temporary period then the circle of their imprisonment shall be narrowed by prevention from communication and intercourse[8] for as much as one-third of such period and, at the expiration of the term, they shall be remitted to their former condition ; and, if the Jinayet committed by such offenders is of the same category as or more grave than the Jinayet in respect of which they have been originally sentenced in that case the narrowing of the circle of imprisonment shall be for six years.[9]

Addendum of 18 Jemazi'ul-Evvel, 1284, Notes.—[1] This long and rather complicated clause (which, it must be noted, is affected by new article 8 *q.v. infrâ* is an addition to Art. 7 made by an enactment dated Sept. 17th, 1867. Its effect is shortly this :—

1. If a person, whilst undergoing a temporary sentence of kyurek, incarceration in a fortress, exile or imprisonment, commits any offence he must undergo the penalty—the minimum if there is a minimum—after serving out his original sentence.

2. If a person, whilst undergoing perpetual exile, commits any offence for which the penalty is only of some temporary nature he must undergo such penalty forthwith and after undergoing it goes back to his exile ; but if the offence is one the penalty for which is either life kyurek or life incarceration in a fortress he has to suffer that penalty ; and if the offence is one for which the penalty is perpetual exile he is confined in a fortress for four years forthwith and then returns to his old exiled state.

3. If a person, whilst undergoing a life sentence either of kyurek or confinement in a fortress, commits any offence for which the penalty is only of some temporary nature he is punished by a period of increased rigour in the conditions under which he is serving his sentence and the duration of this added severity is fixed at a third of the term of the sentence which his offence entails ; but if his offence is of the same category or graver than his original crime the period of added severity is fixed at a term of six years.

The French rendering hardly attempts a translation of this addition to Art. 7, but paraphrases it very incorrectly whilst Walpole's rendering is scarcely recognizable even as a translation of the French version. On the other hand the Greek text of Nicolaides is, except in one or two passages, very good.

The text of this addendum may be found in Nicolaides, p. 2418 ; Walpole, p. 3 ; Aristarchi, III, p. 268 ; Djiz-i-Kav, p. 916 ; Young, VII, p. 2.

The mode of life in prisons in Turkey is vastly different from that obtaining in English and other Western penal institutions and lends itself easily to opportunities for escape and offences. A circular was issued from the Ministry of Justice (which is given in full by Nicolaides, p. 2419) drawing attention to the numbers of crimes in and fugitives from prisons and urging greater care in preventing the latter and greater severity in punishing the former. This instruction was issued no doubt simultaneously with or shortly after the promulgation of the above addendum (to Art. 7) which was itself probably designed to check these abuses which were so extremely common.

Heidborn writes :

" Les prisons Ottomanes ressemblant à des espèces de caravansérails, où les détenus de tous les âges sont entassés dans un pêle-mêle extraordinaire . . . Pas d'isolement ; pas de rigueurs . . . pas de travail obligatoire, pas d'instruction, pas d'hygiène. Les détenus communiquent l'ibrement entre eux et, par les fenêtres, même avec les gens du dehors."

[2] " temporary "; the word governs all the four forms of punishment mentioned immediately after it ; imprisonment, however, is anyhow only a temporary punishment.

[3] " category," lit. " kind." It means " degree of gravity."

[4] " determinate," more literally " limited " or " definite." In this Code there are a number of instances of these " determinate " penalties which permit of no discretion on the part of the Court in passing sentence ; the idea is not a good one. For perhaps the worst example of the " determinate " penalty see Art. 174, under the provisions of which a person found guilty of unpremeditated homicide *must* be sentenced, no matter what the attendant circumstances, to fifteen years kyurek.

[5] " degrees." This is just the opposite of what is meant by " determinate." For example, see Art. 198, under the provisions of which a person found guilty of an indecent offence with violence may receive a sentence of from three to fifteen years kyurek.

[6] " condition and place," *i.e* , condition of an exile and place where the exile is being undergone.

The French rendering gives " l'état " and " l'endroit "; Walpole uses " position " and " place "; Nicolaides translates as " ἡ κατάστασις " and " τὸ μέρος."

[7] " requirement of the law." This only means the penalty which the law prescribes. Nicolaides translates as " αι διατάξεις τοῦ νόμου."

[8] " the circle of their imprisonment shall be narrowed by prevention from communication and intercourse." The French rendering paraphrases thus, " sont infligés de réclusion . . . Cette réclusion sera un parfait isolement et sera expiré de la manière la plus austère." Nicolaides has a much better rendering ; " τότε απαγορεύεται πᾶσα ἀλληλογραφια αὐτῶν καὶ συγκοινωνια . . . καὶ περιοριζεται ὁ κύκλος τῆς φυλακισεως αὐτῶν."

[9] The new Art. 8 dated 6 Jemazi'ul-Akhir, 1329=4th June, 1911, in effect repeals this addendum to Art. 7 (*vide infrâ*).

ART. 8.—Except where determined by the law[1] the punishment with regard to recidivists[2] is awarded in twofold.[3]

ART. 8 NOTES.—[1] "Except where determined by the law." This simply means "unless the law otherwise enacts in any case."

[2] "recidivists." The word quite literally means "repeaters" and there is no doubt that the article is only intended to apply to persons who commit more than once the same sort of offence, such as two thefts. It does not apply to a person who first commits an offence such as a Jinayet and then afterwards another Jinayet of another sort: the second offence needs to be not of the same category of gravity but of the same nature as the first.

Sami, however, states that the Ottoman Courts in practice hold that double penalties can be inflicted either in cases in which the second or subsequent offence is of the same sort as the first, or in those in which the first offence is graver than the subsequent one. This practice may be based on common sense but the article does not seem to warrant it.

The French rendering paraphrases thus, "Sauf les exeptions determinées par la loi, la récidive entraîne le double de la peine à laquelle le récidiviste a été condamné la première fois" Nicolaides translates, "*ἐκτὸς τῶν ὑπὸ τοῦ νόμου ὁριζομένων περιπτώσεων, ἐν ὑποτροπῇ ἡ ποινὴ διπλασιάζεται.*'

The French Code Pénal is different and elaborate; see Chapter IV. Des peines de la récidive pour crimes et délits.

The Cyprus Courts have had under consideration the precise meaning of this article (*vide* Cyprus appendix, *post*).

[3] "in twofold" *i.e.*, "double.'

Art. 8 was repealed and the following new article (dated 6 Jemazi'ul-Akhir, 1329=4th June, 1911) substituted:—

The provisions concerning recidivists are applied and carried out in manner following.[1]

If a person, after he has been finally sentenced to one of the deterrent[2] punishments, commits, during the period of his punishment or within ten years after having completed his period of punishment or after the punishment shall have become nullified[3] through one of the legal causes, an offence calling for the punishment of perpetual kyurek and if his previous sentence was also the punishment of perpetual kyurek, he is put to death. If he commits an offence calling for the punishment of perpetual exile, he is punished with the punishment of perpetual confinement in a fortress. If the second offence calls for the punishment of perpetual confinement in a fortress, the person who is the recidivist is sentenced to kyurek in perpetuity.

If the second offence calls for the punishment of temporary confinement in a fortress or of temporary kyurek, the punishment which the perpetrator will incur[4] is awarded in twofold, and, where necessary, the fifteen years which is the maximum of these punishments may be raised to its twofold.

If the person finally sentenced with the punishment of imprisonment for more than one year commits the same Junha within five years either before the carrying into effect[5] of the

punishment, or during the period of punishment, or after he has completed his period of punishment, or after the punishment shall have become nullified[3] by one of the legal causes, he is sentenced with the maximum of this punishment, and, where necessary, the maximum of these punishments is raised to as much as its twofold.

If the person finally sentenced with the punishment of imprisonment for less than one year commits the same Junha within five years, either before the carrying into effect[5] of the punishment or during the period of punishment or after the punishment shall have become nullified[3] by one of the legal causes, he is sentenced to imprisonment for not less than the twofold of the period of punishment to which he was previously sentenced, and not exceeding the twofold of the punishment which he will incur.[4]

In Junhas the acts of forgery, theft, swindling, abuse of confidence are deemed to be the same offence when repeated.[6] The basis in repetition is the emanation of the previous conviction from Courts of Justice.[7]

To the above new Article the following notes may be added :—

[1] "in manner following" lit. "within the circle of the following modes."

[2] "deterrent"; *vide* Art. 3.

[3] "nullified" lit. "fallen down" or "lapsed."

[4] "incur" lit. "be deserving of."

[5] "carrying into effect" lit. "enforcement."

[6] "when repeated" lit. "in repetition."

[7] It will be observed that this new Art. 8 practically repeals the addendum to Art. 7, dated 18 Jemazi'ul-Evvel. 1284 (17th September, 1867).

ART. 9.[1]—The award, ordering, and carrying out of these punishments do not at all prejudice any rights or compensation[2] claimed by suitors at law[3] against perpetrators of Jinayets, Junhas and Qabahats.

ART. 9 NOTES.—[1] Compare Art. 10 of the French Code Pénal. Art. 10. "La condamnation aux peines établies par la loi est toujours prononcée sans préjudice des restitutions et dommages-intérêts qui peuvent être dus aux parties."

Nicolaides translates the article thus : "Ἡ ἐπιβολὴ καὶ ἡ ἐκτέλεσις τῶν ποινῶν οὐδόλως παραβλάπτουσι τὰ δικαιώματα τῶν πολιτικῶν ἐναγόντων καὶ τὰς περὶ ἀποζημιώσεως ἀπαιτήσεις αὐτῶν κατὰ τῶν διαπραξάντων κακούργημα, πλημμέλημα, ἢ παῖσμά τι."

[2] "rights or compensation." The rights or compensation here referred to are not the same as those reserved under Art. 1 of this Code : *i.e.*, they are not personal rights for which Qisas or Diyet can, under the Sher', be claimed. The rights or compensation referred to in this Article (9) are those which are recoverable otherwise than by way of Qisas or Diyet and are not Sher' rights at all but are rights under Nizam law or recoverable in the Nizam Courts. Examples of such are claims for compensation for injury to property such as are found and particularized in many of the articles of the Mejelle ; claims for expenses incurred in going to and from the Court and consequent loss of time and so forth. Good instances of the sort of rights or compensation which are referred to in this Article (9) may be seen in the contents of Arts. 890, 891, 912, 913 and 922 of the Mejelle.

[3] "suitors at law" lit. "owners (or 'men') of suits at law."

ART. 10.[1]—If, together with fine, the restitution of stolen properties and compensation etcetera[2] are awarded, the stolen properties and the compensation are recoverable first of all.

ART. 10 NOTES.—[1] Compare Art. 54. of the French Code Pénal. Art. 54. "En cas de concurrence de l'amende avec les restitutions et les dommages-intérêts, sur les biens insuffisants du condamné, ces dernières condamnations obtiendront la préférence."

[2] "etcetera" is the rendering of the Arabic words "ve sayiré" which might also be translated "and so forth." Nicolaides translates as "καὶ λοιπά." It is an unsatisfactory expression to occur in a law as it lacks precision as to what it would include.

ART. 11.[1]—Judgments of the law drawn up relative to fine and restitution of stolen properties and compensation and interest and other expenses are, in case of the refusal of the sentenced person, enforced by imprisonment and pressure.[2]

ART. 11 NOTES.—[1] Compare Art. 52 of the French Code Pénal. Art. 52. "L'exécution des condamnations à l'amende, aux restitutions, aux dommages-intérêts et aux frais, pourra être poursuivie par la voie de la contrainte par corps."

[2] "pressure" an Arabic word "tazyiq" which is translated by Redhouse as 1. A making very narrow. 2. A squeezing and pressing severely. 3. A making very tight. 4. A cross questioning, threatening or torturing in order to extract information. 5. A reducing a besieged place to straits. It here really means only imprisonment and not any form of torture as might be at first sight supposed.

A new Art. 11 was enacted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new article is as follows :—

The payment of expenses of trial accrues to the person against whom sentence is given. Several persons sentenced on account of one offence are sureties to one another in the restitution of properties, giving of compensation and payment of expenses of trial, on condition of having the right to have recourse to one another for his own share.[1] The suretyship to one another of several persons sentenced by one judgment on account of diverse offences concerns only the expenses of trial of the offence leading to[2] a joint conviction.[3]

To the above new Article the following notes may be added :—

[1] "on condition of having the right to have recourse to one another for his own share." This means that if one of the sentenced persons has paid the whole or more than his share of the expenses he can demand from the other sentenced persons their proportion of what he has paid above his own share.

[2] "leading to" or "resulting in."

[3] This new Article repeals Art. 46.

ART. 12.[1]— In matters relative to Jinayet or Junha the punishments of being taken under supervision by police officers[2] and of inflicting fine and of special seizure[3] of goods which are the product of a Jinayet or Junha or of articles which have been used or were about to be used in the commission of a Jinayet or a Junha may also be awarded and ordered conjointly.[4]

ART. 12 NOTES.—[1] Compare Art. 11 of the French Code Pénal. Art. 11. "Le renvoi sous la surveillance spéciale de la haute police, l'amende et la confiscation spéciale, soit du corps du délit, quand la propriété en appartient au condamné, soit des choses produites par le délit, soit de celles qui ont servi ou qui ont été destinées à le commettre, sont des peines communes aux matières criminelles et correctionelles." Nicolaides gives a good translation though there is one unfortunate error, the word "ἡ δημοσίευσις" (publication) being used instead of "ἡ δήμευσις" (confiscation=seizure)—no doubt a printer's error.

The French rendering transposes the Turkish text thus: "La renvoi sous la surveillance spéciale de la police, l'amende et la confiscation spéciale, soit des choses produites par le crime ou délit, soit de celles qui ont servi ou qui ont été destinées à le commettre, sont des peines qui peuvent être prononcées cumulativement en matière criminelle ou correctionelle."

[2] "being taken under supervision by police officers." For details of the nature of police supervision see Art. 14. It may be here noted that subjection to police supervision is only permitted to be imposed as a penalty in certain cases which are mentioned in the Code.

[3] "special seizure." Here, again, confiscation or forfeiture of things which come under the cognisance of a Criminal Court, cannot be ordered except in those cases which are prescribed by the law. Examples of such instances of "special seizure" may be seen in Arts. 68 and 69, the addition to Art. 166, 240.

[4] "conjointly." It means "all together," *i.e.*, simultaneously. Of course the particular penalties mentioned in this Article are quite independent of and have no connection with but are additional to the regular penalty prescribed by the law when a Jinayet or Junha has been committed.

Art. 12 was repealed and a new Article substituted therefor on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

In matters relative to Jinayet or Junha the punishments of being taken under supervision by police officers, and seizure of articles which are used in the offence or are prepared for use in the offence or have proceeded from the occurrence of offence, if they do not belong to persons who are not accomplices in the offence, may also be awarded and ordered conjointly.

Articles, the manufacture, use, carrying, keeping, sale or purchase of which constitute an offence, are absolutely seized and confiscated even though there may be no penal conviction or the said articles may not belong to the perpetrator of the offence.

ART. 13.[1]—Persons who have dared to commit a Jinayet or Junha calculated to disturb, either internally or externally, the tranquillity of the State are, after completing the period of punishment to be determined by law, absolutely[2] taken under police supervision.

ART. 13 NOTES.—[1] Compare Art. 49 of the French Code Pénal. Art. 49. "Devront être renvoyés sous la même surveillance ceux qui auront été condamnés pour crimes ou délits qui intéressent la sûreté intérieure ou extérieure de l'Etat."

[2] "absolutely" *i.e.*, always.

ART. 14.[1]— To be under police supervision consists of not to be able to reside in the places which shall be determined by the State; and in having to determine and declare the place where one will reside and the places through which one will pass until one goes thither—the same to be noted in one's permit of way[2]; and on one's arrival at such place[3] to be obliged within twenty-four hours to notify one's arrival to the Government, and in case one has to go from there to some other place, to notify the Government three days previously and take out a new permit of way[4]; and if one does not conform with the aforesaid conditions, one is punished by imprisonment not exceeding one year.

No person is taken under police supervision unless it is necessary by law.[5]

ART. 14 NOTES.—[1] Compare Arts. 44, 45 and 50 of the French Code Pénal. Art. 44. "L'effet du renvoi sous la surveillance de la haute police sera de donner au Gouvernement le droit de déterminer certains lieux dans lesquels il sera interdit au condamné de paraître après qu'il aura subi sa peine.

En outre le condamné devra déclarer avant sa mise en liberté le lieu où il veut fixer sa résidence; il reçevra une feuille de route réglant l'itinéraire dont il ne pourra s'écarter et la durée de son séjour dans chaque lieu de passage. Il sera tenu de se présenter, dans le vingt-quatre heures de son arrivée, devant le maire de la commune; il ne pourra changer de résidence sans avoir indiqué, trois jours à l'avance, à ce fonctionnaire, le lieu où il se propose d'aller habiter, et sans avoir reçu de lui une nouvelle feuille de route." (Loi, 28 Avril 1832.)

Art 45. "En cas de désobéissance aux dispositions prescrites par l'article précédent, l'individu mis sous la surveillance de la haute police sera condamné, par les tribunaux correctionels, à un emprisonnement qui ne pourra excéder cinq ans." (Même loi.)

Art. 50. "Hors les cas déterminés par les précedents articles les condamnés ne seront placés sous la surveillance de la haute police de l'Etat que dans les cas où une disposition particulière de la loi l'aura permis." (Loi, 19 Février, 1810.)

The details of the French "l'interdiction de séjour" have been in later years much altered but Art. 14 of the Ottoman Penal Code is clearly taken from the French Articles quoted above.

[2] "permit of way,' *vide* note 3 to Art. 156.

[3] "such place." This means only the place of residence. A person under police supervision would not have to notify his arrival at each place on the way to the place where he was going to take up his residence.

[4] "permit of way," *vide* note 2 above.

[5] For instances in this Code in which police supervision is prescribed *vide* Arts. 13, 40, 64, 65, 147 and 151.

ART. 15.[1]— The punishment of every Jinayet and Junha and Qabahat is effected in accordance with the law and regulations[2] in force at the time when it[3] is brought to light by the Government or when the complainant makes his appearance, and such punishment is not effected in accordance with a subsequent law.[4]

ART. 15 NOTES.—[1] Compare Art. 4 of the French Code Pénal. "Nul contravention, nul délit, nul crime ne peuvent être punis de peines qui n'étaient pas prononcées par la loi avant qu'ils fussent commis."

The French rendering reads: "Les crimes, délits ou contravention seront punis en vertue des lois en vigueur au moment de leur constatation par l'autorité ou de la déposition d'une plainte; aucune loi rendue postérieurement à cette date ne pourra leur être applicable." The word "constatation" should no doubt here be read to mean "ascertainment" but Walpole unfortunately misreads the French and writes "at the time at which such offences are proved before the Court or at which the charge is made." Nicolaides correctly translates the passage thus: "*κατὰ τὸν νόμον καὶ τοὺς κανονισμοὺς τοὺς ἰσχύοντας ὅτε ἀνεκαλύφθη ὑπὸ τῆς ἀρχῆς, ἢ κατηγγέλθη πρὸς αὐτήν.*"

[2] "law and regulations." There are four words used in this Code in the Turkish text; "qanun" which is translated as "law"; "qanunnamé" which is also translated as "law" or "code" but which generally means a "code of laws"; "nizam" which is translated "regulation" and which Redhouse defines as "law or regulation or set of laws"; and "nizamnamé" which generally means a "code of regulations." "Qanun" and "nizam" are very often indiscriminately used to mean "law" in Turkish.

[3] "ŧ": "the offence," of course.

[4] "subsequent law." This means simply law which came into operation either after the discovery of the offence by the Government or after the appearance of the complainant whichever event may be first in date.

PART II.

SETS FORTH THE DETAILS OF THE PUNISHMENTS FOR JINAYETS.

ART. 16.—Death[1] is applicable[2] to persons guilty of the Jinayets defined in the following Articles.[3] Unless the Supreme Order[4] which has been issued, containing the establishment[5] of and the sentence for the Jinayet of the criminal who shall incur this punishment and emblazoned at its top with the resplendent tughra,[6] is first read publicly at the place of execution that criminal is not executed.

ART 16 NOTES.—[1] "death." It means of course "the punishment of death."

[2] "applicable" lit. "current."

[3] "in the following Articles" lit. "in the articles which are written below."

[4] "Supreme Order." It means an order of the Sultan

[5] "establishment." The word in the Turkish text is the Arabic "subut" which may also be translated "certitude" or "certainty." What is meant is a précis of the evidence on which the condemned person was found guilty.

[6] "tughra." An ornamental arrangement or monogram of the name and title of the Sultan constituting the Great Seal of the Ottoman Empire; the Imperial Cypher (Redhouse.)

ART. 17.[1]—The body of the executed person is, in case he has no heirs, caused to be buried through the community[2] to which he belongs.

ART. 17 NOTES.—[1] Compare Art. 14 of the French Code Pénal. "Les corps des suppliciés seront délivrés à leurs familles, si elles les réclament, à la charge par elles de les faire inhumer sans aucun appareil."

The French rendering gives this article badly thus: "Le corps du supplicié, dans le cas où il n'aura pas d'héritiers pour le faire inhumer sera delivré à la communauté à laquelle il appartiendra." Walpole follows this but Nicolaides gives a more correct rendering: "*τὸ σῶμα τοῦ θανατωθέντος, μὴ ὑπαρχόντων κληρονόμων, ἐνταφιάζεται παραδιδόμενον εἰς ὃ ἐκεῖνος ἀνῆκεν ἔθνος.*"

[2] "community." The word in the Turkish text is "millet." It means a people or body of persons united by a common faith, *i.e.*, religion.

ART. 18.[1]—When a woman who has incurred the punishment of death states that she is pregnant her punishment is, if her pregnancy is proved to be true and has acquired certitude, carried out after she has been delivered.

ART. 18 NOTES.—[1] Compare the French Code Pénal, Art. 27. "Si une femme condamnée à mort se déclare et s'il est verifié qu'elle est enceinte, elle ne subira la peine qu'après sa délivrance."

ART. 19.[1]—Kyurek is employment in arduous services with chains[2] on one's feet.

With regard to the person who incurs the punishment of kyurek the system of exposal in public is also carried out; that is to say, an abstract of the Mazbata[3] of the tribunal which has awarded the punishment is written in very large[4] letters; the person to be punished is taken to a square or a place which is public thoroughfare in the town where he is found; and, this abstract being placed on his breast, he is—after being detained and exhibited to the people for two hours there[5]—sent to the place of his punishment, chains[2] being placed on his feet. Criminals[6] who are under eighteen years or over seventy years of age are held excused from this rule of exposal in public.

ART. 19 NOTES.—[1] Compare Arts. 15 and 22 of the French Code Pénal. Art. 15. "Les hommes condamnés au travaux forcés seront employés aux travaux les plus pénibles: ils traîneront à leurs pieds un boulet, ou seront attachés deux à deux avec une chaîne. lorsque la nature du travail auquel ils seront employés le permettra."

Art. 22. "Quiconque aura été condamné à l'une des peines des travaux forcés à perpétuité, des travaux forcés à temps ou de la réclusion, avant de subir sa peine, demeurera durant une heure exposé aux regards du peuple sur la place publique. Au dessus de sa tête sera placé un écriteau portant, en caractères gros et lisibles, ses noms, sa profession, son domicile, sa peine et la cause de sa condamnation. En cas de condamnation aux travaux forcés à temps ou à la réclusion, la Cour d'assises pourra ordonner par son arrêt que le condamné, s'il n'est pas en état de récidive, ne subira pas l'exposition publique. Néanmoins, l'exposition publique ne sera jamais prononcée à l'égard des mineurs de dix-huit ans et des septuagénaires."

Public exposal was, however, abolished in France by decree dated April 12th, 1848.

[2] "chains" lit. "iron."

[3] "Mazbata." In the Ottoman Courts sentences of punishment (and in Civil cases judgments also) were formerly drawn up in the form of a report (procés verbal) which was signed by all the members of the tribunal who were present at the trial or hearing; this document was the mazbata.

[4] "large" lit. "thick," "stout."

[5] "there" *i.e.*, in the public place."

[6] "criminals" lit. "men of Jinayet."

Art. 19 was amended by the following addendum dated 7 Zilhijjeh, 1278 (5 June, 1862). The text is as follows:—

Addendum.[1]—Amongst Moslems the Ulema[2] and Sheykhs[3] and Khatibs[4] and Imams[5] and amongst other communities[6] the clergy[7] are held excused and excepted from the rule of exposal in public.

NOTES.—[1] This is an addition (rather comparable in a way to the old English "benefit of clergy") to the Code made by an enactment dated June 5th, 1862.

It is printed in Nicolaides, Ott Cod., p. 2423; Djiz-i-Kav. p. 923.

[2] "Ulema." The word here means all Moslem Clergy. Redhouse gives: 1. Learned men; 2. Doctors of the Canon I aw of Islam, the corps of legal councillors of the State.

[3] "Sheykhs." Redhouse gives: 1. An elderly or old man; an elder; 2. A head of a family or tribe; 3. A head of a religious community; 4. A head preacher or teacher. Here it includes only the third of these meanings, *e.g.*, the chief of a dervish fraternity or the abbot of a Moslem convent (Tekyé).

[4] "Khatibs." Redhouse gives: a public speaker; an orator; a good speaker; especially an official preacher who recites the Khutbe. The Khutbe is the solemn prayer recited on the Moslem Sabbath for the welfare of the Sultan. The word Khatibs as used here only refers to the official preachers.

[5] "Imams." Redhouse gives: 1. A leader; 2. A leader in public worship (not a priest but a man instructed in his duty); 3. A chief; a teacher; a chief of a sect; 4. A prophet. The word as here used refers only to the second of these meanings.

[6] "communities." *Vide* note 2 to Art. 17. The word used in the Turkish text is here the same as in that article.

[7] "the clergy" lit. "those who hold a spiritual capacity."

ART. 20.[1]—Kyurek in perpetuity is the employment of the criminal after his exposal in public in arduous services until his death, with chains[2] on his feet, in places to be determined by the State.

ART. 20 NOTES.—[1] Compare Art. 15 of the French Code Pénal (*vide* note 1 to Art. 19 above).

[2] "chains": as in note 2 to Art. 19 above.

ART. 21.[1]—Temporary kyurek is, similarly, employment in arduous services, after exposal in public, being bound with irons,[2] in places to be determined by the State for from three years to fifteen years; but the punishment of kyurek for under five years may also be carried out locally.[3]

ART. 21 NOTES.—[1] Compare Art. 19 of the French Code Pénal "La condamnation à la peine des travaux forcés à temps sera prononcée pour cinq ans au moins, et vingt ans au plus." Also Arts. 15 and 22 of the same Code (*vide* note 1 to Art. 19 above).

[2] "being bound with irons": "confined in chains."

[3] "locally" lit. "in their localties." It means that in cases of a sentence of under five years the sentenced person need not be sent to one of the central penal stations: *e.g.*, Crete (in former days), Rhodes, or other similar centre.

ART. 22.[1]—The punishments of death and exposal in public are not carried out on the feast days of the faith and religion to which the criminal[2] belongs.

ART. 22 NOTES.—[1] Compare Art. 25 of the French Code Pénal. "Aucune condamnation ne pourra être exécutée les jours de fêtes nationales ou religieuses, ni les dimanches."

[2] "criminal" lit. "the person guilty of the Jinayet."

ART. 23.[1]—Perpetual confinement in a fortress is the detention of the offender, until the time of his death, by imprisonment in one of the fortresses determined by the State.

ART. 23 NOTE.—[1] Compare Art. 20 of the French Code Pénal. Art. 20. "Quiconque aura été condamné à la détention sera renfermé dans l'une des fortresses situées sur le territoire continental du Royaune qui auront été déterminées par une ordonnance du Roi rendue dans la forme des réglements d'administration publique. Il communiquera avec les personnes placées dans l'intérieur du lieu de la détention ou avec celles du dehors, conformément aux réglements de police établis par un ordonnance du Roi. La détention ne peut être prononcée pour moins de cinq ans, ni pour plus de vingt ans, sauf les cas prévu par l'article 33." (Loi, 28 Avril, 1832.)

ART. 24.[1]—Temporary confinement in a fortress is to be detained by imprisonment for from three years to fifteen years in one of the fortresses similarly determined by the State.

ART. 24 NOTE.—[1] Compare Art. 20 of the French Code Pénal (*vide* note 1 to Art. 23 above).

ART. 25.[1]—Confinement in a fortress is a punishment embracing the punishments of imprisonment and exile; and the person confined in a fortress can communicate with those who are inside and outside the fortress to the extent permitted by the police regulations.

ART. 25 NOTE.—[1] Compare Art. 20 of the French Code Pénal (*vide* note 1 to Art. 23 above)

ART. 26.[1]—The punishments of temporary kyurek and confinement in a fortress are calculated from the day of the confirmation of the sentences[2] and Mazbatas.[3]

ART. 26 NOTES.—[1] Compare Art. 23 of the French Code Pénal. "La durée des peines temporaires comptera du jour où la condamnation sera devenue irrévocable." (Loi, 28 Avril, 1832.)

[2] "sentences": this is only here a synonym for "mazbatas."

[3] "Mazbatas" *vide* note 3 to Art. 19.

ART. 27.[1]—Whereas persons who are to be placed in temporary[2] pranga[3] or confinement in a fortress will lose the right of ordinary personal dealings[4] during their period of punishment, a representative shall be constituted and appointed by them with the consent of the Government to administer their emval[5] and emlak[6] during the said determined period; and something to the amount to be permitted by the special regulations of prisons shall only be given to them by their representative out of their[7] revenues during their period of punishment and anything other than this shall not be given. And, after they complete the period of their punishment all their emval and emlak and eshya[8] shall be given back to them and the representative who has been appointed shall give to them the accounts of his administration which has taken place.

ART. 27 NOTES.—[1] Compare Arts. 29, 30 and 31 of the French Code Pénal. Art. 29. "Quiconque aura été condamné à la peine des travaux forcés à temps, de la détention ou de la réclusion, sera, de plus pendant la durée de sa peine, en état d'interdiction légale ; il lui sera nommé un tuteur et un subrogé-tuteur pour gérer et administrer ses biens, dans les formes prescrites pour les nominations des tuteurs et des subrogés-tuteurs aux *interdits*."

Art. 30. "Les biens du condamné lui seront remis après qu'il aura subi sa peine, et le tuteur lui rendra compte de son administration."

Art. 31. "Pendant la durée de sa peine, il ne pourra lui être remis aucune somme, aucune provision, aucune portion de ses revenus."

[2] "temporary": this qualifies "confinement in a fortress" as well as "kyurek."

[3] "pranga": a corrupt Turkish word used here carelessly as a synonym of "kyurek." It means "a chain and log fastened to a culprit's leg" (Redhouse) and hence "hard labour in chains." Compare the German "pranger"; Dutch "prang"; Italian "branche"; English "brank" ("the scold's bridle"); Gaelic "brancas" (a kind of pillory).

[4] "will lose the right of ordinary personal dealings"; this means "is deprived of the *right* of conducting his ordinary personal affairs"; it does not mean that he necessarily would be physically incapable of so doing owing to his imprisonment but that he is not permitted to do so anyhow.

[5] "emval" (pl. of "mal"); it means (according to Redhouse) "possessions"; "effects"; "goods"; "riches." It also means "wealth, "estate," and "anything yielding a revenue," hence "public revenue" (*vide* note 4 to Art. 88). It roughly corresponds here to the English expression "personal property." According to Tyser's Mejelle, p. xxxii. "a thing which can be acquired as property."

[6] "emlak" (pl. of "mulk") it means (according to Redhouse) "possessions," especially "lands possessed in fee simple." It roughly corresponds here to the English "real property." But "fee simple" is not very accurate as no exactly equivalent tenure is known to Ottoman law. According to Tyser's Mejelle, p. xxxiv. "a thing of which man has become the owner."

[7] "their." It means "of the prisoners' properties."

[8] "eshya" (pl. of "shey"); it means (according to Redhouse) "things, effects, goods." The word conveys the meaning of small or unimportant things: but is here really unnecessary, "emval and emlak" covering everything.

ART. 28.[1]—Perpetual exile is the sending of a person to and causing him to reside in perpetuity[2] in a place determined by the State. In such case, the transportation[3] of his family also to such place is allowed if he wishes it.

ART. 28 NOTES.—[1] Compare part of Art. 17 of the French Code Pénal. Art. 17. "La peine de la déportation consistera à être transporté et à demeurer à perpétuité dans un lieu déterminé par la loi, hors du territoire continental du Royaume."

[2] "in perpetuity"; it means, of course, "till his death."

[3] "transportation" also "removal."

ART. 29.[1]—The punishment of perpetual deprivation of rank and office is for the offender to be deprived in the future[2] of being in any State service great or small either directly or by way of iltizam[3] and of enjoying rank or salary or of wearing decorations; and if he is a holder of rank or office it is the removal of his rank, office and salary in the first place.

ART. 29 NOTES.—[1] The punishment of perpetual deprivation of rank and office is no doubt taken from part of that Article of the French Code Pénal which defines " La dégradation civique " (Art. 34.) Part of that Article reads. " La dégradation civique consiste :—1. " Dans la déstitution et l'exclusion des condamnés de toutes fonctions, emplois ou offices publics ; 2. " Dans la privation du droit de vote, d'élection, d'éligibilité, et en général de tous les droits civiques et politiques, et du droit de porter aucune décoration "

The " dégradation civique " as defined in Art. 34 of the French Code goes further however and includes other disabilities which are partly covered by the punishment prescribed in the Ottoman Code and known as " loss of civil rights " which is explained in detail below in Art. 31. " Loss of Civil rights " as defined in Art. 31 of the Ottoman Code is a larger punishment than the deprivation of rank and office in Art. 29 ; it includes deprivation of rank and office and on the whole corresponds fairly closely with the French " dégradation civique " (*vide* Art. 31 note 1 below).

[2] " in the future " lit. " hereafter." Here it means of course, " from the time of his conviction."

[3] " iltizam " ; an Arabic word meaning " a taking upon one's self, (or ' charging one's self with '), the collection of a branch of the public revenue." It is often translated as " tax-farming " or " farming of revenue."

It refers to the system which obtains in the Ottoman Empire of selling or letting out to the highest bidder the right to collect tithe revenues, generally ; and State dues in particular localities.

ART. 30.[1]—Persons with regard to whom the punishments of perpetual or temporary kyurek, perpetual confinement in a fortress or perpetual exile are awarded incur[2] the aforementioned punishment of perpetual deprivation of rank and office.

But where temporary confinement in a fortress has been awarded and determined as a special[3] punishment the person incurring such punishment also incurs the said punishment of deprivation[4] during the period of his punishment and, if, after the completion of the period of his punishment, it becomes manifest to the Government that he has reformed himself the restoration of his qualification for entering upon the path of service and of employment[5] becomes permissible, but such restoration cannot be possible until after the lapse of a time equal to one-half of the period[6] of confinement in a fortress.

And if it[7] has been awarded in commutation of kyurek then the person confined in a fortress incurs this punishment of perpetual deprivation of rank and office similarly to those who undergo the punishment of kyurek.

ART. 30 NOTES.—[1] It is stated in a note to this Article in the Destur (Vol. 4, pp. 218 to 221) that its effect has been amended by Arts. 463 to 478 (dealing with the restoration of the prohibited rights of sentenced persons) of the Criminal Procedure Law of 5 Rejeb, 1296 (25th June, 1879). For the effect of this Article (30) *vide* note 2.

The French Code Pénal is more severe. Compare Art. 28 part of which reads :—

" La condamnation à la peine des travaux forcés à temps, de la détention, de la réclusion ou du banissement, emportera la dégradation civique. And also the provisions (now abrogated) of Art. 18. Les condamnations aux travaux forcés à perpétuité et à la déportation emporteront la mort civile.. Néanmoins le Gouvernement pourra accorder au condamné à la déportation l'exercise des droits civils ou de quelques-uns de ces droits,"

[2] "incurred." It is impossible to state with certainty whether the Turkish text ought to be translated so as to indicate that the punishment of perpetual deprivation actually and necessarily follows the imposition of one of the sentences detailed in the first paragraph of the Article. The Turkish phrase would bear equally well the translation "become liable to," "merit" or "are deserving of." Reshad the commentator states that the punishment of perpetual deprivation was not necessarily a concomitant with the penalties mentioned in the first paragraph of the Article but that in practice the punishment of perpetual deprivation was awarded together with the punishments referred to when the public prosecutor demanded and the Court agreed that the deprivation of rank of office ought, from the circumstances of the case, to form part of the punishment.

[3] "special"; this refers to cases in which the punishment of temporary confinement in a fortress is the specific penalty actually awarded and not a penalty inflicted by way of commutation of a more serious punishment.

[4] "deprivation." The words "of rank and office" are, of course, implied.

[5] "his qualification for entering upon the path of service and of employment" lit. "his capacity for career and employment." The words "for entering upon the path of service" are in the Turkish text represented by a single word which means "way," "road" and also "profession," "institution" "career." "Service and employment" refer only, of course, to State service and employment.

[6] "period" *i.e.*, the period of the sentence not the term actually served.

[7] "it" *i.e.*, the punishment.

ART. 31.[1]—The punishment of perpetual loss of civil rights consists of the following matters:—

Firstly to incur the punishment of perpetual deprivation of rank and office which is mentioned in Art. 29; and secondly to be deprived of all civic[2] rights that is to say of holding an official appointment[3] connected with the country,[4] a community[5] or a guild[6]; and thirdly, not to be employed in the schoolmastership of a school; and fourthly, not to be employed in the carrying out of investigations[7] and in case it becomes necessary to ask one to explain a matter in a law suit[8] one's statement to be accepted as of the effect of simple information[9] and to be deemed as without any effect for the purposes of the law suit[10] and not to be able to act as a representative[11] in a law suit[8]; and fifthly, not to be able to be a guardian; and sixthly, not to be competent to carry arms.

ART. 31 NOTES.—[1] This Article to some extent follows the French Code Pénal (*vide* Art. 34 which reads): Art. 34.—"La dégradation civique consiste:—1. Dans la déstitution et l'exclusion des condamnés de toutes fonctions, emplois ou offices publics; 2. Dans la privation du droit du vote, d'élection, d'éligibilité, et en général de tous les droits civiques et politiques, et du droit de porter aucune décoration; 3. Dans l'incapacité d'être juré expert, d'être employé comme témoin dans des actes; et de déposer en justice autrement que pour y donner de simples renseignements; 4. Dans l'incapacité de faire partie d'aucun conseil de famille et d'être tuteur, curateur, subrogé-tuteur ou conseil judiciaire, si ce n'est de ses propres enfants, et sur l'avis conforme de la famille; 5. Dans la privation du droit de port d'armes, du droit de faire partie de la garde nationale, de servir dans les armées françaises, de tenir école, ou d'enseigner et d'être employé dans aucun établissement d'instruction, à titre de professeur, maître ou surveillant." (Loi, 28 Avril, 1832.)

[2] "civic." The word "beledi" is rendered by Redhouse "civic; civil; municipal; local." It does not here, however, refer to any Government or State functions.

[3] "official appointment." Here again these words do not refer to any post held under the State but to positions held in the three categories of service immediately following.

[4] "country"; the word "memleket" is given by Redhouse thus: "1. Dominion; territory; country; province. 2. A town or city." The Mayor of a town would be a good example of a post in this category.

[5] "community." The word in the Turkish text is "millet" which has been previously explained: *vide* note 2 to Art. 17.

[6] "guild"; the word in the Turkish text is "esnaf" meaning a body of persons associated together. It has no reference to any body of persons connected by religious ties but rather represents a class of artisans or the like.

[7] "investigations." It means "official enquiries."

[8] "law suit." It means "any civil or criminal legal proceedings."

[9] "as of the effect of simple information." This means not as legal evidence but for what it is worth, *i.e.*, de bene esse.

[10] "without any effect for the purposes of the law suit." It means "of no legal value."

[11] "representative." In proceedings in the Sher' Courts it is usual for each party to be "represented" by several friends as well as, now-a-days, by a professional lawyer. These "representatives" are supposed to assist the party whom they represent and no doubt did so formerly before the appearance of regular advocates. The term "representative" would therefore be much wider than the expression "law agent," and includes any form of representation of another person in civil or criminal proceedings.

ART. 32.[1]—The punishments of the taking away of rank and deprivation of civil rights mentioned in Arts. 29 and 31 are awarded sometimes together with the punishments of perpetual or temporary[2] kyurek or confinement in a fortress or perpetual exile and sometimes also as a special and independent punishment.

Where it is awarded as such special punishment the punishment of imprisonment not exceeding three years is also awarded at the same time.

ART. 32 NOTES.—[1] It does not appear that as a matter of fact the Ottoman Penal Code describes any offence for which the punishments of deprivation of rank and office or loss of civil rights are alone prescribed. The commentator Sami thinks that the Article is a blunder: Reshad, on the other hand, views the Article as modifying Art. 30 in such a manner that a sentence of perpetual or temporary kyurek or confinement in a fortress or perpetual exile does not necessarily entail the minor penalties of deprivation of rank and office and loss of civil rights. The Article is taken from Art. 35 of the French Penal Code which reads thus "Toutes les fois que la dégradation civique sera prononcée comme peine principale, elle pourra être accompagnée d'une emprisonnement dont la durée, fixé par l'arrêt de condamnation, n'excédera pas cinq ans. Si le coupable est un étranger ou un Francais ayant perdu la qualité de citoyen, la peine de l'imprisonnement devra tojours être prononcée."

It is probable that this Article (32) was not intended in reality to modify Art. 30 at all but simply to enunciate a plain statement that the punishment was capable of being awarded as a sole or separate punishment though it happened that when the Code was completed no case occurred for which such punishment alone is provided as a sole or separate penalty.

[2] "perpetual or temporary." These words govern both kyurek and confinement in a fortress.

ART. 33.[1]—Summaries of the sentences of the said punishments of death, or perpetual or temporary[2] pranga,[3] or confinement in a fortress, or perpetual exile, or taking away of rank or privation of civil rights are made public in the centre of the Province[4] in which the sentence is drawn up, and in the District[5] in which the Jinayet has occurred, and in the place at which the sentence is to be carried out, and in the locality where the criminal resides; that is to say—in Constantinople it[6] is hung in front of the door of the Ministry of Police and in the provinces of that of the Government Qonaq.[7]

ART. 33 NOTES.—[1] Compare Art. 36 of the French Code Pénal. Art. 36. "Tous arrêts qui porteront la peine de mort, des travaux forcés à perpétuité et à temps, la déportation, la réclusion, la dégradation civique et le banissement, seront imprimés par extrait.

"Ils seront affichés dans la ville centrale du département, dans celle où l'arrêt aura été rendu, dans la commune du lieu où le délit aura été commis, dans celle où se fera l'exécution et dans celle du domicile du condamné."

[2] "perpetual or temporary." These words govern both "pranga" and confinement in a fortress.

[3] "pranga" (*vide* note 3 to Art. 27).

[4] The word is "Eyalet" which means an administrative area under a Vali or Mutasarrif.

[5] "district.' The word is "Qaza" which means an Administrative district under a Qaymaqam.

[6] "it": the summary.

[7] "qonaq" lit. a "halting place," generally a "mansion." It means the Governor's residence or office, *i.e.*, the headquarters of the Executive authority.

PART III.

SETS FORTH THE DETAILS OF THE PUNISHMENTS RELATING TO JUNHA AND QABAHAT.

ART. 34.[1]—The punishment of imprisonment is to be detained in the State prisons during the sentenced period, and the period of this punishment of imprisonment is from twenty-four hours to three years at the utmost reckoned from the date of the entrance of the offender to the prison.

Prisoners of this category are made to occupy themselves according to the rules and regulations determined by the State and to their condition[2] and with suitable work for which they have an aptitude.

ART. 34 NOTES.—[1] Compare Art. 40 of the French Code Pénal. Art. 40. "Quiconque aura été condamné à la peine d'emprisonnement sera renfermé dans un maison de correction: il y sera employé à l'une des travaux établis dans cette maison selon son choix. La durée de cette peine sera au moins de six jours et de cinq années au plus; sauf les cas de récidive ou autres où la loi aura determiné d'autres limites. La peine à un jour d'emprisonnenent est de vingt-quartre heures: Cette à mois est de trente jours."

[2] "condition." This would include age, state of health and general capacity.

ART. 35.[1]—The punishment of temporary exile is for one to be banished[2] for from three months to three years by being sent away from the place where one is found[3] to another place.

ART. 35 NOTES.—[1] It will be observed that there is no exact parallel between the temporary exile of the Ottoman Penal Code and the "banissement" of that of France. Art. 32 of the latter reads "Quiconque aura été condamné au bannissement sera transporté, par ordre du Gouvernement, hors du territoire du Royaume. La durée du bannissement sera au moins de cinq années, et de dix ans au plus."

The parallel between the perpetual exile of the Ottoman Penal Code and the "déportation" of the French is much closer (*vide* Art. 28 note 1 above).

[2] "banished." The expression in the text is an Arabic word "taghrib" meaning literally "a making or letting become a stranger; a banishment." The phrase does not mean that the exiled person has to leave the Ottoman dominions but only that he is despatched to some place away from his own abode. The Islands of Cyprus, Crete and Rhodes were amongst the localities to which exiles were banished.

[3] "where one is found." This is quite literal. It might be simply translated "where one is."

ART. 36.—The punishment of dismissal from office is the removal from their office, according to the provision of the Penal Code, of those who are holders of office and the discontinuance of their salaries special[1] to office; and the period of dismissal is from three months to six years, that is to say, those who incur this punishment cannot enjoy any office or salary during the period of their punishment. Those who are not holders of office cannot similarly enjoy any office or salary on incurring this punishment, during their period of punishment.

ART. 36 NOTE.—[1] "special" it means "attached to" or "peculiar to."

ART. 37.—Fine[1] is the taking of money from a person as determined by the law.[2]

Where both imprisonment and a fine are awarded against a guilty person and he cannot pay the fine by reason of his inability[3] his period of imprisonment is extended by adding[4] one-half of the term of his imprisonment; and if only a fine is awarded and he cannot pay it he is put in prison for a period of from twenty-four hours to three months according to the amount of the fine.

ART. 37 NOTES.—[1] "fine" lit. "pecuniary punishment."

[2] "by the law," *i.e.*, by the Penal Code.

[3] "inability," *i.e.*, of course "inability to pay."

[4] "adding"; the word "thereto" is implied.

Art. 37 was replaced by a new Article dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911) of which the text is as follows:—

"Fine[1] is the taking of money from a person as determined by the law.[2] If the person who is sentenced does not or cannot pay the awarded amount within two months from

the date of service of notice upon him, the unpaid fine is, after a hearing,[3] converted into imprisonment, one day's imprisonment being reckoned as substitute for a quarter Lira or the fraction of a quarter Lira. But if the person against whom sentence has been given pays the remaining amount after deduction of a quarter Lira according to the preceding paragraph for every day during which he has remained in prison he may annul the punishment of imprisonment standing in lieu of the fine; but the term of imprisonment may not exceed one year.[4]

To the new article the following notes may be added :—

[1] "fine," as in note 1 to the original Art. 37.

[2] "by the law," *i.e.*, by the Penal Code.

[3] "after a hearing" lit. "by hearing," "by trial."

[4] It should be noted that this new Article repeals the original Art. 39 as well as original Art. 37.

ART. 38.[1]—Some portions[2] of the punishment of loss of civil rights mentioned in Art. 31 may also be ordered conjointly[3] by the Courts which have to[4] award a punishment relative to Junha.

ART. 38 NOTES.—[1] This is not a very lucid Article and contrasts very unfavourably with that corresponding in the French Code Pénal (Art. 42 detailed below) which is quite clear and from which, no doubt, the general idea was taken by the Turkish draftsman in preparing Art. 38. According to Sami the intention of Art. 38 is that in Junha cases the Court may sentence an accused person to one or more of the disabilities detailed in Art. 31 but not to all. Very probably this is the proper view which should be taken of this Article. The French rendering gives this clause thus. Art. 38. "Les tribunaux jugeant correctionellement peuvent prononcer au même temps que les peines spécifiées plus haut, une partie des interdictions enoncées à l'art. 31."

Nicolaides thus :—

"Τὰ δικαστήρια τὰ ἀποφασίζοντα τὴν ἐπιβολὴν ποινῆς εἰς πλημμελήματα δύνανται νὰ ἐπιβάλωσι συγχρόνως καὶ τὴν ἀπώλειαν πολιτικῶν τινων δικαιωμάτων ἐκ τῶν διαγραφομένων εἰς τὸ 31 ἄρθρον."

The French Code Pénal runs :—Art. 42. "Les tribunaux jugeant correctionellement pourront, dans certains cas, interdire, en tout ou en partie, l'exercise des droits civiques, civils et de famille suivants: 1. De vote et d'election; 2. D'éligibilité; 3. D'être appelé ou nommé aux fonctions de juré ou autres fonctions publiques, ou aux emplois de l'administration, ou d'exercer ces fonctions ou emplois ; 4. Du port d'armes ; 5. De vote et de suffrage dans les déliberations de famille ; 6. D'être tuteur, curateur, si ce n'est de ses enfants et sur l'avis seulement de famille ; 7. D'être expert ou employé comme témoin dans les actes ; 8. De témoinage en justice, autrement que pour y faire de simples declarations."

"Art. 43. Les tribunaux ne prononceront l'interdiction mentionnée dans l'article precédent, que lorsqu'elle aura été autorisée ou ordonnée par une disposition particulière de la loi."

[2] "portions" lit. "matters," "points," "articles," "subjects."

[3] "conjointly"; it means "together with a punishment which may be inflicted in the case of a Junha."

[4] "which have to"; it means "which are empowered to."

ART. 39.[1]—Fine is awarded as appertaining[2] to the Treasury of the State : and if a guilty person, after completing the period of his punishment and if he is imprisoned for about[3] six months[4] owing to his not paying the fine, proves that he is unable to pay the fine he is temporarily released. If this imprisonment for fine is relative to matters of Qabahat it[5] will not be more than three months, and as soon as information is received[6] that persons who have been temporarily released have acquired ability[7] it[8] is taken and recovered.

ART. 39 NOTES.—[1] Compare Art. 53 of the French Code Pénal. " Lorsque des amendes et des frais seront prononcés au profit de l'Etat, si, apres l'expiration de la peine afflictive ou infamante, l'emprisonnement du condamné, pour l'acquit de ces condamnations pécuniaires, a duré une année complète, il pourra, sur la preuve acquise par les voies de droit, de son absolue insolvabilité, obtenir, sa liberté provisoire."

" La durée de l'emprisonnement sera réduite à six mois s'il s'agit d'un délit, sauf, dans tous les cas, à reprendre la contrainte par corps, s'il survient au condamné quelque moyen de solvabilité."

[2] " appertaining " or " accruing," " belonging."

[3] " about " or " as much as " ; it means " not exceeding."

[4] " six months " ; the period is of course additional to the punishment to which the offender may have been sentenced for his offence itself.

[5] " it " : the imprisonment.

[6] " received " ; it means " by the authorities."

[7] " ability " ; it means " ability to pay."

[8] " it," *i.e.*, the fine.

Art. 39 is affected by the new Art. 37 dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911) *q.v. suprâ.*

Art. 39 was replaced by a new Article dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911) of which the text is as follows :—

Detention which has taken place before the delivery[1] of final judgment is deducted from the period of the punishment awarded. If punishment of exile has been awarded regarding the sentenced person one day's detention is deemed equivalent to five day's exile ; and if only a fine has been ordered, the fine is counted and deducted within the circle of proportion[2] indicated in Art. 37.

To the new article the following notes may be added :—

[1] " the delivery " lit. " the joining on."

[2] " the circle of proportion " ; this is quite literal, it means, simply, " according to the scale."

PART IV.

SETS FORTH THE CIRCUMSTANCES WHICH SERVE OR NOT AS GROUND FOR EXCUSE[1] OR RESPONSIBILITY[2] AND WHICH NECESSITATE LIABILITY TO PUNISHMENT.

[1] " excuse." This means grounds which serve to excuse the offender from legal liability for his offence.

[2] " responsibility." This means the exact reverse of " excuse."

ART. 40.[1]—An offender who has not attained the age of puberty[2] is not liable to the punishments prescribed for[3] the offence which he has committed and if he is further not a person possessed of the power of discernment he is given up to his father, mother or relatives by being bound over in strong security. In case no strong security is produced by the father, mother or relatives he is put in prison for a suitable period through the instrumentality of the police for self reformation.

But if such offender who has not attained puberty[4] is murahiq[5] that is if he has committed that offence deliberately by distinguishing and discerning that the result of his action and deed will be an offence, if his offence is of the category of Jinayets calling for the punishments of death or perpetual[6] kyurek or confinement in a fortress or perpetual exile he is put in prison for a period of from five years to ten years for self reformation; and if it is an offence necessitating one of the punishments of temporary kyurek or temporary confinement in a fortress or temporary exile he is likewise put in prison for a period equal to from one-fourth up to one-third of the period of the punishment called for by his offence; and in both these cases he may be taken under police supervision for from five years to ten years; and if his offence necessitates the punishment of deprivation of civil rights he is similarly imprisoned for reformation for from six months to three years; and if his offence is one necessitating a punishment less severe than the punishments mentioned[7] he is similarly imprisoned for reformation for a definite period not exceeding one-third of such punishment.

ART. 40 NOTES.—[1] The effect of this Article is difficult to follow unless one is acquainted with the somewhat cumbrous method adopted in Ottoman jurisprudence for arriving at the legal status of juveniles.

The Mejellé thus defines the age of puberty.

Art. 985. The time of puberty is proved by the emission of seed in dreams and the power to make pregnant, and by the mensual discharge and power to become pregnant.

Art. 986. The beginning of the time of arrival at puberty is, for males, exactly twelve years of age, and, for females, exactly nine years, and the latest for both is exactly fifteen years of age.

And if a male, who has completed twelve, and a female who has completed nine, has not reached a state of puberty, until they reach a state of puberty, they are called "murahiq" and "murahiqa."

Art. 987. A person in whom the signs of puberty do not appear, when he has reached the latest time for arrival at puberty (Art. 986) is considered in law as arrived at the age of puberty.

The effect of Art. 40 may be thus summarized:

A. A child (in the case of a male under 12 years old and in the case of a female under 9 years old) is regarded as unable to distinguish between right and wrong and is punished for an offence by being bound over on suitable recognizances or failing recognizances by reformatory treatment in prison.

B. A child who is in the case of a male of 12 years but not of 15 years of age and in the case of a female of 9 years but not of 15 years old and who is not in a physical state of puberty is murahiq or murahiqa and it is then a question of fact whether or not such child has the capacity of distinguishing between right and wrong. Such a child having such capacity is punished for an offence by the mitigated penalties prescribed in the Article, such a child not having such capacity is punished for an offence as one falling under the category described in A above.

" Murahiqa " : feminine of " murahiq."

In the practical application of this Article a very important alteration has been effected by an Official letter emanating from the Ministry of Justice dated 7 Sefer, 1291 (26 March, 1874) of which the context is as follows :—

" Males and females who have not completed the age of 13 years shall be regarded as infants whilst offenders who are just over the age of 15 if their puberty cannot be established shall be deemed to be murahiqs with discernment."

The text of this Circular is given by Nicolaides, Ott Cod, pp. 2428 2429 and in Djiz-i-Kav, p. 929. For the Turkish text *vide* Qavanin-i jezaiyeh mejmuasi, p. 16.

The effect of this official instruction on Art. 40 is that all individuals who have not completed the age of 13 years whether they have in fact reached puberty or not are to be legally regarded as without the power of distinguishing between right and wrong, whilst individuals who although just over fifteen years of age are not proved to have reached puberty shall be regarded as murahiq or murahiqa with capacity of distinguishing between right and wrong

" Just over " means " who have not completed the age of."

The corresponding sections of the French Code Pénal may be compared.

Art. 66. " Lorsque l'accuse aura moins de seize ans s'il est decidé qu'il a agi *sans discernement* il sera acquitté · mais il sera selon les circonstances, remis a ses parents, ou conduit dans une maison de correction, pour y être eleve et detenu pendant tel nombre d'annees que le jugement determinera, et qui toutefois ne pourra excéder l'époque ou il aura accompli sa vingtieme annee."

Art 67. " S'il est decide qu'il a agi *avec discernement* les peines seront prononcées ainsi qu'il suit .—

" S'il a encouru la peine de mort, des travaux forces a perpetuité, de la deportation, il sera condamne a la peine de dix a vingt ans d'emprisonnement dans une maison de correction.

" S'il a encouru la peine des travaux forcés à temps, de la detention ou de la réclusion, il sera condamne a être renfermé dans une maison de correction, pour un temps égal au tiers au moins et a la moitie au plus de celui pour lequel il aurait pu être condamne à l'une de ces peines.

" Dans tous les cas, il pourra être mis, par l'arrêt ou le jugement, sous la surveillance de la haute police pendant cinq ans au moins et dix ans au plus.

" S'il a encouru la peine de la degradation civique ou du bannissement il sera condamne a être enferme, d'un an a cinq ans, dans une maison de correction."

Art. 68 " L'individu, âge de moins de seize ans, qui n aura pas de complices présents au-dessus de cet âge, et qui sera prevenu de crimes autres que ceux que la loi punit de la peine de mort, de celle des travaux forces a perpetuité, de la peine de la déportation ou de celle de la detention, sera juge par les tribunaux correctionnels qui se conformeront aux deux articles ci dessus "

Art. 69. "Dans tous les cas ou le mineur de seize ans n'aura commis qu'un simple delit, la peine qui sera prononcee contre lui ne pourra s'élever au dessus de la moitie de celle a laquelle il aurait pu être condamné s'il avait eu seize ans."

It is understood that there are no reformatory institutions as yet in the Ottoman Empire so that the practical utility of much of this article is nugatory.

[2] " puberty " : an Arabic word " bulugh " meaning " a reaching ; an attaining " ; hence " a reaching the age of puberty " and simply " puberty."

[3] " prescribed for " lit. " accruing to."

[4] " not attained puperty." The word " nabaligh " is used which is strictly the negative of " baligh " and means " not actually in a state of puberty "

[5] "murahiq" *vide* note 1 to this Article and further as follows :—

Murahiqs are divisible into two classes :

(*a*) Those who have the capacity of distinguishing between right and wrong.

(*b*) Those who have not. A murahiq of class (*a*) is dealt with as provided in the second part of Art. 40, *i.e.*, he suffers less severe punishments than those prescribed for adults.

A murahiq of class (*b*) is dealt with as if he had not reached the *age* of puberty.

Both of these propositions however must be qualified by the Official Circular of the 26 March, 1874, quoted above.

[6] "perpetual" ; this governs both kyurek and confinement in a fortress.

[7] "if the offence is one necessitating a punishment less severe than the punishments mentioned" lit. "if the offence is under (or 'short of') the punishments mentioned."

Art. 40 was recently (6 Jemazi'ul-Akhir, 1329=4 June, 1911) repealed and a new Article issued of which the text is as follows :—

Those who have not completed the age of thirteen years at the time of committing an offence are deemed to be devoid[1] of the power of discernment and are not responsible[2] for the offence they commit, but are given up to their parents or relative or guardian by judgment[3] of a Junha Court and by way of taking recognizance from them,[4] or they are sent to a reformatory for training or detention for a period not to extend beyond their[5] age of majority. If opportunity is afforded through negligence in care or supervision to children given up to their parents or relative or guardian by recognizance, to commit an offence before completing the age of fifteen years, a fine of from one Lira to one hundred Liras is taken from those charged with their care.

With regard to those who, at the time of committing an offence, have completed the age of thirteen years but have not finished the age of fifteen years punishment is ordered[7] with regard to them, on account of the offence committed by them, in manner following :—

If his offence is of the category of Jinayets calling for the punishments of death, perpetual kyurek or confinement in a fortress, or perpetual exile he is put in prison for self reformation for from five years to ten years ; and if it is an offence necessitating the punishments of temporary kyurek, temporary confinement in a fortress, or temporary exile he is likewise put in prison for self reformation for a period equal to[6] from one-fourth up to one-third of the period of the punishment called for by his offence, and in both these cases he may be taken under police supervision for from five years to seven years ; and if his offence necessitates the punishment of deprivation of civil rights he is likewise put in prison for self reformation for from six months to three years. If it[8] necessitates a punishment less severe than[9] the punishments mentioned he is likewise put in prison

for self reformation for a definite period not exceeding one-third of the period of that punishment. If it[8] calls for a fine, half of it[10] is deducted.

Those who, at the time of committing an offence, have finished the age of fifteen years but have not completed the age of eighteen years are put in prison for self reformation for from seven years to fifteen years in cases calling for the punishments of death or perpetual kyurek or perpetual confinement in a fortress or perpetual exile; and in cases calling for the punishments of temporary kyurek or temporary confinement in a fortress or temporary exile they are likewise put in prison for self reformation for from one-half to two-thirds of the period of the original punishment, and in both cases they may be taken under police supervision for from five years to ten years; and if the offence is one necessitating a punishment less severe than[9] the punishments mentioned, punishment of imprisonment is ordered[7] after deducting one-fourth of the original punishment.

To the new Article 40 the following notes may be added:—

[1] "devoid" or "destitute."

[2] "responsible," *i.e.*, "held responsible."

[3] "judgment" *i.e.*, "order."

[4] "them," *i.e.*, the parents, relative or guardian.

[5] "their" lit. "his," *i.e.*, of the offender.

[6] "equal to" lit. "as much as."

[7] "ordered" lit. "determined," or "prescribed."

[8] "it," *i.e.*, "the offence."

[9] "if the offence is one necessiting a punishment less severe than the punishments mentioned"; as in note 7 to original Art. 40.

[10] "it," *i.e.*, "the fine."

ART. 41.[1]—If it is proved that the offender was in a state of insanity at the time when he committed an offence he is held exempt from legal[2] punishment.

ART. 41 NOTES.—[1] Compare Art. 64 of the French Code Pénal. "Il n'y a ni crime ni délit, lorsque le prévenu était en état de démence au temps de l'action, ou lorsqu'il a été contraint par une force à laquelle il n'a pu rèsister."

[2] "legal": "prescribed by law."

ART. 42.[1]—If it is proved that a person has committed an offence under compulsion[2] without his own consent at all he is similarly held exempt from legal punishment[3]; provided that it is necessary that compulsion to be effective[4] in this connection must be a circumstance which would show according to the degrees of the offence such person to be altogether free from any sign of guilt and a necessity which he can not resist. Cases, such as the order of parents to their offspring and of the master to his servant, which arise from veneration and respect, are not deemed compulsion.

ART. 42 NOTES.—[1] Compare the latter part of Art. 64 of the French Code Pénal (*vide* Art. 41, note 1 above). The latter—the concluding—paragraph of Art. 42 is taken no doubt, from a decision of the French Cour de Cassation which reads " La crainte révérentielle des enfants envers leurs pères. l'obéissance qu'ils leur doivent, ne peuvent constituer la contrainte morale dont l'article 64 fait une cause de justification " (10 Dec., 1842).

[2] " compulsion " ; it here means " a state of constrained necessity."

[3] " legal punishment " *i.e.* " punishment prescribed by law."

[4] " to be effective " lit. " which is valid."

Art. 42 was amplified by an Addendum dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911) of which the text is as follows :—

An act committed under[1] the necessity of repulsing forthwith an unjust attack[2] taking place either on[3] one's own or another's person or honour and impossible to guard against is not deemed an offence.

Acts committed in self defence or for forthwith protecting saving or recovering one's property or properties found[4] in one's safe keeping, in the course of pillage or theft taking place with the exercise of force[5] or violence or at thefts causing a great loss to one to such an extent[6] as to impair one's free will and option[7] are not deemed an offence where the repulsion of the thieves or pillagers or the recovery of the property in other ways is not possible.

An act committed by way of carrying out the requirement of the law or an order emanating from a competent authority,[8] the putting in execution of which[9] is necessary by reason of duty, is not deemed an offence.

To this Addendum the following notes may be added :—

[1] " under " lit. " with."

[2] " attack " or " aggression."

[3] " on " lit. " to."

[4] " found," *i.e.*, " being."

[5] " force " or " compulsion."

[6] " extent " or " degree."

[7] " option " or " choice."

[8] " a competent authority " more literally ' the proper legal authority."

[9] " which," *i.e.*, the " requirement " or " order."

ART. 43.[1]—In legal punishments females do not differ from males but in the modes of carrying out certain punishments it becomes necessary to show regard to the peculiarity of their condition.[2]

ART. 43 NOTES.—[1] The Article means that no distinction is made between the punishments to which men and women may be sentenced except under the proviso.

[2] " peculiarity of their condition " ; " their " refers, of course, to females ; " peculiarity " would be more literally translated " speciality " and refers certainly to pregnancy and the regular bodily weaknesses of females. Reshad states that at the punishment of hanging a woman no part of her person is exposed ; and that a woman undergoing kyurek is not put into chains.

A lengthy Circular instruction dated 15 Sefer, 1297 (28 January, 1880), issued from the Ministry of Justice detailing the measures to be taken with female prisoners who are "confined" whilst undergoing punishment is given by Nicolaides, Ott. Cod., p. 2429.

ART. 44.—Stolen property is recovered[1] from the person in whose-soever hands it may be found but compensation and other expenses are absolutely awarded[2] against the perpetrator of such offence.

ART. 44 NOTES.—[1] "recovered" more literally "taken."
[2] "absolutely awarded" it means "awarded against in every case."

ART. 45.[1]—In cases where there is no explicitness[2] in the law[3] the joint perpetrators[4] in an offence[5] are punished as is a sole[6] perpetrator of such offence.

ART. 45 NOTES.—[1] Compare Art. 59 of the French Code Pénal. "Les complices d'un crime ou d'un délit seront punis de la même peine que les auteurs même de ce délit, sauf les cas où la loi en aurait disposé autrement."
[2] "no explicitness"; it means "no express provision."
[3] "law"; it means here the Penal Code.
[4] "joint perpetrators"; "co-perpetrators."
[5] "offence"; it is not limited as in the French Code to the first two graver categories of offence.
[6] "sole" more literally "absolute" or "independent."

Art. 45 was replaced by a new Article dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911) the text of which is as follows:—

If several persons unitedly commit a Jinayet or Junha or if a Jinayet or Junha is composed of several acts and each of a gang of persons perpetrates one or some of such acts with a view to[1] the accomplishment of the offence, such persons are styled accomplices[2] and all of them are punished as sole perpetrators.

Those who are accessories[3] in the commission of a Jinayet or Junha become subject to[4] punishment in the following manner where there is no explicitness in the law[5]:

There is awarded with regard to those who are accessories[3] the punishment of temporary kyurek for not less than ten years if the principal act calls for[6] the punishments of death or perpetual kyurek; and that of confinement in a fortress for a period of three years if it[7] calls for[6] the punishment of confinement in a fortress in perpetuity; and that of confinement in a fortress for a period of three years if it[7] calls for[6] the punishment of exile in perpetuity. In other cases as much as from one-sixth to one-third of the punishment prescribed for the principal Jinayet or Junha is deducted.

Those who by way of giving presents or money or making threats or using[8] fraud or device or exercising[9] influence or abusing the authority of office incite another person to commit a Jinayet or Junha, or who, being aware that a Jinayet or Junha is to be committed, give informations[10] serving the accomplishment thereof,[11] or who knowingly procure

arms or instruments or other means which will help the commission of a Jinayet or Junha, or who knowingly assist the principal perpetrator in acts which are the means[12] of preparing, facilitating or completing a Jinayet or Junha—are deemed accessories[3] in the commission of such Jinayet or Junha.

Those who being aware of the deeds and acts of criminal persons[13] who practice brigandage[14] or use force[15] or violence against the safety[16] of the Government or public tranquillity or the safety[16] of life and property[17] willingly provide[18] them[19] with eatables or place to sleep,[20] hide or assemble in are deemed accessories.[3]

Those who knowingly keep or conceal by them in whole or in part goods which have been obtained by way of theft or usurpation[21] or by the commission of a Jinayet or Junha are deemed accessories[3] in those acts.[22]

To the new Article 45 the following notes may be added :—

[1] " with a view to " lit. " with the object of."
[2] " accomplices " lit. " co-agents " or " associates in an act," " co-perpetrators."
[3] " accessories " lit. " secondary (or ' branch ') accomplices."
[4] " become subject to " or " suffer."
[5] " no explicitness in the law " (*vide* notes 2 and 3 to original Art. 45).
[6] " calls for " or " necessitates."
[7] " it," *i.e* , the principal act.
[8] " using " or " practising " : also " fabricating. '
[9] " exercising " lit. " bringing about.'
[10] " informations " or " explanations " lit. " descriptions "
[11] " thereof," *i.e.*, of the Jinayet or Junha.
[12] " means " lit. "cause."
[13] " criminal persons " lit. " men of offences."
[14] " brigandage " or " freebooting."
[15] " force " or " compulsion," " constraint."
[16] " safety " or " security."
[17] " life and property " lit. " persons and properties."
[18] " provide " lit. " give."
[19] " them," *i.e.*, the criminals.
[20] " sleep " lit. " lie down " or " go to bed."
[21] " usurpation,' *i.e.*, in the sense of " wrongful seizure."
[22] " those acts," *i.e.*, the acts of theft, usurpation, etc.

ART. 46.[1]—Persons who are partners[2] in an offence[3] are considered to be sureties for[4] each other, according to the principle as to security for property,[5] in matters of the restitution of stolen property and payment of compensation and other expenses ; and in the case of one of such not having ability[6] such are taken[7] and collected from him who has such ability.[8]

ART. 46 NOTES.—[1] This Article is taken from Art. 55 of the French Code Pénal. Art. 55. " Tous les individus condamnés pour un même crime ou un même délit seront tenus solidairement des amendes, des restitutions, des dommages-intérêts et des frais."

[2] "partners": "co-perpetrators": it refers to offences committed in common by more than one person.

[3] "offence": as in the preceding section the offence is not limited as it is in the French Code. The word in the Turkish text is "Jurm" which is a general word for offence.

[4] "sureties for" or "security for," it only means that they are all jointly and severally liable.

[5] "according to the principle as to security for property." The words "security for property" might also be translated "surety answerable for the value of a thing" or "surety for payment of money." The principles of the Ottoman law relating to suretyship are to be found in the Third Book of the Mejellé. "The Book about Suretyship" (*vide* Tyser, Demetriades and Haqqi's translation, p. 83).

[6] "ability," *i.e.*, "ability to pay."

[7] "taken"; it means "recovered."

[8] "from him who has such ability." Nicolaides quotes (Ott.Cod., pp. 2430, 2431) two Circulars of instruction issued from the Ministry of Justice dated 4 February, 1298 (16 February, 1881) and 6 Rejeb, 1302 (21 April, 1885) respectively in which is urged the rigid adherence to the provisions of this Article which prescribe that the whole of an amount ordered to be recovered or paid from or by co-perpetrators of an offence is exigible from any of the wrong-doers.

Art. 46 was repealed by new Art. 11 (*q.v.*, *suprâ*). A new Art. 46 was enacted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911) which repeals Art. 180 (*q.v.*, *infrâ*). The following is the text of the new Article:—

If a person having resolved[1] to commit a Jinayet has commenced the carrying out thereof by making use of the proper means therefor[2] but has not been able to complete the acts necessary for the accomplishment[3] of such[4] Jinayet owing to[5] the intervention of preventive causes not in his control[6] there is, where not expressly provided for by law,[12] awarded with regard to the offender[7] the punishment of temporary kyurek for not less than seven years if the said act calls for the punishments of death or perpertual kyurek; or the punishment of confinement in a fortress for likewise not less than seven years if it[8] calls for the punishment of perpetual confinement in a fortress; or likewise the punishment of confinement in a fortress for a period of three years in cases calling for[8] the punishment of exile in perpetuity. In other cases as much as from one-half to two-thirds of the punishment prescribed by law for such Jinayet is deducted.

In case the offender[7] desists of his own will from the acts for the carrying out of[9] the offence but the completed portion of the act forms an offence by itself he is only punished with the punishment assigned[10] to that portion.

If a person has completed all the acts for the carrying out of[9] the Jinayet resolved upon by him but that Jinayet has not been fulfilled[11] owing to[5] the intervention of p eventive causes not in his control[6] there is, where not expressly provided

for by law,[12] awarded with regard to the offender[7] the punishment of temporary kyurek for not less than ten years if the said act calls for the punishment of death or kyurek or confinement in a fortress[13] in perpetuity ; or the punishment of confinement in a fortress for likewise not less than ten years if it[8] calls for the punishment of perpetual confinement in a fortress ; or the punishment of confinement in a fortress for three years if it[8] calls for the punishment of exile in perpetuity. In other cases as much as from one-third to one-half of the punishment prescribed for such Jinayet is deducted.

The setting about to commit a Junha calls for punishment only where expressly provided by the law.

To the new Article the following notes may be added :—

[1] " resolved " lit. " firmly resolved upon."

[2] " by making use of the proper means thereof " lit. " by special (or ' proper ') means."

[3] " accomplishment " lit. " the coming about of."

[4] " such " lit. " that."

[5] " owing to " lit. " by."

[6] " in his control " lit. " in his power of choice."

[7] " offender " lit. " one who has set about to do (or ' begun ') a thing."

[8] " it," *i.e.*, the Jinayet if completed.

[9] " the acts for the carrying out of " lit. " the executive acts of the offence."

[10] " assigned " lit. " special."

[11] " been fulfilled " more literally " come into existence."

[12] " where not expressly provided for by law " lit. " in places where the law has not explicitness."

[13] The words " or confinement in a fortress " are doubtless a misprint in the Turkish text and should be struck out as the provision for the case in which the punishment of perpetual confinement in a fortress is the prescribed punishment affected by this part of the Article follows immediately below.

ART. 47.—The commutation[1] of the punishment of death to kyurek and of the punishment of kyurek to confinement in a fortress and of perpetual confinement in a fortress to perpetual exile and of temporary confinement in a fortress or imprisonment to temporary exile is absolutely dependent on a special Iradé[2] of His Majesty the Sultan[3] and unless there is a special Imperial Iradé as stated[4] or unless there is an explicit provision[5] in the Code[6] the pardoning or mitigating of a punishment in any way is not lawful.

ART. 47 NOTES.—[1] commutation " lit. " changing."

[2] " Iradé " : " a command of the Sultan in writing."

[3] It may here be observed that the Sultan has always possessed the power to pardon or commute all punishments except those definitely fixed by the Sher' law : with regard to express powers of pardon and commutation *vide* Heidborn, Vol II, p. 363. " L'article 7 de la Constitution Ottomane confère au Sultan le droit de mitiger les peines et de faire grâce, mais seulement pour les peines prévues par le Code Pénal " and also *ib.*, p. 378.

[4] " as stated " lit. " as written above."

[5] " an explicit provision " lit. " explicitness."

[6] " the Code " ; it means *this* Code.

Art. 47 was amended and re-issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

In case there exist hypothetical circumstances rendering a mitigation of punishment necessary in an offence, the punishment of death is commuted[2] to perpetual, or for not less than fifteen years temporary, kyurek ; that of perpetual kyurek to temporary kyurek or to not less than five years temporary confinement in a fortress ; and the punishment of temporary kyurek or perpetual confinement in a fortress to temporary confinement in a fortress.

If the offence calls for the punishment of perpetual exile, or temporary confinement in a fortress, or loss of civil rights, or deprivation of rank and office in perpetuity, the said punishment is commuted[2] to the punishment of imprisonment for not less than one year. If the offence is of the category of *Junha* the Court may pass sentence to the extent of the minimum of the correctional punishment.

To the new Article the following notes may be added :—

[1] " circumstances " lit. " causes " or " intermediary things."

[2] " commuted to " lit. " converted into."

CHAPTER FIRST

SETS FORTH THE JINAYETS AND JUNHAS OF WHICH THE INJURY IS GENERAL AND THE PUNISHMENTS PROVIDED THEREFOR.

PART I.

JINAYETS AND JUNHAS WHICH DISTURB THE EXTERNAL SECURITY OF THE IMPERIAL OTTOMAN GOVERNMENT.

PART 1 NOTES.—This Part and Part II (Jinayets and Junhas which disturb the internal security of the Imperial Ottoman Government) have been much altered from the form in which they first appeared in the Code. The French model upon which these two Parts were based is admitted by French commentators to be somewhat unsatisfactory.

First of all Arts. 62 and 63 were amended on 3 Jemazi'ul-Akhir, 1277 (17th December, 1860) by some additions dealing with highway robbers.

Secondly the events of the Russo-Turkish war in the seventies proved that the Ottoman Code was ill-adapted to cope with many phases of offence against which the existing law made little or inadequate provision. A long Circular of instruction was issued on 10 Muharrem, 1297 (24th December, 1879) from the Ministry of Justice which, whilst indicating by its advice that the Courts had found themselves in difficulties in fitting to obviously improper conduct any of the provisions of the Code relating to the disturbance of the external or internal security of the country, adumbrated, to remedy such defects in the law, fresh legislative measures. This circular is given in extenso in Nicolaides' Ott. Cod., pp. 2442, 2443. Accordingly on 1 Muharrem, 1298 (4th December, 1880) a number of important amendments appeared. Arts. 50, 51, and 53, under the heading "Articles of the Imperial Ottoman Penal Code necessary to be completed as regards Jinayets and Junhas disturbing its external security," and Arts. 55, 58, and 60, under the heading "Articles of the Imperial Ottoman Penal Code necessary to be completed as regards Jinayets and Junhas disturbing its internal security," were re-drafted and re-issued as amplified and amended, together with a lengthy "Supplement" to Part I under the heading "Matters to be appended and added to Part I of the Penal Code" (Destur, Zeyl, pp. 15-18).

Art. 58 was the subject of further alterations by addenda dated 19 Zilqadé, 1309 (14th June, 1892); 5 Shaban, 1321 (26th October, 1903); 2 Jemazi'ul-Evvel, 1324 (15th July, 1906); and 27 Sefer, 1326 (29th March, 1908).

Art. 66 was amended by an addendum dated 19 Zilqadé, 1309 (14th June, 1892).

Art. 55 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4th June, 1911) with an addendum of the same date.

Art. 63 and its addendum of 3 Jemazi'ul-Akhir, 1277, were repealed by the effect of the new Art. 45 dated 6 Jemazi'ul-Akhir, 1329 (4th June, 1911).

The result is rather a patchwork but the following short rough table may be of assistance to students:—

Part I.—Offences against external security.

Art. 48. Taking up arms with the enemy against the State.

Art. 49. Intriguing with the enemy to bring about war.

Art. 50 (Original). Surrender of places to the enemy.

Art. 50 (Modified). The same modernized and amplified.
Art. 51 (Original). Giving information to the enemy.
Art. 51 (Modified). Adds to Art. 51 tampering with the troops.
Art. 52. Betraying secret State, political, or military matters.
Art. 53 (Original). Giving maps of military value to the enemy.
Art. 53 (Modified). The same amplified.
Art. 54. Concealing spies.

SUPPLEMENT TO PART 1. Abstraction of territory; betaking oneself to a foreign Power; service, after war declared, with enemy; divulging or publishing secret matters; tampering with State documents concerning international relations; transacting State business prejudicially to the Government

Part II.—Offences against internal security.

Art. 55 (Original). Incitement to revolt.
Art. 55 (Modified). Attempts against H.I.M. the Sultan; incitement to revolt.
Art. 55 (New). Abuse of the Prophets; attempts on or abuse of H.I.M. the Sultan; incitement to revolt; attempt to upset the Constitution.
Art. 55. Addendum, 6 Jemuzi'ul-Akhir, 1329. Offences against envoys or Government officials of foreign powers; or against arms and flags.
Art. 56. Incitement to civil war or disorder.
Art. 57. Offences under Arts. 55 and 56 when undertaken by a band of persons.
Art. 58 (Original). A plot to carry out offences under Arts. 55 and 56.
Art. 58 (Modified). The punishments are somewhat altered.
Art. 58. Addendum, 19 Zilqadé, 1309. The making of lethal firearms or appliances for effecting the plans of a revolutionary party.
Art. 58. Addendum, 5 Shaban, 1321. The importation or manufacture of dynamite.
Art. 58. Addendum, 2 Jemazi'ul-Evvel, 1324. Repeals the previous addendum and re-enacts it in a more elaborate form
Art. 58. Addendum, 27 Sefer, 1326. Deals with those who abet offenders against provisions of the previous addendum of 2 Jemazi'ul-Evvel, 1324.
Art. 59. Unauthorized assumption or throwing up of military or civil commands.
Art. 60 (Original). Hampering recruiting.
Art. 60 (Modified). Addition to Art. 60 of inciting troops to revolt.
Art. 61. Arson of State property.
Art 62 Deals with bands of raiders or brigands.
Art. 62. Addendum. Deals with highway-robbers.
Art. 63. Deals with the organizers and supporters of the bands referred to in Art. 62 (repealed by New Art. 45).
Art. 63. Addendum. Deals with harbourers of highwaymen (ditto)
Art. 64. Deals with the rank and file of bands of raiders and brigands who disperse on order of the authorities.
Art. 65. Deals with members of bands of raiders or brigands who denounce their accomplices.
Art. 66. Deals with those who incite others to commit any of the offences in Part II.
Art. 66. Addendum. Deals with those who keep or conceal inflammatory revolutionary documents.

ART. 48.[1]—Any person, whoever he may be, from amongst the subjects of the Imperial Ottoman Government who takes up[2] arms[3] together with the enemies of the Ottoman Empire against it is put to death.

ART. 48 NOTES.—[1] Compare Art. 75 of the French Code Pénal. "Tout Francais qui aura porté les armes contre la France sera puni de mort."
[2] "takes up" lit. "holds," or "bears."

[3] "arms." An Arabic word *Silah* (plural "esliha") meaning "weapons." The Arabic word includes fire-arms and weapons for cutting or stabbing such as swords, daggers, lances and the like: it would not include a pocket-knife, an ordinary walking stick, a shepherd's crook, or strictly even a policeman's bâton or a club; it is perhaps unfortunate that in the Ottoman Penal Code there is not so exact a definition as there is in the French but the word "Silah" is, to a Turk, perfectly clear and explicit in itself. The French definition is contained in Art. 101 of the French Code Pénal and is as follows:—"Sont compris dans le mot *armes* toutes machines, tous instruments ou ustensils tranchants, perçants ou contondants. Les couteaux et ciseaux de poche, les cannes simples, ne seront rêputés armes qu'autant qu'il en aura été fait usage pour tuer blesser ou frapper."

ART. 49.[1]—Any person from amongst the subjects of the Imperial Ottoman Government who attempts[2] either to carry on communications or intrigues[3] with foreign States or their agents[4] in order to incite or instigate foreign States to make hostile movements or war and combat or in order[5] to procure for them the means and way of their making hostile movements or war against the Imperial Ottoman Government is similarly put to death whether or not such seditious[6] acts of his end in the taking place of hostile movements.

ART. 49 NOTES.—[1] Compare Art. 76 of the French Code Pénal. "Quiconque aura pratiqué des machinations ou entretenu des intelligences avec les puissances étrangères ou leurs agents pour les engager à commettre des hostilités ou à entreprendre la guerre contre la France ou pour leur en procurer les moyens, sera puni de mort. Cette disposition aura lieu dans le cas même où les dites machinations ou intelligences n'auraient pas été suivies d'hostilités."

[2] "attempts" or "dares."

[3] "intrigues": the word in the Turkish text is "fesad." an Arabic word with a broad meaning including "sedition." "plot," "conspiracy," "mischief," "fraud," "depravity," "corruption," "riot," "disorder," "disturbance," "trouble," or, in fact, any state or act which is not good. This Arabic expression occurs in one or another form (as a substantive, adjective, or verbal noun—or as a verb as in the present instance—assisted by auxiliary verbs, words or affixes marking different notions or relations—in Arts. 49, 56, 57, 58 (old and new), the addenda Nos. 1, 2 and 3 to Art. 58, Arts 62 (new), 63, 64, the addendum to Art. 66, Arts. 83, 88 and 93, in the heading of Part X of Chap. II, and in Art. 136 (old and new).

[4] "agents" lit. "officers" or "employés."

[5] "in order" these words are inserted in the translation for clarity.

[6] "seditious" this is the word "fesad" with adjectival suffix (*vide* note 3 above).

ART. 50.[1]—Whosoever from amongst the subjects of the Imperial Ottoman Government communicates,[2] intrigues or plots with the enemies of the Imperial Ottoman Government in order to facilitate the entrance of its enemies into the Ottoman dominions; or to deliver to the enemy a city, fortress, fortified places, harbour, store house, dock-yard, or vessel of the Ottoman Empire; or to aid the enemy by giving troops, money, provisions, arms or ammunition; or, either by disturbing the loyalty or discipline of the troops

of the Ottoman Government or in some other way, to serve or help the trespass on or invasion of the Ottoman dominions by or the defeat of the troops of the Ottoman Government by the enemy's army is likewise put to death.

ART. 50 NOTES.—[1] Compare Art. 77 of the French Code Pénal. "Sera également puni de mort, quiconque aura pratiqué des manœuvres ou entretenu des intelligences avec les ennemis de l'Etat, à l'effet de faciliter leur entrée sur le territoire et dépendances du Royaume ou de leur livrer des villes, forteresses, places, postes, ports, magasins, arsenaux, vaisseaux ou bâtiments appartenant à la France ou de fournir aux ennemis des secours en soldats, hommes, argent, vivres, armes ou munitions, ou de seconder les progrès de leur armes sur les possessions ou contre les forces françaises de terre ou de mer, soit en ébranlant la fidélité des officiers, soldats, matelots ou autres, envers le Roi et l'Etat, soit de toute autre manière."

[2] "communicates" or "corresponds."

Art. 50 was repealed and re-issued on 1 Muharrem, 1298 (4 December, 1880) of which the text is as follows:—

Whosoever[1] from amongst the subjects of the Imperial Ottoman Government facilitates the entrance of the enemies of the Imperial Ottoman Government into the Ottoman dominions; or delivers or becomes the cause of delivering to the enemy a city, fortress, fortified places, harbour, storehouse, dock-yard, powder-magazine, workshops or manufactories for military[2] necessaries, war-vessels of the Ottoman Government or military officers or men of the Imperial Ottoman Government; or, for the benefit of the enemy, destroys or reduces such[3] or its[4] bridges or railways to such a state as not to be capable of being used; or aids the enemy by giving[5] troops, money, provisions, arms or ammunition; or either by disturbing the loyalty or discipline of the troops[6] of the Imperial Ottoman Government or in some other way serves or helps the trespass on or invasion of the Ottoman dominions by or the defeat of the troops of the Imperial Ottoman Government by the enemy's army; or communicates,[7] intrigues or plots with the enemies in order to commit a Jinayet is likewise put to death.

To the new Article may be added the following notes:—

[1] *Vide* note 1 to Part I *supra*.

[2] "military" lit. "warlike."

[3] "such" lit. "these (things)."

[4] "its," *i.e.*, of the Imperial Ottoman Government

[5] "giving," *i.e.*, "furnishing it with."

[6] "troops" lit "bodies of troops," *i.e.*, military forces.

[7] "communicates" or "corresponds."

ART. 51.[1]—If the communications held with the subjects of a hostile Government[2] do not comprise the Jinayets set forth in the above Article but give the result of some information productive of injury being imparted to the enemy

with regard to the military or civil conditions[3] of the Imperial Ottoman Government or of its allies the person who has held such communication is confined in a fortress temporarily according to the gravity[4] of his guilt; and if in the imparting of such information an act of espionage, that is to say the purpose of making known to the enemy the war measures of the Imperial Ottoman Government, is proved[5] the person who has dared[6] to do this is temporarily placed in kyurek according to the gravity[4] of his Jinayet; and if this action[7] takes place in the armies[8] the putting to death of the guilty person pursuant to the military[9] laws becomes also permissible.[10]

ART. 51 NOTES.—[1] Compare Arts. 78 and 79 of the French Code Pénal. Art. 78. "Si la correspondance avec les sujets d'une puissance ennemie, sans avoir pour objet l'un des crimes énoncés en l'article précédent, a néanmoins eu pour résultat de fournir aux ennemis des instructions nuisibles à la situation militaire ou politique de la France ou de ses alliés, ceux qui auront entretenu cette correspondance seront punis de la détention, sans préjudice de plus forte peine, dans le cas où ces instructions auraient été la suite d'un concert constituant un fait d'espionnage."

Art. 79. "Les peines exprimées aux articles 76 et 77 seront les mêmes, soit que les machinations ou manœuvres énoncées en ces articles aient été commises envers la France, soit qu'elles l'aient été envers les alliés de la France, agissant contre l'ennemi commun."

[2] "Government" or "Power," "State."

[3] "conditions" or "circumstances."

[4] "gravity" lit. "degree."

[5] "proved" lit. "becomes manifest."

[6] "dared" or "ventured."

[7] "this action"; these words do not refer only to a case in which an act of espionage is discovered but to all the offences mentioned in the Article.

[8] "in the armies." Nicolaides translates this "ἐν τῷ στρατοπέδῳ." The French rendering is "dans les armées." The phrase also means "in the camps" or "in the localties of war," and probably would be held applicable to combatants and non-combatants alike.

[9] "military" or "martial."

[10] "permissible" or "lawful."

Art. 51 was repealed and re-issued on 1 Muharrem, 1298 (4 December, 1880). The text of the re-issued Article is as follows:—

[1] If the communications held with the subjects of a hostile Government[2] do not comprise the Jinayets set forth in the above Article but give the result of some information productive of injury being imparted to the enemy concerning the military or civil conditions[3] of the Imperial Ottoman Government or of its allies the person who holds such communication is confined in a fortress temporarily according to the gravity[4] of his guilt; and if in the imparting of such information an act of espionage, that is to say the purpose of making known to the enemy the war measures of the Imperial Ottoman Government is proved[5] the person who has dared[6] to do this

is temporarily placed in kyurek according to the gravity[4] of his Jinayet; and if this action[7] takes place in the armies[8] the putting to death of the guilty person pursuant to the military[9] laws becomes also permissible; and those who make military officers and men run over to the enemy's side, or seduce the troops of the Imperial Ottoman Government in order to pass over to the enemy's side, are put in kyurek in perpetuity.

To the above modified Article the following notes may be added :—

[1] Only the last paragraph is really different from the original Article.

Notes 2, 3, 4, 5, 6, 7, 8, and 9 to the original Art. 51 also apply to the above new Article (51) as shown by corresponding numbers.

ART. 52.[1]—Whoever from amongst the officials or servants of the State[2] or other persons being cognizant by reason of his office or officially of the secrets of a confidential[3] conference[4] relative to important political affairs of the Imperial Ottoman Government or of its resolve as to a concealed and secret military movement discloses the same to the officials of a foreign or hostile Government[5] directly or indirectly, without being charged or authorized by the Government[6] to do so, is put to death.

ART. 52 NOTES.—[1] Compare Art. 80 of the French Code Pénal. "Sera puni des peines exprimés en l'article 76 tout fonctionnaire public, tout agent du Gouvernement, ou toute autre personne qui, chargée ou instruite officiellement, ou à raison de son état, du secret d'une négociation ou d'une expédition, l'aura livré aux agents d'une puissance étrangère ou de l'ennemi."

[2] "the State" it means of course "the Imperial Ottoman State."

[3] "Confidential." The word in the Turkish is "Khafi" which means "private" "secret," "clandestine."

[4] "conference" or "conversation," "deliberation."

[5] "Government" or "State," "Power."

[6] "Government," *i.e.*, "the Imperial Ottoman Government."

ART. 53.[1]—Whoever from amongst the officials of the Imperial Ottoman Government gives to the enemy or to agents of the enemy the drawings or maps[2] of the fortifications, dock-yards, or harbours belonging to the Imperial Ottoman Government, or but one of them, which have been specially entrusted to him[4] by reason of his office, is placed in kyurek for from three years to fifteen years; and, if he gives such drawings or plans to the agents of a friendly or neutral State without the authority of the Government[5] he is imprisoned for from one year to three years.

ART. 53 NOTES.—[1] Compare Art. 81 of the French Code Pénal. "Tout fonctionnaire public, tout agent, tout préposé du Gouvernement, chargé, à raison de ses fonctions, du dêpot des plans des fortifications, arsenaux ports ou rades, qui aura livré ces plans ou l'un de ces plans à l'ennemi ou aux agents de l'ennemi, sera puni de mort.

"Il sera puni de détention. s'il a livré ces plans aux agents d'un puissance étrangère neutre ou alliée."

[2] "maps" the word in the Turkish text is "kharita" which means "map," "plan," or "ground plan."

[3] "them," *i.e*, such drawings or maps.

[4] "specially entrusted to him" the words in the Turkish text may also be read as "entrusted to him for himself" or "entrusted to him for his own use."

[5] "Government," *i.e.*, of course, the Imperial Ottoman Government.

Art. 53 was repealed and re-issued on 1 Muharrem, 1298 (4 December, 1880). The text of the re-issued Article is as follows :—

ART. 53.[1]—Whoever from amongst the officials of the Imperial Ottoman Government gives to the enemy or to agents of the enemy, the drawings or maps[2] of the fortifications, dockyards, or harbours belonging to the Imperial Ottoman Government, or plans relative to strategic movements, military dispositions, fortresses or fortifications or but one of them,[3] which have been specially entrusted to him[4] by reason of his office, is placed in kyurek for from three years to fifteen years; and, if he gives such drawings or maps[5] to the agents of a friendly or neutral State without authority of the Government he is imprisoned for from one year to three years.

To the modified Article the following notes may be added :—

[1] There is only a small modification introduced in the re-issued Article.

[2] For 2, 3, and 4 *vide* the notes with corresponding numbers in the original Article.

[5] The word "plans" seems to have been accidentally omitted in the Turkish text.

[6] "Government" (*vide* note 5 to original Article).

ART. 54.[1]—Whoever from amongst the subjects of His Imperial Majesty the Sultan hides or conceals or causes to be hidden or concealed the spies who have been sent by the enemy for the purpose of discovering and ascertaining matters[2] knowing that they are spies is placed in kyurek in perpetuity.

ART. 54 NOTES.—[1] Compare Art. 83 of the French Code Pénal. "Quiconque aura recélé ou aura fait recéler les espions ou les soldats ennemis envoyés à la découverte et qu'il aura connus pour tels, sera condamné à la peine de mort."

[2] "matters" or "the state of things," "the circumstances," "the state of affairs."

Matters to be appended and added to Part I of the Penal Code.[1]

Persons attempting[2] to cause a piece or a part of the Imperial Ottoman dominions or one of the privileged[3] Vilayets[4] thereof to be forcibly annexed in whole or in part to some other privileged Vilayet or generally to detach[5] from the administration of the Government[6] a piece of the Imperial Ottoman dominions are put to death, and if there appear circumstances helping a mitigation of punishment[7] they are confined in a fortress temporarily for not under five years.

The person who, being an Ottoman subject, betakes himself to a foreign Power[8] with intent to provoke[9] war against the Imperial Ottoman Government is put in kyurek temporarily for not under five years and if such action[10] leads to[11] the breaking out of the war then[12] in perpetuity.

If an Ottoman employed in the military[13] services of a foreign Power[8] before the declaration of war remains in the military[13] force of the enemy after the declaration of war he is put in kyurek temporarily.

The punishment prescribed for the Jinayets and Junhas mentioned and set forth in this Part[14] also applies to[15] foreigners who dare them[16]; and foreign subjects who commit these Jinayets and Junhas during war are also sentenced[17] and dealt with in accordance with the rules and usage of war.[18]

Those who being cognizant of important matters, decided to be kept secret from other Powers[8] in the interests of the Imperial Ottoman Government, or of similar official and essential[19] information[20] communicate the same[21] to one of the officials of the said Powers or divulge[22] and advertise the same to the public; those who by destroying, altering or counterfeiting the documents[23] or conventions of the Imperial Ottoman Government comprising its rights and relations with other Governments impair the said rights are put in prison for not less than two years.

Those who, by accord with the officials of the enemy, intentionally[24] put in a form injurious[25] to the State[26] a business[27] with the performance of which they are charged by the Imperial Ottoman Government are put in kyurek for three years and in the case of there being[28] extenuating circumstances punishment of six months' imprisonment is awarded.

ADDENDUM TO PART I NOTES.—[1] This is a sort of supplement to Part I promulgated 1 Muharrem, 1298 (4 December, 1880). The Turkish text is to be found in the Destur, Zeyl, pp. 17 and 18; the French rendering is given in Young, Corps de Droit Ott., VII, p. 11; a Greek translation in Nicolaides Ott. Cod., pp. 2436, 2437.

The translation given here is of course, as is the case throughout this work, from the original Turkish text. The punishments are certainly not severe.

[2] "attempting" lit. "setting to work at"; the meaning of the expression is indicated in the last paragraph of Art. 55 of 1 Muharrem, 1298.

[3] "privileged": it means "independently governed," *i.e.*, more or less autonomous. Nicolaides translates "προνομιοῦχος" and the French rendering is "une des provinces privilégiées," *e.g.*, Lebanon, Crete.

[4] "vilayets"; "provinces."

[5] "detach" lit. "to take out of."

[6] "Government," *i.e.*, the Imperial Ottoman Government.

[7] "circumstances helping a mitigation of punishment," *i.e.*, "mitigating circumstances."

[8] "Power" or "State."
[9] "provoke" lit. "to afford cause for."
[10] "and if such action" lit. "and if this betaking himself to."
[11] "leads to" lit. "ends in."
[12] "then"; this is not, but is understood, in the Turkish text.
[13] "military" lit. "war."
[14] "this Part," *i.e.*, Part I.
[15] "applies to" or "extends to."
[16] "dare them," *i.e.*, "dare to commit these offences."
[17] "sentenced" or "adjudged."
[18] "the rules and usage of war" Nicolaides translates "*κατὰ τὸν στρατιωτικὸν νόμον*," the French rendering is "selon l'usage de guerre."
[19] "essential" lit. "fundamental."
[20] "information" or "knowledge" or "intelligence."
[21] "communicate the same" lit. "give information."
[22] "divulge" lit. "" publish" or promulgate."
[23] "documents" or "instruments," "deeds."
[24] "intentionally" or "purposely."
[25] "injurious" or "prejudicial."
[26] "the State," *i.e.*, the Imperial Ottoman State.
[27] "a business" or "an affair."
[28] "being" or "existing."

PART II.

JINAYETS AND JUNHAS WHICH DISTURB THE INTERNAL SECURITY OF THE IMPERIAL OTTOMAN GOVERNMENT.

ART. 55.[1]—Whoever personally or indirectly[2] incites the subjects of the Imperial Ottoman Government or the inhabitants of the Ottoman dominions in order to make them to revolt in arms against the Ottoman Government is, if the matter[3] of revolt which was his intention comes to effect entirely or the carrying out of the matter of the revolt shall have been commenced, put to death.

ART. 55 NOTES.—[1] Parts of the contents of Art. 55 are taken from several Articles of the French Code Pénal.

Part of Art. 86 runs :—

"L'attentat contre la vie ou contre la personne du Roi est puni de la peine du parricide" (Execution with humiliating circumstances, *i.e.*, bare-footed, clothed in a shirt, a public reading on the scaffold of his offence, etc., *vide* Art. 13). (Loi. 28 Avril, 1832.)

Arts. 87 and 88 run :—

Art. 87. "L'attentat dont le but sera soit de détruire, soit de changer le Gouvernement ou l'ordre de successibilité au trône, soit d'exciter les citoyens ou habitants à s'armer contre l'autorité royale, sera puni de mort." (Même loi).

Art. 88. "L'exécution ou la tentative constitueront seules l'attentat." (Même loi).

The French Articles have since 1832 been very materially altered.

[2] "indirectly" lit. "through some medium."

[3] "matter": as in note 7 to modified Article.

Art. 55 was modified on 1 Muharrem, 1298 (4 December, 1880). The text of the modified Article is as follows:—

[1] The person whose evil intent[2] against[3] His Majesty the Sultan becomes established[4] or who attempts to carry it out is put to death.

Whoever personally or indirectly[6] incites the subjects of the Imperial Ottoman Government or the inhabitants of the Ottoman dominions in order to make them to revolt in arms against His Majesty the Sultan or the Ottoman Government is, if the matter[7] of the revolt which was his intention[8] comes to effect entirely or the carrying out of the matter[9] of the revolt shall have been commenced, put to death.

The person whose daring to assault[10] actually, but not in the degree of evil intent,[11] His Majesty the Sultan is established[4] is confined in a fortress in perpetuity or if the assault is in a light form[12] temporarily for not less than five years.

The person whose daring to malign[13] His Majesty the Sultan becomes established[4] is imprisoned for from three months to three years.

The person whose attempt[14] at altering, changing or destroying the system of succession or shape or form of the Ottoman Government is established[4] is put to death.

To begin the carrying into effect of the Jinayet resolved upon is an attempt.

To the modified Article the following notes may be added:—

[1] It will be observed that the modified Article is very much broader than the old one.

[2] "evil intent" or "malice aforethought": it means "a design to kill or injure." Nicolaides translates "ὁ ἐπιβουλεύων" (he who has designs against).

[3] "against" lit. "to."

[4] "established," *i.e.*, "proved."

[5] "attempts" lit. "sets to work" or "begins": the meaning is defined in the last paragraph of the Article.

[6] "indirectly" as in note 2 to the original Article.

[7] "matter"; this word in the Turkish text is "qazié" which corresponds to the French "question," "proposition," "événement," "affair," "cas." The passage might be freely translated "if the revolt designed by him is effectively carried out." Nicolaides translates the passage "ἐὰν ἡ πρόθεσις αὐτοῦ, δηλαδὴ ἡ ἐπανάστασις πραγματοποιηθῇ ἐντελῶς" and the French rendering is "a été suivi d'effet."

[8] "intention" or "object," "design."

[9] "matter"; the word here is "maddé." It is literally translated.

[10] "assault" lit. "exercise power over," "domineer over."

[11] "not in the degree of evil intent," *i.e.*, not with so serious a design as to kill or injure. Nicolaides translates "ἄνευ ὅμως ἐπιβουλῆς."

[12] "in a light form," *i.e.*, trifling.

[13] "malign" lit. "give loose rein to the tongue."

[14] "attempt" (*vide* note 5 above).

Art. 55 as modified was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

Those whose daring to use infamous language publicly against the great prophets is established[1] are imprisoned for from one year to three years.

The person who has an evil intent[2] on the life of His Majesty the Sultan or attempts to carry out this evil intent is put to death.

The person who attacks the Imperial person is put to kyurek temporarily. Whosoever personally or indirectly[3] incites the subjects of the Imperial Ottoman Government or the inhabitants of the Ottoman dominions in order to make them to revolt in arms against His Majesty the Sultan or the Ottoman Government is, if the matter[4] of revolt which was his intention comes to effect, put to death, or, if the carrying out of the matter[4] of the revolt shall have been commenced, punished with the punishment of confinement in a fortress for not less than ten years.

The person whose venturing[5] to malign[6] publicly His Majesty the Sultan is established[1] is imprisoned for from three months to three years.

The person whose forcible attempt to alter, change or destroy the Constitution, or the shape or form of the Government, or the system of succession of the Ottoman Empire is put to death.

To the new Article the following notes may be added :—

[1] "established"; as in note 4 to modified Art. 55.

[2] "evil intent"; as in note 2 to modified Art. 55.

[3] "indirectly"; as in note 2 to original Art. 55.

[4] "matter"; as in note 7 to modified Art. 55.

[5] "venturing" or "audacity."

[6] "malign"; as in note 13 to modified Art. 55.

Art. 55 (new) was amplified by an addendum issued simultaneously with the new Article, *i.e.*, on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of this addendum is as follows :—

On whomsoever[1] commits an offence against one of the heads of Government of friendly Powers the punishment assigned[2] to that offence by law is increased by as much as one-third.

When acts take place the taking[3] of criminal proceedings on which depends on a complaint in writing[4] of the victim,[5] the presenting[6] formally of a complaint in writing[4] by the Government of the foreign Power is necessary.

If an offence is committed against foreign envoys accredited to the Imperial Ottoman Court, the punishment assigned[2]

to that offence is increased by as much as one-sixth. If such[7] offence is of the nature of an insult, the taking of proceedings depends on a complaint of the victim.[8]

Whosoever, with intent to insult, tears, destroys, or otherwise[9] dishonours the officially hoisted flag or tughra[10] or coat-of-arms of the Imperial Ottoman Government or of friendly Powers is punished with imprisonment for from six months to three years.

To the above addendum the following notes may be added :—

1 "on whomsoever" lit. "whosoever."

2 "assigned" lit. "special."

3 "taking" lit. "running," "occurring," or "happening."

4 "complaint in writing" lit. "letter of complaint."

5 "victim" lit. "person against whom the attack is made."

6 "presenting" lit. "giving" or "delivering."

7 "such" lit. "the said."

8 "victim" lit. "person aggressed against."

9 "otherwise" lit. "in other ways"

10 "tughra" (*vide* note 6 to Art. 16).

ART. 56.[1]—Whosoever dares, by making the people[2] of the Ottoman dominions arm themselves against each other, to instigate or incite them[3] to engage in mutual slaughter,[4] or[5] to bring about[6] acts of rapine, pillage, devastation of country or homicide[7] in divers[8] places is, if the matter of[9] disorder[10] comes into effect entirely or if a commencement of the matter of[9] the disorder[10] has been made, likewise put to death.

ART. 56 NOTES.—[1] Compare Art. 91 of the French Code Pénal. "L'attentat dont le but sera, soit d'exciter la guerre civile en armant ou en portant les citoyens ou habitants à s'armer les uns contre les autres, soit de porter la dévastation, le massacre et le pillage dans une ou plusieurs communes, sera puni de mort. Le complot ayant pour but l'un des crimes prévus au présent article, et la proposition de former ce complot, seront puni des peines portées en l'article 89. suivant les distinctions qui y sont établies." (Loi 28 Avril, 1832.)

Art. 89, quoted in Art. 91, is given below in note 1 to Art. 58 of the Ottoman Code (*q.v.*)

2 "people" or "inhabitants."

3 "them," *i.e.*, the people.

4 "mutual slaughter" or "mortal combat." Nicolaides gives "ἐμφύλιος πόλεμος." The sense is clear.

5 "or"; one must here read in "dares."

6 "bring about": also "cause," "commit."

7 "homicide" lit. "killing of persons." The Turkish text here implies the meaning of intentional homicide. The word "murder" would perhaps serve though purposely avoided in the translation on account of its technical meaning in English legal phraseology. Nicolaides uses "φόνος" and in the French rendering the word is left out.

8 "divers" lit. "some," "certain." The phrase is omitted by Nicolaides and in the French rendering it reads "dans un ou plusieurs endroits." It means "any."

9 "matter of" (*vide* note 7 to modified Art. 55 which applies here so far as the meaning of the passage is concerned).

10 "disorder" or "sedition." The Turkish word is "fesad" (*vide* note 3 to Art. 49).

ART. 57.[1]—If a gang of ruffians[2] jointly carry out or attempt to carry out any of the riotous acts[3] set forth[4] in the above written Arts. 55 and 56 those from among the persons included in such band of ruffians[5] who are the actual[6] chief ruffians or the agitators of disturbance[7] are put to death wherever they are caught; and such from among the others who are taken and seized at the place of the Jinayet are placed in kyurek perpetually or temporarily according to the degree of their Jinayet or[8] complicity in the matter[9] of the disorder[10] which[11] may become manifest.

ART. 57 NOTES.—[1] Nicolaides, Ott. Cod., p .2438 quotes at length a Circular of Instruction dated 27 Muharrem, 1298 (30 December, 1880) in which, owing to the increase of brigandage (*λησταία*), it was directed that alleged highway robbers, when seized by the executive authorities, and brought before the Courts should, even if there was no direct evidence against them but only suspicion, not be released but must be remanded until every possible enquiry had been made concerning them by the police and executive powers.

The Article may be compared with Art. 97 of the French Code Pénal. "Dans le cas où l'un ou plusieurs des crimes mentionnés aux articles 86, 87, et 91 auront été exécutés ou simplement tentés par une bande, la peine de mort sera appliquée, sans distinction de grades. à tous les individus faisant partie de la bande et qui auront été saisis sur le lieu de la réunion séditieuse. Sera puni des même peines, quoique non saisi sur le lieu, quiconque aura dirigé la sédition, ou aura exercé dans la bande un emploi ou commandement quelconque" For Arts. 86 and 87 see note 1 to Art. 55 and for Art. 91 see note 1 to Art. 56.

[2] "gang of ruffians" or "party of brigands," "band of bandits." The words "brigands" or "bandits" are, however, in English more applicable in Arts. 62 and 63 and their addenda. Nicolaides translates the phrase "*συμμορία ληστῶν*" and the French rendering is the same as in the French Code "une bande"; indeed a "band," simply is so commonly used now-a-days in the newspapers to describe the perpetrators of frontier exploits that it is alone quite a good equivalent.

[3] "riotous acts" or "seditious acts." The Turkish word is "fesad" (*vide* note 3 to Art. 49).

[4] "set forth" or "stated."

[5] "band of ruffians" lit. "band (or 'company') of ruffianism."

[6] "actual" or "real."

[7] "chief ruffians or the agitators of disturbance" lit. "chief of brigands and (or "or") the agitators of mischief." The word "chief" only applies to "ruffians" and not to "agitators." The word translated "disturbance" ("mischief") is "mefsedet" in the Turkish text. It is the same as in note 3 to Art. 49 Nicolaides translates this passage, "*οἱ ἀρχηγοὶ καὶ οἱ πρὸς τὴν διατάραξιν προτρέψαντες*" and the French rendering is "qui auront dirigé ou excité."

[8] "or"; one must here read in "according to the degree in their." The French rendering leaves the Turkish original but the translation of the passage by Nicolaides is a masterly paraphrase "*ἀναλόγως τῶν βαθμῶν τοῦ ἀποδειχθησομένου ἐγκλήματος καὶ τῆς ἐποχῆς αὐτῶν ἐν ταῖς γενομέναις ταραχαῖς.*"

[9] "matter"; as in note 9 to modified Art. 55.

[10] "disorder"; the Turkish word is "fesad" (*vide* note 3 to Art. 49).

[11] "which" refers to "Jinayet or complicity."

ART. 58.[1]—Where a conspiracy[2] is formed amongst some persons with the design of carrying out[3] one of the riotous acts[4] set forth in Arts. 55 and 56 and apart from[5] the

deliberation[6] and decision[7] for the carrying out[3] of the riotous act[4] resolved upon in such conspiracy some acts or measures for preparing the means of carrying it out[3] have been also begun[8] the persons included in[9] such conspiracy[10] are punished with the punishment of perpetual exile if the matter of[11] sedition[12] has not yet come to the stage of actually carrying out[3]; and if no act or measure for preparing the means of the carrying out of the riotous act[4] as aforesaid is proved[13] to have been attempted[14] in any such conspiracy[2] and all that has taken place consists only of a deliberation[6] and decision[7] for carrying it out,[3] in that case the persons included[9] in the conspiracy[10] are temporarily confined in a fortress; and again if a proposal has taken place as to forming a conspiracy[2] for the purpose of carrying out[3] one of the riotous acts[4] set forth in the two Articles above mentioned and it has not been accepted[15] the person making that proposal is imprisoned for from one year to three years.

ART. 58 NOTES.—[1] Compare Art. 89 and the latter part of Art. 91 of the French Code Pénal. Art. 89. "Le complot ayant pour but les crimes mentionnés aux articles 86 et 87 s'il a été suivi d'un acte, commis ou commencé pour en préparer l'exécution, sera puni de la déportation.

"S'il n'a été suivi d'aucun acte commis ou commencé pour en préparer l'exécution la peine sera celle de la détention. Il y a complot dès que la résolution d'agir est concertée et arrêtée entre deux ou plusieurs personnes.

"S'il y a eu proposition faite et non agréé de former un complot pour arriver aux crimes mentionnés dans les articles 86 et 87, celui qui aura fait une telle proposition sera puni d'un emprisonnement d'un an à cinq ans. Le coupable pourra de plus être interdit, en tout ou en partie, des droits mentionnés en l'article 42." (For the text of Arts. 86 and 87 of the French Code *vide* note 1 to Art. 55 and for Art. 42 *vide* note 1 to Art. 38.)

And the latter part of Art. 91:—"Le complot ayant pour but l'un des crimes prévus au présent article, et la proposition de former ce complot, seront punis des peines portées en l'article 89, suivant les distinctions qui y sont établies."

For the full text of Art. 91 of the French Code *vide* note 1 to Art. 56.

[2] "conspiracy" lit. "secret agreement."

[3] "carrying out" or "perpetrating," "committing."

[4] "riotous acts"; as in note 3 to Art. 57.

[5] "apart from" or "in addition to."

[6] "deliberation" or "discussion" lit. "talking over.'

[7] "decision" or "settlement," "determination."

[8] "begun" or "attempted" (*vide* note 5 to modified Art. 55.)

[9] "included in" or "who are parties to."

[10] "conspiracy" lit. "agreement" or "accord."

[11] "matter of" as in note 9 to modified Art. 55.

[12] "sedition." The Turkish word is "fesad" (*vide* note 3 to Art. 49).

[13] "is proved" lit. "has become manifest."

[14] "attempted" as in note 8.

[15] "accepted," *i.e.*, "agreed to."

Art. 58 was repealed and re-issued on 1 Muharrem, 1298 (4 December, 1880). The text of the re-issued Article is as follows:—

ART. 58.[1]—Where a conspiracy[2] is formed amongst two or more persons with the design of carrying out[3] one of the Jinayets mentioned above or one of the riotous acts[4] set forth in Arts. 55 and 56, and, apart from[5] the deliberation[6] and decision[7] for the carrying out[3] of the riotous act[4] resolved upon in such conspiracy, some acts or measures for preparing the means of carrying it out[3] have been also begun[8] the persons included in[9] such conspiracy[10] are confined in a fortress in perpetuity ; and if no act or measure for preparing the means of the carrying out[3] of the riotous act[4] as aforesaid is proved[13] to have been attempted[14] in any such conspiracy[2] and all that has taken place consists only of a deliberation[6] and decision[7] for carrying it out[3] in that case the persons included in[9] the conspiracy[10] are temporarily confined in a fortress ; and if a proposal has taken place as to forming a conspiracy for the purpose of carrying out[3] one of the Jinayets set forth and it has not been accepted[15] the person making that proposal is imprisoned for from one year to three years.

To the modified Article the following notes may be added :—

[1] It will be observed that the differences between the original and modified Articles are not very great.

[2] This note and all the other notes are as in the original Article.

Art. 58 was next amplified by an addendum (No. 1) dated 19 Zilqadé, 1309 (14 June, 1902) of which the text is as follows :—

" The person who invents or manufactures or prepares or carries firearms or other wounding or deadly instruments[1] or appliances, of whatsoever shape or form they may be, for the purpose of carrying out[2] the object of a seditious body[3] or[4] of an evil intent[5] against[6] one or several persons is put to death if the matter of sedition[7] or killing comes into effect, and if it does not come into effect but remains in the stage of an attempt[8] he is punished with the punishment of kyurek for not less than ten years.

To the above addendum may be added the following notes :—

[1] " instruments " or " appliances."

[2] " carrying out " ; as in note 3 to original Art. 58.

[3] " seditious body " or " riotous body " : it means a body of persons banded together for the purposes of sedition or disorder. The word in the Turkish text is " fesad " in its adjectival form (*vide* note 3 to Art. 49).

[4] " or " ; the words " for the purpose of " must be read in here.

[5] " evil intent " ; as in note 2 to modified Art. 55.

[6] " against " lit. " to."

[7] " matter of sedition " ; for " matter " *vide* note 9 to modified Art. 55, and for " sedition " (' fesad ' in the Turkish text) *vide* note 3 to Art 49.

[8] " attempt " ; as in note 5 to modified Art. 55.

Art. 58 was further amplified by an addendum (No. 2 repealed) dated 5 Shaban, 1321 (26 October, 1903), of which the text is as follows :—

" Those[1] who import into or receive, conceal or manufacture in the Imperial Ottoman dominions dynamite, little or much, without the permission of the Ottoman Government or knowingly facilitate these acts[2] are put to kyurek for fifteen years ; and if it is proved[3] that these acts are based on a matter of sedition[4] he who has dared them is put to kyurek in perpetuity ; and if the matter of sedition[4] comes into effect he is put to death.

To the above addendum may be added the following notes :—

[1] This addendum was repealed by a subsequent addendum dated 2 Jemazi'ul-Evvel, 1324 (15 July, 1906).

[2] " acts " lit. " conditions " or " circumstances."

[3] " is proved " lit. " becomes manifest."

[4] " matter of sedition " ; it here means " a seditious purpose " (*vide* note 7 to previous addendum).

Art. 58 was further amended by an addendum (No. 2) dated 2 Jemazi'ul-Evvel, 1324 (15 July, 1906), the text of which is as follows :—

The[1] persons, whosoever they may be, who, for the revolutionary[2] object of a seditious body[3] or for the carrying out[4] of an execrable thought with evil intent[5] for[6] one or more[7] persons, invent or manufacture or prepare or carry[8] or import into His Majesty's dominions from foreign countries or hide or use dynamite or bombs or destructive instruments[9] similar to this,[10] in whatsoever shape or form they may be, capable of all at once[11] killing or destroying a great many persons or of demolishing or annihilating houses, dwellings, ships, means of transport and public thoroughfares,[12] and those who participate with such[13] or attempt[14] these acts,[15] are put to death in every case[16] whether the matter of sedition[17] or killing comes into effect or not.

Every individual who becomes aware of the invention, manufacture, preparation, carrying, importation, hiding, attempting[18] or using of such destructive instruments[9] is obliged forthwith to report this[19] to the Government personally or indirectly.[20] Those whose failure, without good[21] excuse, owing to[22] some evil purpose, to perform this obligation is established[23] are put to kyurek in perpetuity if the matter of sedition[17] or killing comes into effect or temporarily if it[24] does not come into effect.

To the above addendum the following notes may be added :—

[1] This addendum repeals the previous addendum of 5 Shaban, 1321 (26 October, 1903).

[2] " revolutionary " or " riotous " lit. " revolution-seeking " or " riot-seeking."

[2] "seditious body"; as in note 3 to addendum of 19 Zilqadé, 1309, to Art. 58.
[4] "carrying out"; as in note 3 to Art. 58.
[5] "evil intent"; as in note 2 to modified Art. 55.
[6] "for" lit. "to," *i.e.*, against.
[7] "more" lit. "numerous."
[8] "carry" or "convey."
[9] "instruments" or "appliances."
[10] "this," *i.e.*, "these."
[11] "all at once," *i.e.*, "simultaneously."
[12] "public thoroughfares" lit. "places of passing and places of crossing of the public." The expression would include roads, paths and bridges.
[13] "such," *i.e.*, "such offenders."
[14] "attempt" (*vide* note 5 to modified Art. 55.)
[15] "acts"; as in note 2 to addendum of 5 Shaban, 1321, to Art. 58.
[16] "in every case" or "under any circumstances."
[17] "matter of sedition"; as in note 7 to addendum of 19 Zilqadé, 1309
[18] "attempting"; as in note 14 above.
[19] "this," *i.e.*, "the same."
[20] "indirectly"; as in note 2 to original Art. 55.
[21] "good" lit. "true" or "valid."
[22] "owing to" lit. "adjoined to" or "associated with."
[23] "established," *i.e.*, "proved."
[24] "it," *i.e.*, the matter of sedition or killing.

Art. 58 was further amended by another addendum (No. 3) dated 27 Sefer, 1326 (30 March, 1908), the text of which is as follows:—

The Captains of steam or sailing vessels, longboatmen,[1] boatmen, or other persons importing into His Imperial Majesty's dominions by means of sea or land transport[2] the destructive instruments,[3] wounding or deadly appliances or other injurious articles of this sort set forth and enumerated in the above numbered addenda, or taking away[4] from a place other than the appointed spots[5] persons who are men of sedition[6] knowing their condition and character, or carrying[7] from one place to another within His Majesty's dominions this sort of mischievous persons[8] or the aforementioned destructive instruments[3] or appliances or injurious articles or acting as intermediaries in such[9] acts or affairs[10] are placed in kyurek temporarily according to the gravity[11] of their acts.

To the above addendum may be added the following notes:—
[1] "longboatmen": "longboat" means here a row-boat built on the European model as distinguished from the Eastern "qayiq."
[2] "means of sea or land transport," more literally "things mounted (or 'got on') for travel by sea or by land."
[3] "instruments" or "appliances."
[4] "taking away" lit. "taking out."
[5] "spots" or "localities," "places."
[6] "men of sedition": the word used for "sedition" in the Turkish text is "fesad" (*vide* note 3 to Art. 49).
[7] "carrying" or "conveying."

[8] "mischievous persons." The word used in the Turkish text is "fesedé" (pl. of "fasid"); *vide* note 3 to Art. 49.
[9] "such" lit. "these."
[10] "acts or affairs" lit. "cases or circumstances."
[11] "gravity" lit. "degree."

ART. 59.[1]—Whosoever without a commission from the Imperial Ottoman Government or any reason acceptable to the Government assumes[2] the command of a division of troops or of a squad of soldiers or of the fleet or of a warship thereof[3] or of a fortress or of a fortified place or of a harbour or of a town[4]; and whosoever fails to conform with an order of the Imperial Ottoman Government to relinquish the command of troops to which he is commissioned; and every officer in command who, similarly without an acceptable reason, fails to comply with orders of the Imperial Ottoman Government for disbanding[5] the troops found under him and keeps them with him is put to death.

ART. 59 NOTES.—[1] Compare Art. 93 of the French Code Pénal:—"Ceux qui, sans droit ou motif légitime, auront pris le commandement d'un corps d'armée, d'une troupe, d'une flotte, d'une escadre, d'un bâtiment de guerre, d'une place forte, d'un poste, d'un port, d'une ville:

"Ceux qui auront retenu, contre l'ordre du Gouvernement un commandement militaire quelconque:

"Les commandants qui auront tenu leur armée ou troupe rassemblée, après que le licenciement ou la séparation en auront été ordonnés:

"Seront punis de la peine de mort."

[2] "assumes" lit. "takes."
[3] "thereof," *i.e.*, of the Imperial Ottoman Government.
[4] "town" also "city."
[5] "disbanding" more literally "dispersal by discharge."

ART. 60.[1]—Whosoever from amongst those commissioned to direct or employ the salaried or police troops[2] of the Imperial Ottoman Government demands or commands that these troops should act against the recruiting[3] of soldiers carried out by order of the Imperial Ottoman Government is punished with the punishment of perpetual exile; and if actual effects of such demand or command are seen that is to say if the carrying out of the requirement of the Imperial Ottoman Government in that respect[4] is actually hindered by the obedience of the commanded[5] military force to such unlawful[6] command the person giving such command[7] is punished with death and the officers and chiefs of those obeying such unlawful[6] command are punished with the punishment of temporary kyurek.

ART. 60 NOTES.—[1] Compare Art. 94 of the French Code Pénal:—"Toute personne qui, pouvant disposer de la force publique, en aura requis ou ordonné, fait requérir ou ordonner l'action ou l'emploi contre la levée des gens de guerre légalement établie sera punie de la déportation.

" Si cette réquisition ou cet ordre ont été suivis de leur effet, le coupable sera puni de mort."

[2] " salaried or police troops," *i e*, troops of the regular army (as distinguished from " bashi bozuk " or irregular troops) and the police. For " salaried troops " Nicolaides uses " τακτικοὶς στρατοις " ; the French rendering is " les troupes de ligne."

[3] " the recruiting " or " levying " lit. " the matter of taking troops of soldiers."

[4] " in that respect," *i e*, with regard to recruiting

[5] " commanded ", it means " which was commanded to do the improper acts."

[6] " unlawful " lit. " disapproved of," " unsatisfactory."

[7] " the person giving such command " lit. " the commanding persom."

Art. 60 was repealed and re-issued (with modifications) on 1 Muharrem, 1298 (3 November, 1880). The text of the re-issued Article is as follows :—

ART. 60.[1]—Those who incite the salaried or police troops[2] of the Imperial Ottoman Government to revolt or rebel[3] are put in kyurek in perpetuity ; and whosoever from among those commissioned to direct or employ these,[4] demands or commands these troops to act against the recruiting[5] of soldiers carried out by order of the Imperial Ottoman Government is punished with the punishment of perpetual exile ; and if actual effects of such demand or command are seen that is to say if the carrying out of the requirement of the Imperial Ottoman Government in that respect[6] is actually hindered by the obedience of the commanded[7] military force to such unlawful[8] command the person giving such command[9] is punished with death and the officers and chiefs of those obeying such unlawful[8] command are punished with the punishment of temporary kyurek.

To the new Article may be added the following notes :—

[1] It will be observed that the difference between the new and original Articles consists substantially only in an addition at the beginning. The text of the new Article may be found in Djiz-i-kav, p. 932, Destur, Zeyl, p. 17, Nicolaides Ott Cod., p 2436 ; Young, Corps de Droit Ott, VII. p. 13.

[2] " salaried or police troops ", as in note 2 to original Article.

[3] " to revolt or rebel " lit ' to cause "—or " to bring about "—a revolt or rebellion.

[4] " these," *i.e* " such troops."

[5] " act against the recruiting," *i e.*, " hinder or prevent the recruiting " ; " recruiting ", as in note 3 to original Article.

[6] " in that respect " ; as in note 4 to original Article.

[7] " commanded " ; as in note 5 to original Article

[8] " unlawful " ; as in note 6 to original Article.

[9] " the person giving such command " ; as in note 7 to original Article

ART. 61.[1]—Whoever purposely[2] that is to say maliciously[3] burns or demolishes buildings or any kind[4] of storehouses or magazines for munitions[5] belonging to[6] the Imperial Ottoman Government is put to death.

ART. 61 NOTES.—[1] Compare Art. 95 of the French Code Pénal :—" Tout individu qui aura incendié ou détruit, par l'explosion d'une mine, des édifices, magasins, arsenaux, vaisseaux, ou autres propriétés appartenant a l'Etat, sera puni de mort."

[2] " purposely " or " wilfully." It really is equivalent to " with malice prepense."

[3] " maliciously " or " perfidiously," or " mischieviously."

[4] " of any kind " ; these words do not qualify " buildings " but only " storehouses or magazines."

[5] " munitions " ; the word qualifies only " storehouses " or " magazines " not " buildings."

[6] " belonging to " ; the words qualify " buildings," " storehouses " and " magazines."

ART. 62.[1]—Whosoever assumes the leadership of[2] an armed band of ruffians[3] formed for the purpose of seizing, pillaging or raiding the emlak[4] or emval[5] or cash[6] of the Imperial Ottoman Government or the emlak[4] of a large number of the people[7] or of opposing the Imperial Ottoman troops[8] moving[9] against the perpetrators of such Jinayets[10] or holds any command in such band is put to death ; and such of those included in this sort of bands of ruffians as are not holders of authority[11] or command in such bands are placed in kyurek temporarily if they are caught at the place of the disorder.[12]

ART. 62 NOTES.—[1] Compare the first part of Art. 96 of the French Code Pénal :—" Quiconque soit pour envahir des domaines, proprietés ou deniers publics, places, villes, forteresses, postes, magasins, arsenaux, ports, vaisseaux ou bâtiments appartenant à l'Etat, soit pour piller ou partager des propriétés publiques ou nationales, ou celles d'une généralité de citoyens, soit enfin pour faire attaque ou résistance envers la force publique agissant contre les auteurs de ces crimes, se sera mis à la tête de bandes armées, ou y aura exercé une fonction ou commandement quelconque, sera puni de mort."

And also Art. 98 :—" Hors le cas où la réunion séditieuse aurait eu pour objet un résultat l'un ou plusieurs des crimes énoncés aux articles 86, 87 et 91, les individus faisant partie des bandes dont il est parlé ci-dessus, sans y exercer aucun commandement ni emploi, et qui auront été saisis sur les lieux, seront punis de la déportation."

[2] " assumes the leadership of " lit. " becomes a head to."

[3] " of an armed band of ruffians." Nicolaides gives " ἐν ἐνόπλῳ συμμορίᾳ " (= in an armed gang of malefactors.) The French rendering is simply " de bandes armées." The nature of the " band " is really indicated in the context : the expression in the Turkish text is almost the same as in note 2 to Art. 57.

[4] " emlak " (*vide* note 6 to Art. 27).

[5] " emval " (*vide* note 5 to Art. 27).

[6] " cash " lit. " ready moneys."

[7] " of a large number of the people " ; of a large number " is lit. " of a great multitude." " People," or " inhabitants." Nicolaides translates the passage " κτήματα ἀνήκοντα εἰς κοινότητα κατοίκων " and the French rendering is " appartenant à une communauté d'individus." But the meaning of the whole phrase does not indicate an attack on " communal " property but on property generally, *i.e.*, not merely a private attack against an individual.

[8] "Imperial Ottoman troops" lit. " the troops of the Imperial Ottoman Government.'

[9] " moving " or " acting."

[10] " perpetrators of such Jinayets " lit. " men of such Jinayets."

[11] " authority " lit. " word."

[12] " disorder " or " riot." The Turkish word is " fesad " (*vide* note 3 to Art. 49).

Art. 62 was amended by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860), of which the text is as follows :—

Persons[1] who, going about armed on the mountains or in the open country,[2] commit the infamous act[3] of catching and stripping[4] the travellers whom they encounter—which such persons are styled highway robbers[5]—are punished with the punishment of temporary or perpetual kyurek according to their[6] condition and character and to the gravity[7] of their ruffianism[8]; but those amongst them who are old offenders in this Jinayet[9] or are men of habitual[10] ruffianism,[8] or who torture or cruelly torment the persons whom they catch, or who have killed any one[11] in the course of highway robbery[5] are condemned to death.

To the above addendum may be added the following notes :—

[1] The text of this addendum may be found in Djiz i-Kav, p. 939; Nicolaides, Ott. Cod., p. 2440; Young, Corps de Droit, Ott. VII, p. 13; Aristarchi, III, p. 224; Walpole, p. 27.

[2] "open country" lit. "plains."

[3] "infamous act" lit. "infamy," "shameful act."

[4] "stripping"; this is literal; it means "robbing," "sacking."

[5] "highway robbers" lit. "road-cutters."

[6] "their," *i.e.*, "of the offenders."

[7] "gravity" lit. "degree."

[8] "ruffianism" or "villainy" lit. "brigandage."

[9] "old offenders in this Jinayet"; this means "who have been previously guilty (or 'convicted') of this Jinayet."

[10] "habitual" lit. "continuous," "perpetual" (*vide* note 2 to Art. 173).

[11] "any one" lit. "men."

Art. 63.[1]—Whereas the band of ruffians or bandits mentioned[2] in the preceding Article[3] would have the character of[4] an association,[5] persons who either from afar or at hand[6] administer the affairs of such seditious[7] association[5] or organize or form such a band of ruffians or knowingly and willingly[8] supply them with or procure for them[9] arms, ammunition or other instruments for seditious purposes[10] or send provisions or victuals to them or on whose part secret seditious[7] correspondence[11] takes place in any way whatsoever with the managers[12] or commandants of bands of ruffians or who whilst knowing the object[13] and intention and condition and character of such bands of ruffians[14] give them, without obligation for so doing, place to sleep[15] or to hide in or to assemble[16] are placed in kyurek temporarily.[17]

Art. 63 Notes.—[1] Compare the latter part of Art. 96 of the French Code Pénal :—

"Les mêmes peines seront appliquées à ceux qui auront dirigé l'association, levé ou fait lever, organisé ou fait organiser les bandes, ou leur auront, sciemment et volontairement, fourni ou procuré des armes, munitions et instruments de crimes, ou envoyé des convois de subsistances ou qui auront de toute autre manière pratiqué des intelligences avec les directeurs ou commandants des bandes."

And Art 99 :—" Ceux qui, connaisant le but et le caractère des dites bandes, leur auront, sans contrainte, fourni des logements, lieux de retraite ou de réunion, seront condamnés à la peine des travaux forces à temps "

[2] " mentioned " lit " stated," " set forth."

[3] " preceding Article " *i e*, Art. 62.

[4] " have the character of " lit " be in the form of."

[5] " an association " lit. " partnership " ; it means a more or less organized body.

[6] " at hand " lit " from near." Nicolaides translates the passage " *μακρόθεν ἢ ἐκ τοῦ σύνεγγυς* ", the French rendering is " de près ou de loin."

[7] " seditious " not " seditious " in a necessarily political sense. The word in the Turkish text is " fesad " in its adjectival form (*vide* note 3 to Art. 49).

[8] " willingly " also " voluntarily "

[9] " them " *i e.*, the brigands.

[10] " instruments for seditious purposes " lit " instruments of sedition " " Instruments " as in note 3 to addendum dated 27 Sefer, 1326, to Art. 58.

[11] " correspondence " or " communication "

[12] " managers " or " directors."

[13] " object " or " aim."

[14] " bands of ruffians " (*vide* note 5 to Art 57)

[15] " to sleep " lit " to lie down," " to go to bed."

[16] " assemble " or " meet "

[17] It should be observed that Art 63 is repealed by new Art. 45 dated 6 Jemazi'ul Akhir, 1329 (4 June, 1911)

Art. 63 was amended by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860), the text of which is as follows :—

Those who act as receivers[1] to highway robbers knowing their condition and character are likewise placed in kyurek temporarily.[2]

To the above addendum the following notes may be added —

[1] " act as receivers " The words in the Turkish text have the sense both of " harbouring thieves " and " receiving stolen property " . and here the word " receivers " must be understood to include both meanings Nicolaides translates " *λῃστα-τοδόχοι* " and the French rendering is " recéleurs "

[2] This addendum was repealed by new Art. 45 dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911)

ART. 64.[1]—Those from amongst the persons in such bands of ruffians[2] who are not holders of any command or function[3] therein, and leave and go away by conforming with the first order or proposal taking place on the part of the civil or military authorities for their dispersal or who are even[4] thereafter[5] captured unarmed without resistance in places other than the locality of the sedition[6] are not awarded the punishment for seditious persons[7] but are punished for[8] any particular[9] offences if they have personally committed any ; and such persons are kept[10] under police supervision.

ART. 64 NOTES —[1] Compare Art 100 of the French Code Penal —" Il ne sera prononce aucune peine, pour le fait de sedition, contre ceux qui, ayant fait partie de ces bandes sans y exercer aucun commandement et sans y remplir aucun emploi ni fonctions, se seront retires au premier avertissement des autorites civiles ou militaires, ou même depuis, lorsqu'ils n'auront eté saisis que hors des lieux de la reunion

séditieuse sans opposer de résistance et sans armes. Ils ne seront punis, dans ces cas, que des crimes particuliers qu'ils auraient personellement commis et néanmoins ils pourront être renvoyes pour cinq ans ou au plus jusqu'a dix, sous la surveillance spéciale de la haute police."

La Cour de Cassation has held in France (15 November, 1855) that this Article (100) is not applicable to offences of attempts under Arts. 86, 87 and 91 and reasoning on analogous grounds it would seem that Art 64 of the Ottoman Code would not be applicable to attempts made under Arts 55 or 56.

[2] "bands of ruffians", as in note 5 to Art 57.

[3] "function," more literally "service," Nicolaides translates '*υπηρεσια*"; the French rendering is "sans y remplir aucun emploi"

[4] "even" lit. "also."

[5] "thereafter," *i e.*, after the first order of the authorities for the disbandment has been given

[6] "sedition", the Turkish word is "fesad" (*vide* note 3 to Art 49)

[7] "seditious persons" lit 'men of sedition" For "sedition" ("fesad") (*vide* note 3 to Art 49)

[8] "for" lit "based on" or "grounded on."

[9] "particular" or "special"

[10] "kept" lit "found"

ART. 65.[1]—Those who, being of a gang of rebels or ruffians, before making attempts at[2] rebellion or ruffianism or before investigations[3] are commenced report[4] to the officials[5] of the Government those who are accomplices in the offence or who after the commencement of the investigations[3] procure the means of causing the accomplices in the offence to be arrested[6] are exempt from the punishment to be carried out with regard to the others; but they are kept[7] under police supervision for not exceeding two years.

ART. 65 NOTES.—[1] Compare Art 108 of the French Code Pénal. Art 108. "Seront exemptes des peines prononcees contre les auteurs de complots ou d'autres crime attentatoires a la surete intérieure ou exterieure de l'Etat, ceux des coupables qui avant toute execution ou tentative de ces complots ou de ces crimes, et avant toutes poursuites commencees, auront les premiers donne au Gouvernement ou aux autorites administratives ou de police judiciaire, connaissance de ces complots ou crimes, et de leur auteurs ou complices, ou qui, même depuis le commencement des poursuites, auront procuré l'arrestation des dits auteurs ou complices Les coupables qui auront donne ces connaissances ou procure ces arrestations, pourront neanmoins être condamnes a rester pour la vie ou a temps sous la surveillance de le haute police."

[2] "making attempts at" lit. "attempting to" or "daring to."

[3] "investigations" or "enquiries into" lit "searchings for." It means "official enquiries." Nicolaides translates "*προ τῆς ενάοξεως τῶν ερευνῶι.*"

[4] "report" or "denounce."

[5] "officials" or "authorities."

[6] "arrested" or "apprehended."

[7] "kept" lit. "held."

ART. 66.[1]—Whoever directly incites the people or inhabitants to commit the Jinayets set forth in this Part whether by delivering speeches or by posting placards or by disseminating[2] printed leaflets in squares or streets[3] or in places of public resort is punished as if he were actually the perpetrator of those Jinayets.

But if no actual effect of any sort occurs from such incitements he is punished with the punishment of perpetual exile.

ART. 66 NOTES.—[1] Nicolaides quotes in full (Ott. Cod., pp. 2442, 2443) a Circular Instruction issued from the Ministry of Justice dated 10 Muharrem, 1297 (24 December, 1879), in which it is stated that enquiries had been received from various quarters as to what course should be adopted by the Courts in cases in which owing to the deficiencies in Part II of this Chapter (Chapter 1) persons although agitating the public mind and thus fostering disturbance could not be brought within the existing provisions of the Code: the Circular pointed out that in such circumstances the duty of the Courts was clearly defined in various Articles of the Code of Criminal Procedure and that these indicated the release of the accused; finally the Circular instructed the Courts to furnish the Minister with memoranda of such cases pointing out the gaps in the Code in order that the necessary amplification of the law might be effected. For the result of this Circular *vide* note 1 to Part I.

[2] "disseminating" or "propagating," "diffusing."

[3] "streets"; the word in the Turkish text is "esvaq" which means lit. "market places" or "streets (or 'rows') of shops," but "streets" is the common meaning. Nicolaides gives "*ἀγορὰς*" and the French rendering is "marchés."

Art. 66 was amended by an addendum dated 19 Zilqadé, 1309 (15 June, 1892), of which the text is as follows:—

The person too who keeps with him, for the purpose of publishing, injurious papers or treatises, printed or not printed, relative to such[1] incitements or corruptions,[2] but who has not been able to publish them yet, is confined in a fortress for not less than five years; and the person who, not being a man of sedition,[3] only keeps with him such[1] injurious papers coming into his possession,[4] not producing or giving them to the authorities[5] of the Imperial Ottoman Government, is imprisoned for from one year to three years.

To the above addendum the following notes may be added:—

[1] "such" lit. "this kind of."

[2] "corruptions," more literally "seductions" The word in the Turkish text is "ifsadat" (pl. of "ifsad," a verbal noun from "fesad"); *vide* note 3 to Art. 49.

[3] "sedition"; the Turkish word is "fesad" (*vide* note 3 to Art. 49).

[4] "coming into his possession" lit. "passing into his hand."

[5] "authorities" lit. "officials."

PART III.

SETS FORTH BRIBERY.

ART. 67—Whatever is received or given, under whatsoever designation[1] it may be, for the purpose of furthering a design[2] is a bribe.[3] Also if any immovable or movable property[4] is by way of[5] bribery purchased or sold for a price which is less or more by an excessive difference than its value regard being taken of time and place[6] the difference between the price at which that immovable or movable property has been sold in this manner and the true value

of it is actually a bribe.[7] Presents, little or much, with the exception of ordinary gratuities[8] to servants,[9] given either by women or men at all sorts of festivals and at wedding assemblies for[10] servants of the State under the designation of "payendaz"[11] or under other forced interpretations or names are also of the effect of a bribe. But small articles such as fruit or other eatables or beverages presented by needy persons adopting this as a means of asking for a gift or alms[12] or exchanged between friends out of affection and gifts or gratuities[8] given to the needy, to deserving persons and to servants gratuitously and official[13] and open[14] presents received by the State with Imperial license are not bribe.

He who either directly in person or indirectly through his agents receives a bribe is termed "the Murteshi"[15] and he who gives "the Rashi"[16] and he who is the intermediary between "the Raish.[17]"

ART. 67 NOTES.—[1] "designation" lit. "name."

[2] "furthering a design." The expression might also be translated "favouring an object in view"; it has a sinister meaning. Nicolaides gives "*πρὸς ἐπίτευξιν σκοποῦ*," and the French rendering is "dans le but d'assurer la réussite d'un dessein."

[3] "bribe"; the word in the Turkish text is "rishvet."

[4] "immovable or movable property"; the words in the Turkish text are a "mulk or a mal" (*vide* notes 6 and 5 to Art. 27).

[5] "by way of" lit. "in the way of."

[6] "time and place": "the circumstances under which the sale takes place."

[7] "is actually a bribe" lit. "is bribe itself." It means "constitutes a bribe." Nicolaides renders the phrase "*ἀποτελεῖ αὐτόχρημα δωροδοκίαν*"; and the French rendering is "constitue l'importance du don."

[8] "gratuities"; in the Turkish text "bakhshish" lit. "money presents."

[9] "to servants" lit. "given to servants."

[10] "for" lit. "as special to." It might be loosely translated "destined for" or "intended for" but it has a shade of meaning here which conveys a sense of "appropriation." It undoubtedly means to refer to presents for the acceptance of which by officials some vague or pretended custom or claim offer a more or less plausible excuse or explanation.

[11] "payendaz"; a Persian word meaning a thing cast at the feet or under the feet of a great personage; especially a carpet spread for a king to walk upon; also a gift laid at the feet The French rendering of this passage departs considerably from the Turkish text; it reads thus:

"Il en est de même de tout cadeau plus ou moins considérable appelé 'payendaz' ou couvert d'un autre nom ou prétexte donné ou par des femmes ou par des hommes à l'occasion d'un mariage ou de toute autre fête des fonctionnaires et employés de l'Empire. Sont exceptées néanmoins les gratifications d'usage accordées dans ces occasions aux gens de service."

[12] "adopted this as a means of asking for a gift or alms." More literally "taking it as a ground of the request for grant or alms."

[13] "official"; the word in the Turkish text is "resmi" which also means "ceremonial" or "formal."

[14] "open" lit. "undisguised," *i.e.*, with no secrecy or pretext.

[15] "Murteshi": "bribee." French "corrompu"; Greek "*δωροληπτης*."

[16] "Rashi": briber." French "corrupteur"; Greek "*δωροδότης*."

[17] "Raish": "the go between." French "agent de la corruption"; Greek "*συνεργὸς δωροδοκίας*."

Art. 67 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

In the same way as money received, or goods taken under the designation[1] of present, or other advantages secured, by judges or generally by[2] officials or by elected or appointed members of any official Council[3] who undertake[4] official duties or functions,[5] or by persons who being private individuals are charged with an official duty as[6] an arbitrator[7] or expert, or by advocates in order to do or not to do the thing which they are[8] by[9] law or regulation bound[10] to do or to do or not to do the thing which they are bound[10] not to do, is bribe, so also the excessive difference between the actual value and the price named of emval[11] and emlak[12] purchased or sold by them with this object[13] at a low[14] or increased[15] price is a bribe.[16]

To the above new Article may be added the following notes :—

1 " under the designation " lit. " by the name."

2 " by " lit. " by all," *i.e.*, " by any."

3 " of any official Council " lit. " by all official Councils."

4 " who undertake " or " undertaking."

5 " functions " lit. " services."

6 " as " lit. " such as."

7 " arbitrator " or " referee."

8 " they are " lit. " he is."

9 " by " or " according to."

10 " bound " or " obliged."

11 " emval " (*vide* note 5 to Art. 27).

12 " emlak " (*vide* note 6 to Art. 27).

13 " with this object " lit. " based on this object " ; it means " with a corrupt object."

14 " low," *i.e.*, improperly low.

15 " increased," *i.e.*, improperly excessive.

16 The meaning of the last paragraph of this Article is that it is regarded as an offence of bribery when persons of the category referred to in the Article with a corrupt motive deal with property at a fictitious value.

ART. 68.—A Murteshi,[1] whoever he may be and in whatever rank, position[2] or office he may be situated,[3] is, after firstly the bribe which he has received has been taken back[4] from him as a fine on the Rashi[5] and after as much again has been taken from such Murteshi as punishment upon himself,[6] temporarily confined in a fortress if he has committed this Junha for the first time and becomes liable[7] to the punishment of dismissal[8] for a period of six years.

ART. 68 NOTES.—1 " Murteshi " (*vide* note 15 to original Art. 67).

2 " position " ; it means " official position."

3 " situated " lit " found."

4 " taken back " : " recovered."

[5] "Rashi" (*vide* note 16 to original Article 67).
[6] "himself"; the Murteshi, of course.
[7] "liable to" lit. "deserving of."
[8] "dismissal": "dismissal from office."

Art. 68 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

The Murteshi is confined in a fortress temporarily after the money taken[1] by him has been recovered from him in twofold or after an amount equal to the cash or advantages promised[2] have been taken from him as a fine; and if the act performed by him has been the cause of a right being injured[3] the punishment of confinement in a fortress cannot be less than five years.

To the new Article may be added the following notes:—
[1] "taken," *i.e.*, "received."
[2] "promised" more literally "undertaken."
[3] "a right being injured," *i.e.*, a wrong being done.

ART. 69.—A Rashi,[1] whoever he may be and in whatever rank, position or office he may be situated,[2] is, after the bribe-money given by him has been taken from the Murteshi as a fine on him[3] as stated in the preceding Article, temporarily confined in a fortress if he has committed this Junha for the first time and becomes liable[4] to the punishment of dismissal[5] for a period of six years exactly as is a Murteshi.

ART. 69 NOTES.—[1] "Rashi" (*vide* note 16 to original Article 67.)
[2] "situated"; as in note 3 to original Art. 68.
[3] "him": the Rashi.
[4] "liable" (*vide* note 7 to original Art. 68).
[5] "dismissal": "dismissal from office."

Art. 69 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

The amount paid[1] or promised[2] by the Rashi is taken from him as a fine; and if it is proved that he has given this bribe in order to injure a right[4] he is confined in a fortress temporarily.

To the new Article the following notes may be added:—
[1] "paid" lit. "given."
[2] "promised"; as in note 2 to new Art. 68.
[3] "is proved" lit. "becomes established."
[4] "to injure a right," *i.e.*, to cause a wrong.

ART. 70.[1]—A Raish,[2] whoever he may be and in whatever rank, position or office he may be situated,[3] is temporarily confined in a fortress if he has committed this offence for

the first time and becomes liable to the punishment of dismissal[4] for a period of six years exactly as are a Murteshi and Rashi.

ART. 70 NOTES.—[1] This Article was repealed on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). A Raish is now regarded as an ordinary accomplice and as such would be dealt with under new Art. 45. (Report of the Ministry of Justice: Tevfik Tak, p. 25.)

[2] "Raish" (*vide* note 17 to original Art. 67).

[3] "situated"; as in note 3 to original Art. 68.

[4] "dismissal": "dismissal from office."

ART. 71.[1]—Further[2] in the event of a Murteshi or Rashi or Raish not being men of rank or office punishment is inflicted upon[3] them exactly as in the case of holders of rank or office.

ART. 71 NOTES.—[1] This Article was repealed on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). This Article is abrogated as superfluous there being in the eyes of the law no distinction between a holder of rank and non-holder of rank. (Report of the Ministry of Justice: Tevfik Tak, p. 25.)

[2] "further" lit. "also."

[3] "upon" lit. "with regard to."

ART. 72.[1]—If a Murteshi belongs to the female sex and has a husband and it becomes manifest by being proved that his cognizance is also joined in the matter of the bribery the bribe which has been received is in like manner recovered from them in twofold and the punishment for a Murteshi stated in Art. 68 is carried out with regard to them both on the woman and her husband.

And if the female Murteshi has no husband or if she has one and it is not proved[2] true on trial that he had knowledge or consent in the matter of the bribery she is, after the pecuniary[3] punishment has been carried out with regard to her only, imprisoned for one year.

ART. 72 NOTES.—[1] This Article was repealed on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). Presumably the husband of a female Murteshi, now that this Article is abrogated, would be dealt with as an ordinary accomplice under Art. 45; whilst a female Murteshi would be dealt with in the same way as if she were a male.

[2] "proved" lit. "become certain."

[3] "pecuniary punishment," *i.e.*, fine.

ART. 73.[1]—In the case also of a female Rashi—that is to say a woman who gives a bribe,—or of a female Raish—that is to say a woman who is an intermediary in a bribe,—and of their husbands if privy[2] to the matter of the bribe exactly the punishment for a female Murteshi, as stated in the preceding Article, is carried out with regard to them.

ART. 73 NOTES.—[1] This Article was repealed on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The same remarks here apply as in Note 1 to Art. 72.

[2] "privy" lit. "of one accord" or "unanimous." Nicolaides translates "ὁ συναινέσας σύζυγος."

ART. 74.[1]—Where a person has been guilty once of the offence of receiving a bribe and has undergone his legal punishment therefor, if he commits for the second time this offence[2] again, the bribe which he has received is recovered from him in twofold and he is temporarily confined in a fortress for not less than five years[3] and in addition[4] there is also awarded the punishment of perpetual deprivation of rank and office.

ART. 74 NOTES.—[1] This Article was repealed on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). Since the abrogation of this Article a recidivist would presumably be dealt with under new Art. 8.

[2] "offence" lit. "ignominy," "infamy," or "shameful act."

[3] "five years"; it will be observed that this is a minimum punishment and severer than that prescribed in Art. 68 for a first offender.

[4] "in addition" lit. "together with it" or "at the same time."

ART. 75.[1]—A recidivist[2] Rashi and Raish also are likewise confined in a fortress for not less than five years and in addition[3] the punishment of perpetual deprivation of rank and office is also awarded.

ART. 75 NOTES.—[1] This Article was repealed on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The same remark applies here as in Note 1 to Art. 74.

[2] "recidivist" lit. "repeater" (*vide* also Art. 8, note 2. Arts. 74, 75 are exceptions to the general rule as to the punishment of recidivists laid down in Art. 8).

[3] "in addition"; as in note 4 to Art. 74.

ART. 76.—Where no money or goods have actually[1] been received[2] or given as bribe but it is proved[3] and found to be true on trial that a bond or obligation has been given for it[4] or even no bond has been taken but only a definite[5] agreement has been made[6] for the exchange[7] of a bribe and that the non-execution[8] of such[9] agreement has been due to[10] some impediments which the Rashi and Murteshi could not avert[11] then[12] such[13] agreements are looked upon exactly as if a bribe had been received[2] or given, and upon[14] those who are guilty of[15] this the punishments for a Murteshi, Rashi and Raish are inflicted[16]; provided that in this case a sum of money equal to the amount of[17] the bribe which has been agreed upon is taken and collected from the Rashi and an equal amount[18] from the Murteshi as a fine.

ART. 76 NOTES.—[1] "actually" lit. "yet" or "as yet."

[2] "received" lit. "taken."

[3] "is proved" lit. "becomes established."

[4] "for it," more literally "regarding it." The passage means that a bond or undertaking has been given by which a promise to give the money or goods forming the bribe has been entered into.
[5] "definite" lit. "special."
[6] "has been made" lit. "has taken place."
[7] "for the exchange" lit. "on the giving over to one another."
[8] "non execution" lit. "not coming into effect."
[9] "such" lit. "this."
[10] "been due to" lit "arisen from."
[11] "avert" lit. "remove," "repel."
[12] "then"; this word is not in the Turkish text but is inserted for clarity
[13] "such" lit. "this sort of."
[14] "upon" lit. "with regard to."
[15] "are guilty of" lit. "have committed."
[16] "inflicted" lit. "carried out."
[17] "a sum of money equal to the anount of" lit. "money to the amount of."
[18] "an equal amount" lit. "as much again."

Art. 76 was repealed and a new Article issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

Where no money or goods have actually[1] been received[2] or given as bribe but it is proved[3] and found to be true on trial that a bond has been given for it,[4] or even no bond has been taken but only a definite[5] agreement has been made[6] for the exchange[7] of a bribe and that the non-execution[8] of such[9] agreement has been due to[10] some impediments which the Rashi and Murteshi could not avert,[11] then[12] such[13] agreements are looked upon exactly as if a bribe had been received[2] or given, and those who are guilty of[15] this are punished in accordance with Arts. 68 and 69.[1]

To the above new Article the following note may be added:—

[1] The notes to the original Art. 76 also apply, as numbered, to the above new Art. 76.

Art. 77.—Where a man becomes really obliged and forced[1] to give a bribe to some one in order to save his life or property or honour or, in short,[2] his lawful interest and afterwards reports the matter to the Government the money which has been given by him is recovered and given back to him and with regard to the person who has taken this bribe the punishment for a Murteshi is carried out and if such[3] man does not report, as indicated[4] above, the bribe thus given by him under compulsion[5] in due time—that is to say at the moment when the cause of compulsion[5] and the fear and awe which he had have disappeared—by petition to the exalted Grand Vizieriate if in Constantinople or if he is[6] in the provincies to the Vali[7] or the Local Mejlisses[8]—and it is heard from other sources[9] he is simply punished with the punishment of a Rashi.

ART. 77 NOTES.—[1] "forced"; it here means "forced by necessity."
[2] "in short" lit. "finally," "in one word."
[3] "such" lit. "this."
[4] "indicated" lit. "written."
[5] "compulsion," *i.e.*, "a condition of constrained necessity." (*Vide* note 2 to Art. 42.)
[6] "is" lit. "is found."
[7] "Vali," *i.e.*, "Provincial Governor."
[8] "Mejlisses," *i.e.*, "local Administrative Councils."
[9] "from other sources," lit. "from another side."

ART. 78.[1]—If a man has a just business[2] and money is demanded by the official to whom he is obliged to apply for the conduct[3] and settlement of it and he[4] too comes and reports and proves it[5] then[6] in addition to[7] the settlement of his business according to justice the money which has been demanded of him is taken from the person who has demanded it and half of it given to him[8] by way of reward and with regard to the person[9] who has demanded the bribe the punishment of a Murteshi is carried out.

ART. 78 NOTES.—[1] Compare Art. 177 of the French Code Pénal:—"Tout fonctionnaire public de l'ordre administratif ou judiciaire, tout agent ou préposé d'une administration publique, qui aura agréé des offres ou promesses ou reçu des dons ou présents pour faire un acte de sa fonction ou de son emploi même juste, mais non sujet à salaire, sera puni de la dégradation civique, et condamné à une amende double de la valeur des promesses agréés ou des choses reçues, sans que la dit amende puisse être inférieure à deux cents francs.

"La présente disposition est applicable à tout fonctionnaire, agent ou préposé de la qualité ce-dessus exprimée, qui, par offres ou promesses agréés, dons ou présents reçus, se sera abstenu de faire un acte qui entrait dans l'ordre de ses devoirs." (Loi, 28 Avril, 1832.)

[2] "a just business" lit. "a business near (or 'joined') to justice." It means "a proper and lawful transaction."
[3] "conduct" or "hearing as a law suit" lit. "seeing to (a thing)." Nicolaides translates "εἰς διεξαγωγὴν" (conduct, management) (*vide* note 3 to Art. 153).
[4] "he": "the person who has the business."
[5] "it": "the demand for the bribe."
[6] "then"; this is inserted in the translation for clarity.
[7] "in addition to" lit. "besides," "apart from."
[8] "him": the "person who has reported and proved the demand for a bribe."
[9] "person," *i.e.*, "the official bribed."

ART. 79.—If a person to whom a bribe is offered[1] for any purpose[2] whatsoever reports the matter to the office of the Prime Minister[3] in Constantinople or to the highest authority[4] or to the Mejlis[5] of the place where he is situated[6] if in the provinces within two months at most before it is heard from other sources[7] either before or after he has received such bribe and delivers up the money in case he has received it approbatory treatment is carried out with regard to him[8];

and, if the money has not yet been received, after that amount of money has been taken from the Rashi by way of fine the other punishments specified with regard to a Rashi as stated above are also carried out with regard to him[9].

ART. 79 NOTES.—[1] "offered" more literally "tendered."

[2] "purpose" or "matter."

[3] "the office of the Prime Minister"; the expression is not identical with the phrase "the Exalted Grand Vizieriate" used in Art. 77 but no doubt it means the same: the text is careless.

[4] "authority" lit. "official."

[5] "Mejlis," *i.e.*, the Mejlis-i-Idaré—the Administrative Council. It means generally any official Council, Board, Court, or Tribunal.

[6] "situated" lit. "found."

[7] "from other sources"; as in note 9 to Art. 77.

[8] "approbatory treatment is carried out with regard to him." Nicolaides translates this phrase "*ἀπονέμονται αὐτῷ ἔπαινοι*" (praises are bestowed on him). The French rendering is "sera l'objet d'une approbation officielle."

[9] "him": "the person who offered the bribe."

ART. 80.—If any person whatsoever in the service of letting out the State revenues[1] who, whilst there are other intending purchasers[2] of the State revenues, lets out the same at a low[3] price by receiving money[4] or by minding[5] his own personal interest such official who commits this is regarded as a thief[6] of State property and is punished with the punishments for theft hereinafter[7] provided in Art. 82 in Part IV.

ART. 80 NOTES.—[1] "in the service of letting out the State revenues." The phrase refers to the practice in the Ottoman Empire of selling to the highest bidder or tenderer the right and authority of collecting taxes of various kinds in different localities. Nicolaides translates thus "*ὁ ἐπὶ τῆς παραγωγῆσεως τῶν δημοσίων προσόδων ὑπάλληλος*"; the French runs "chargé d'un emploi dans l'adjudication des revenues de l'Etat"; Walpole writes "employed in the letting to farm of the revenues of the State"; "ihalé," the Arabic word for "letting out" in this Article, is translated "assignment" (*vide* note 2) in Art. 88.

[2] "intending purchasers" lit. "demanders." In a public auction the word signifies a "bidder," *i.e.*, "demanding" or "intending (to purchase) by outbidding others." It would include, of course, tenderers.

[3] "at a low price"; it means that he does not assign to the person who offers most.

[4] "receiving money," *i.e.*, taking a bribe.

[5] "minding" lit. "looking to."

[6] "thief" or "purloiner."

[7] "hereinafter" lit. "as below."

ART. 81.[1]—If a person gives a bribe to another person in order to make him perpetrate a Jinayet and if such Jinayet is one of those Jinayets which call for a heavier punishment than the punishments for bribery mentioned above, after firstly only the money which has passed[2] has been taken from the Murteshi—that is to say the person who has received

the money and perpetrated such Jinayet—he, as well as the Rashi—that is to say the person who has given the money and caused such Jinayet to be perpetrated—and the intermediary[3] if any between them[4] are punished with the punishments provided in this Imperial Penal Code for those who perpetrate such Jinayet or cause it to be perpetrated and those who are intermediaries therein.

ART. 81 NOTES.—[1] Compare Art. 178 of the French Code Pénal. Art. 178. "Dans le cas ou la corruption aurait pour objet un fait criminel emportant une peine plus forte que celle de la dégradation civique, cette peine plus forte sera appliquée aux coupables."

[2] "passed" lit. "been given (or 'delivered') to one another" or "given and received," "exchanged."

[3] "intermediary," *i.e.*, "the Raish."

[4] "them," *i.e*, "the Murteshi and Rashi."

PART IV.

THEFT OF STATE PROPERTIES AND OTHER CORRUPT ACTS.

ART. 82.[1]—Whoever steals State properties or goods in cash or in kind is, after the thing which he has stolen has been in twofold recovered and taken back from him and delivered over to the Treasury of the State, confined in a fortress for not less than five years[2] and in addition[3] the punishment of perpetual deprivation of rank and office is also awarded.[4]

ART. 82 NOTES.—[1] There is no Article in the French Code Pénal from which this Article can be said to be taken. The French Articles Nos. 169-173 which are perhaps the nearest in sense are based on somewhat different lines.

[2] "five years." The punishment is thus temporary confinement in a fortress (*i.e.*, up to fifteen years) with a minimum of five.

[3] "in addition" lit. "together with."

[4] Nicolaides Ott. Cod., pp. 2447-9) gives the text of a long Vizieriel decree dated 5 Rebi'ul-Akhir, 1292 (11 May, 1875). For the Turkish text *vide* Nazif Bey's Qavanin-i-jeza'iyeh Mejmuasi (p. 41).

It lays down that labourers and employés, working in the public departments on a daily or monthly salary, are not considered as Government servants but as hired employés of their respective departments and therefore if they steal anything from the departments in which they thus work they must according to the circumstances of each case be punished according to the Part of the Penal Code relating to theft and must be regarded as having committed the theft in the capacity of hired servant and are not exempt even if they have only worked for one day. Where there are no aggravating circumstances those who steal things of little value should be punished under Art. 222. The decree further lays down that feeble doors of wooden buildings shut by wooden or iron springs or bolts or tied with rope or the like or weakly nailed up are not regarded as fastened within the meaning of the law; pincers, crowbars, and spikes by which doors, except when fastened as before mentioned, are opened are regarded as housebreaking implements, (*vide* Arts. 220 and 222).

ART. 83.—Whoever commits corruption in any way whatsoever it may be by introducing fraud[1] into the sale or purchase or into the price or quantity or into the making[2] of any sorts of goods to the purchase or sale or manufacture of which he is for the account of the Imperial Ottoman Government commissioned undergoes, since he is a thief,[3] the punishment provided in the preceding Article.

ART. 83 NOTES —[1] "introducing fraud" lit. "mixing fraud (or 'perversion')." Nicolaides uses the word "καταχράσθη" The word for "fraud" in the Turkish text is "fesad" (*vide* note 3 to Art. 49).

[2] "making" or "manufacturing."

[3] "since he is a thief" lit. "as he will be a thief."

ART. 84.—Where thieves of this sort are not men of rank or office they are nevertheless punished in manner set forth in the above Articles exactly as are holders of rank and officials.

ART. 85.—Those from amongst the officials of the Imperial Ottoman Government who receive money by way of discounting pay-warrants[1] or vouchers[2] for State debts[3] which may be in the hands of claimants or who receive or accept money or other presents from claimants as consideration for the payment of their claims are, after whatever may be the money or goods which they have received has been recovered[4] from them, temporarily confined in a fortress; and if any of the attendants[5] of the household of or relatives or connections of such officials commit with their[6] permission this discounting of pay-warrants these punishments[7] are exactly carried out both on them[8] and on the official who permits it.

ART. 85 NOTES.—[1] "By way of discounting pay-warrants." The practice which is here aimed at may, with convenience, be thus explained. The Government Treasury was accustomed to issue documents which were orders on the Pay Department to pay out moneys: at times the cash available was insufficient and a pay office official was in a position to exercise considerable influence by giving preference to certain of the voucher holders: if he received a consideration (by way of discount or otherwise designated) for thus preferentially cashing individuals' vouchers he committed an offence under this Article.

The word used for "pay-warrants" is "Sergui" which means "a kind of note or cheque payable at a public pay-office."

[2] "vouchers" lit. "deeds" (*vide* note 10 to Art. 148).

[3] "for State debts"; these words qualify both "Treasury bonds" and "vouchers."

[4] "recovered" lit. "taken back."

[5] "attendants" or "suite."

[6] "their," *i.e.*, of such officials.

[7] "these punishments," *i.e.*, the punishments mentioned in the first part of the Article.

[8] "them," *i.e.*, the persons committing the offence.

ART. 86.[1]—All officials great or small if they do not pay in full to the owners[2] the remuneration of the workmen employed by them[3] by virtue of their office[4] for manufacture or transport or the price of goods determined[5] or if they pay deficiently or make the workmen work without payment as "angaria"[6] are, after recovery from them of twice the profit made by them by this means,[8] the one[9] in order that it may be given to the owners[2] as against[10] remuneration or value[11] and the other[12] to be a fine, temporarily confined in a fortress.

ART. 86 NOTES.—[1] There is some slight similarity between this Article and Art. 174 of the French Code Pénal.

[2] "to the owners"; it means "to those to whom the moneys are due."

[3] "by them": "by such officials."

[4] "by virtue of their office": "in the course of their official duties."

[5] "determined"; *it qualifies both* "remuneration" *and* "price of goods."

[6] "angaria," *i.e.*, "forced labour without payment." The "corvée" system is called "angaria."

[7] "twice" lit. "twofold."

[8] "by this means" more literally "because of this."

[9] "the one," *i.e.*, the one-half of the total amount taken from the offender.

[10] "as against," *i.e.*, "by way of compensation for the remuneration or price of goods due which was not paid but pocketed or detained by the offending official."

[11] "value" or "price" of goods.

[12] "the other" (*vide* note 9 above.)

ART. 87.—If any of the great or small officials employs an incomplete number of the policemen[1] assigned to the protection of the country or to the service of revenue collection[2] and receives in full their salaries, or by taking away[3] *existing policemen altogether from their original service*[4] assigns them to work as servants in his private household or by entering the servants of his household on the list[5] of policemen receives their salary and gives it to them,[6] then,[7] he, after double of whatever sum the salary he has received for deficient men[8] or taken for the man[9] he has employed in his household or received and given to his servants under the designation as policemen may amount to has been taken from him, is temporarily confined in a fortress.

ART. 87 NOTES.—[1] "employs an incomplete number of the policemen" lit. "employs deficiently the policemen." It means the employment of a smaller number of *men* than the one fixed.

[2] "revenue collection" lit. "collection" simply.

[3] "taking away" lit. "parting" or "separating."

[4] "*service*" *or* "task," "duty."

[5] "list" or "roll," "register."

[6] "to them," *i.e.*, "to the servants of his household."

[7] "then"; this is inserted in the translation for clarity.

[8] "deficient men," *i.e.*, the number of policemen falsely returned as having been employed.

[9] "man," *i.e.*, policeman.

ART. 88.—Officials or other persons who behave or act in any way so as to impair or derogate from[1] the provisions of the Articles as to auction and assignment[2] of the Law[3] relating to revenues[4] which are farmed out under contract,[5] or as to be contrary to such Law are dismissed from office and imprisoned for from one year to two years or exiled for from two years to three years and the loss accruing to[6] the State Treasury from[7] such action of theirs is caused[8] to be made good by them.

ART. 88 NOTES.—[1] "derogate from" or "vitiate," *i.e.*, render more or less ineffective. The word in the Turkish text is "ifsad" ("fesad" in its verbal form). *Vide* note 3 to Art. 49.

[2] "assignment," *i.e.*, awarding to the highest bidder or tenderer.

[3] "Law"; the word in the Turkish text is "nizam," (*vide* note 2 to Art. 15).

[4] "revenues"; the word in the Turkish text is "emval" (*vide* note 5 to Art. 27). It here means state revenues, of course.

[5] "farmed out under contract" lit. "farmed out at a fixed price." The Article refers to the practice (previously explained in note 3 to Art. 29 and note 1 to Art 80) of letting out to tenderers the right and authority to collect the State imposts.

[6] "accruing to" lit. "appertaining to."

[7] "from" or "in consequence of."

[8] "caused" or "made."

ART. 89.[1]—All officials, great or small, of the State who in the sale or purchase for the State of goods or necessaries, in matters considerable or trivial the administration or superintendence of which they are commissioned to,[2] trade,[3] for their own profit, either openly or secretly in person or indirectly[4] or by way of partnership or who in cases of manufacturing or building[5] undertake or become partners with those who undertake work[6] by contract[7] are dismissed from office and exiled for from one year to two years and if they take any commission in such dealings for the State[8] or derive profit in the exchange of money[9] or specie[10] are in addition to[11] dismissal from office punished with imprisonment for from one year to two years or exile from two to three years.

ART. 89 NOTES.—[1] There is some slight similarity between this Article and Art. 175 of the French Code Pénal.

[2] "commissioned to" or "charged with."

[3] "trade" or "traffic."

[4] "indirectly"; as in note 2 to original Art. 55.

[5] "in cases of manufacturing or building" lit. "in manufacturings or buildings."

[6] "undertake work" lit. "undertake," simply.

[7] "by contract" lit. "fixedly," *i.e.*, at a fixed price. It also means "by the piece (or job)."

[8] "dealings for the State" lit "taking and giving (*i.e.*, purchase or sale) for (or by) the State"

[9] "money" lit. "cash." It would include paper money.

[10] "specie" or "coins."

[11] "in addition to" lit. "together with."

ART. 90.—Civil and financial officials who misappropriate[1] in any way whatsoever State property[2] or allow such to be misappropriated by others are dismissed from their office and imprisoned for from three months to two years or are exiled for from six months to three years.

ART. 90 NOTES.—[1] "misappropriate" lit. "pass to their credit" or "let pass into one's own responsibility" in the sense of improperly doing so. Nicolaides translates the passage thus "οἱ καταστήσαντες ἑαυτοὺς ὀφειλέτας δημοσίων χρημάτων, ἢ ἐπιτρέψαντες νὰ περιέλθωσι ταῦτα εἰς χεῖρας ἄλλου" and the French rendering is "auront fait passer à leur compte les deniers de l'Etat ou facilité un délit du même genre en faveur d'un tiers."

[2] "property"; the word in the Turkish text is "mal" (*vide* note 5 to Art. 27).

ART. 91.—From persons who being commissioned to[1] the purchase of or contractors for supplies[2] for the land or sea forces[3] occasion default or impairment of the military supplies[2] the fault[4] lying with them[5] alone, there is taken, after whatever money, if any, they may have received on account for the price of the goods the purchase of which has been contracted for, has been recovered from or caused to be made good by them,[5] a fine equal to one-fourth of the compensation so[6] recovered.[7]

ART. 91 NOTES.—[1] "commissioned to" or "charged with."

[2] "supplies" more literally "necessaries," "requisites."

[3] "forces" lit. "troops."

[4] "fault" lit. "cause."

[5] "them," *i.e.*, such persons or contractors.

[6] "so"; this is inserted in the translation for clarity.

[7] "recovered" lit. "received" or "taken."

ART. 92.—If any State officials assist persons who occasion impairment in the matter of purchases for the State they are imprisoned for three years.

ART. 93.—If things relative to military supplies, the manufacture or purchase of which has come under contract or agreement[1] can not be delivered[2] in due time without any acceptable excuse and are delayed or fraud or corruption[3] has been introduced[4] in connection with[5] the quality, character or quantity of the goods to be supplied or manufactured a fine equal to one-fourth of the necessary compensation[6] payable by them is also taken.

ART 93 NOTES.—[1] "agreement" lit "undertaking" or "engagement."

[2] "delivered" lit. "given" or "furnished."

[3] "corruption"; the word in the Turkish text is "fesad" (*vide* note 3 to Art. 49).

[4] "introduced" lit. "mixed with" or "allowed to interfere with."

[5] "in connection with" lit. "into."

[6] "necessary compensation." This is quite literal but it means the "damages which they have to pay." The French rendering is "des dommages-intérêts qu'ils seront tenus de payer." Nicolaides paraphrases the paragraph.

PART V.

THOSE WHO ABUSE THE INFLUENCE OF THEIR OFFICE AND POSITION AND WHO DO NOT FULFIL THE DUTIES[1] OF THEIR OFFICE.

PART V NOTE.—[1] "duties" lit. "duty."

ART. 94.—In all kinds of legal proceedings[1] the hearing[2] of the pleading and trial of which is in hand,[3] any person, whoever he may be, being at liberty to give information verbally or in writing to the Courts or Councils[4] for merely serving justice[5] and the help of such communications towards[6] adjudication being of the grade of conjectures and indications,[7] therefore such practice[8] being excepted, if any kind of order, solicitation or request[9] takes place on the part of great or small officials in any other manner through protection or spite,[10] in favour of or against the Plaintiff or Defendant,[11] personally or by intermediary in writing or verbally the degrees of the punishment accruing with regard to this kind of official[12] or with regard to Courts or Councils acting contrary to rule[13] in this way are set forth as below.

ART. 94 NOTES.—[1] "legal proceedings." The word in the Turkish text is "da'avi" (pl. of "da'va") which might be translated as "cases" or "actions." It is a general word including both civil and criminal proceedings.

[2] "hearing"; as in note 3 to Art. 78.

[3] "in hand," *i.e.*, "in the course of progress," "pending" or "sub judice." The French rendering is "en instance."

[4] "Councils." The word in the Turkish text is "Mejalis" (pl. of mejlis") *i.e.*, Administrative Councils (*vide* note 5 to Art. 79).

[5] "for merely serving justice," *i.e.*, in the cause of justice. Nicolaides translates "*ὑπὲρ τοῦ δικαίου μεριμνῶν.*"

[6] "towards" lit. "to."

[7] "of the grade of conjectures and indications." This is literal. The French rendering is "reçues à titre de simples indications" and Nicolaides translates the phrase "*μόνον ὡς ἐνδείξεις καὶ ἁπλᾶ τεκμήρια.*" The phrase means roughly "of the nature of circumstantial unsupported evidence."

[8] "practice" lit. "rule," "principle."

[9] "order, solicitation or request." This association of words frequently occurs in this Part. Nicolaides uses the words "*ἡ διαταγὴ, ἡ ἀξιωσις καὶ ἡ παράκλησις,*" and the French rendering is "tout ordre, toute demande ou prière."

[10] "through protection or spite," *i.e.*, "with the desire of protecting or injuring." Nicolaides translates "*λογῳ ὑπερασπίσεως ἢ πάθους.*"

[11] "plaintiff or defendant." This must be read as meaning either party in either civil or criminal proceedings.

[12] "official"; the word is plural in the Turkish text.

[13] "rule" or "principle." Nicolaides paraphrases the passage and uses the word "*παρανόμως.*" The French rendering does not follow the Turkish text.

ART. 95.—If the interference taking place in manner stated above has taken place as[1] an order or domination or overbearing[2] through the influence of the position of the

office of an official, on its being repulsed[3] and made known to the State by the Councils or Courts such official is punished with the punishment of dismissal. If this interference takes place as[1] a solicitation or request, on its being similarly repulsed[3] and made known to the State by the Courts or Councils a fine of from ten Mejidieh gold pieces[4] to fifty Mejidieh gold pieces is taken from the person who has made this request or solicitation.

ART. 95 NOTES.—[1] "as" lit. "in the shape of," "in the form of."

[2] "order or domination or overbearing." Nicolaides translates "ὑπο τον τύπον διαταγῆς, ἐπιβολῆς ἢ ἐκβιάσεως." The French rendering is "au moyen d'un ordre ou d'une pression."

[3] "repulsed" lit "opposed to."

[4] "Mejidieh gold pieces," *i.e.*, Turkish Liras or pounds of one hundred gold piastres: the value of such a Lira is eighteen shillings.

ART. 96.—If upon such interference having taken place with legal proceedings[1] such a legal proceeding has been adjudged[2] unjustly the official who has caused this judgment to be made by his order[3] is, after being dismissed from his office, punished by imprisonment of from three months to one year and a half or by exile of from six months to three years and if such judgment[4] has taken place upon solicitation or request the person who has made such request or solicitation is imprisoned for from one and a half months to three months or exiled for from three months to six months in addition to[5] the fine[6] to be taken from him.

ART. 96 NOTES.—[1] "legal proceedings" (*vide* note 1 to Art. 94).

[2] "adjudged," *i.e.*, "decided" or "adjudicated upon."

[3] "by his order" lit. "by ordering it," *i.e.*, "owing to his order."

[4] "judgment" or "decision," "sentence."

[5] "in addition to" lit. "apart from," "besides."

[6] "the fine." Presumably that mentioned in the preceding Article.

ART. 97.—If any of the Courts or Councils[1] does not state or notify[2] to the State the order, solicitation or request taken place in a legal proceeding,[3] even if it[4] shall not have carried out that order solicitation or request, the person who is the Judge or President is punished by dismissal from office.

ART. 97 NOTES.—[1] "Councils" (*vide* note 5 to Art. 79).

[2] "notify" or "report."

[3] "legal proceeding" (*vide* note 1 to Art. 94).

[4] "it," *i.e.*, the Court or Council.

ART. 98.—If any of the Courts or Councils,[1] besides not notifying[2] to the State such order, solicitation or request which has taken place, has given judgment[3] contrary to equity[4] in consequence of[5] that order, solicitation or request both the Judge or the President of the Council[6] are punished

with the punishments of dismissal for a period of six years and exile[7] for a period of three years and the members of Council are punished only with the punishment of dismissal for six years and the employment[8] at any time in posts of Courts or Councils of whether the Judge and President or Members cannot be permissible.

ART. 98 NOTES.—[1] "Councils" (*vide* note 5 to Art. 79)

[2] "notifying" (*vide* note 2 to Art. 97).

[3] "given judgment" or "adjudicated" (*vide* note 2 to Art. 96.) The same word is used in the Turkish text of both Articles.

[4] "equity" or "justice."

[5] "in consequence of" lit. "based upon."

[6] "Council"; the words "Court or" appear to have been accidentally omitted in the Turkish text before the word "Council."

[7] "dismissal . . . and exile." The punishments are undoubtedly intended to run concurrently so far as they may.

[8] "employment," *i.e.*, re-employment.

ART. 99.[1]—Whoever he may be from amongst great or small officials who shall use or cause to be used influence or coercion[2] for the purpose of opposing the carrying out of the orders of the State or of the provisions of the Laws or Regulations[3] or the collection of any kind of public revenues[4] is punished with the punishment of temporary imprisonment[5]; and if the conduct in this way of officials has taken place of necessity or compulsorily[6] by order of their superiors[7] this punishment does not apply to[8] such[9] but is carried out with regard to him from whom the order has first emanated[10]; and if conduct of this kind is the cause of a more grave Jinayet the punishment for that grave Jinayet is awarded and carried out.

ART. 99 NOTES.—[1] By a Vizierial order dated 15 May, 1309 (27 May, 1893) it was prescribed that Imams or other persons who marry to another individual any woman already wedded to a private soldier in the Ottoman army should be punished under the provisions of the first paragraph of Art. 99 of the Ottoman Penal Code upon trial before the Nizam Court.

[2] "influence or coercion" lit. "influence or effective (or 'authoritative') power." Nicolaides translates "ποιουμενος χρῆσιν τῆς ἰσχύος ἤ τῆς ἐξουσιας αυτοῦ" and the French rendering is "de son influence ou de son autorité."

[3] "Laws or Regulations" "Laws". "οι νομοι" · "les lois" Regulations: "οἱ κανονισμοι": "les reglements" (*vide* note 2 to Art. 15).

[4] "public revenues" lit. "regulated revenues (or moneys)," *i.e.*, of the State. The expression in the Turkish text is "emval i-murettebeh", "emval" (*vide* note 5 to Art. 27)

[5] "temporary imprisonment," *i.e.*, from twenty four hours to three years

[6] "of necessity or compulsorily." Nicolaides renders this "ἀναγκαστικῶς καὶ ὑποχρεωτικῶς." The passage is paraphrased in the French.

[7] "superiors" or "chiefs" lit. "commanders."

[8] "does not apply to" lit. "is not current with regard to."

[9] "such," *i.e.*, the officials whose superiors ordered them to commit the offence.

[10] "emanated" or "taken rise from."

Art. 99 was amplified by the following addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860) of which the text is as follows :—

[1]If those who use influence or coercion[2] in this way are not officials they are similarly punished with the punishment of imprisonment not exceeding one year.

To the above addendum the following notes may be added :—

[1] This is an addition to Art. 99 made by decree dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860). The addition may be found in Djiz-i-Kav, pl. 952 ; Nicolaides, Ott. Cod., p. 2454 ; Aristarchi Bey, III, p. 270; Young, VII, p. 21 ; Walpole, p. 43.

[2] " coercion " ; as in note 2 to Art. 99.

Art. 99 was amended by a further addendum dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows :—

Any person whosoever he may be who actually opposes the orders or actions of[1] the Government for the putting under[2] cordon sanitaire of houses or other places wherein cases of or deaths from cholera or other contagious diseases have occurred is punished with imprisonment for from one month to two years according to the gravity[3] of his act.[4]

To the above addendum the following notes may be added :—

[1] " of " lit. " taking place on the part of."

[2] " putting under " lit. " taking under."

[3] " gravity " lit. " degree."

[4] " act " or " conduct."

Art. 99 was again amplified by a further addendum dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911) of which the text is as follows :—

Those who disrespect[1] the resolutions taken[2] by the State and published and promulgated by Imperial Iradé for the purpose of preserving the public manners[3] and morals or maintaining security and order or restricting[4] the effect of infectious diseases are punished by taking a fine of from one Lira[5] to fifteen Liras or with imprisonment of from twenty-four hours to one month.[6]

To the above addendum may be added the following notes :—

[1] " who disrespect " lit. " who do not respect (or observe)."

[2] " taken " or " adopted," " passed,"

[3] " manners " or " observances," " devoirs."

[4] " restricting " lit. " limiting."

[5] " Lira," *i.e.*, the Turkish pound=18*s*.

[6] An Imperial Iradeh dated 16 Ramazan, 1329 (9 September, 1911), decrees that the violation in public of the religious fast of Ramazan shall be deemed to be an offence punishable under the third addendum to Art. 99 of the Penal Code.

ART. 100.[1]—It being prohibited by general[2] prohibition for Valis,[3] Mutasarrifs,[4] Qaimaqams,[5] Defterdars,[6] Judges, Malmudirs,[7] and Mudirs[8] of Qazas[9] to trade by buying and selling cereals, provisions, or other requisites, which are of

the necessaries of life[10] of the people in the Eyalets,[11] Sanjaqs,[12] or Qazas in which they[13] are found,[14] and in brief in the places where their authority runs, whoever from amongst these[15] dares to carry on this prohibited trade either personally or by any sort of participation or intermediary openly or secretly is dismissed from his office and a fine of from twenty-five Mejidieh gold pieces to one thousand Mejidieh gold pieces is taken and if such persons own emlak[16] or arazi[17] of their own in the places where they are found[14] the trading in the products thereof is held exempt[18] from this rule.

ART. 100 NOTES.—[1] Compare Art. 176 of the French Code Pénal :—"Tout commandant des divisions militaires, des départements ou des places et villes, tout préfet ou sous-préfet qui aura, dans l'étendue des lieux ou par des actes simulés ou par interposition de personnes, le commerce de grains, grenailles, farines, substances farineuses, vins ou boissons, autre que ceux provenant de ses propriétés, sera punis d'une amende de cinq cents francs au moins. de dix mille francs au plus, et de la confiscation des denrées appartenant à ce commerce."

[2] "general" or "absolute."

[3] "Valis" : a "Vali" is the Governor-General of a Vilayet, *i.e.*, province.

[4] "Mutasarrifs" : a "Mutasarrif" is a Governor of a Sanjaq.

[5] "Qaimaqams" : a "Qaimaqam" is the Governor of a Qaza.

[6] "Defterdars" : a "Defterdar" is the Financial Commissary-General of a Vilayet.

[7] "Malmudirs" : a "Malmudir" is the Controller of Revenue and Expenditure of a Qaza.

[8] "Mudirs" : a "Mudir" is an administrator of a Nahieh or Commune.

[9] "Qazas" : a "Qaza" is an Administrative district several of which form a Sanjaq.

[10] "necessaries of life" lit. "indispensable necessaries."

[11] "Eyalets" : an Eyalet is a province under a Vali ; also a "principality."

[12] "Sanjaqs" : a "Sanjaq" is a sub-divisoin of a Province several of which form a Vilayet.

[13] "they," *i.e.*, the Vali, Mutasarrif, etc., as the case may be.

[14] "found" or "situated."

[15] "these" ; as in note 13.

[16] "emlak" pl. of "mulk," *i.e.* roughly corresponding to "freehold property." (*Vide* note 6 to Art 27.)

[17] "arazi" lit. "lands." It probably means here lands which are not "mulk."

[18] "exempt" lit. "excepted."

ART. 101.—Every official if he delays, without its being based on a valid excuse which shall be worthy of acceptance by the Imperial Ottoman Government, an august Firman[1] or high Order[2] or other injunctions the publication or promulgation of which the Imperial Ottoman Government has commanded is dismissed from his office and if the effect of this conduct occasions any injury to the State or Country the punishment provided with regard to those who are the cause of such injury is also carried out in addition.[3]

ART. 101 NOTES.—[1] "august Firman." It refers to an Imperial Order, *i.e.*, an Order by the Sultan.

[2] "high Order" ; it means an order of the Grand Vizier.

[3] "in addition" lit. "separately" or "independently."

ART. 102.—If a subordinate official without valid reason is dilatory or makes default in the execution or carrying out of the injunctions of his superior[1] above him concerning the duty of his[2] office a fine of the amount of his one month's salary is taken ; and if he does not carry out the injunctions of his chief[3] through[4] disobedience he is punished by being dismissed from his office ; and if these matters of delay or suspension or disobedience occasion any injury to the State or Country the punishment provided with regard to those who are the cause of such injury is also carried out in addition.[5]

ART. 102 NOTES.—[1] "superior" or "chief" lit, "commander."
[2] "his," *i.e.*, of the subordinate official.
[3] "chief" lit. "officer" (military or police) ; it means here "superior officer" without any military sense.
[4] "through" lit. "with."
[5] "in addition" ; as in note 3 to Art. 101.

Art. 102 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

If any of the officials of the State, without acceptable cause, neglects or is dilatory in the performance of the duty of his office or, likewise without there being any kind of acceptable cause, fails to[1] carry out the orders lawfully given[2] by his superior,[3] a fine of from three Liras to one hundred Liras is taken[4] according to the rank of his office and if any injury has resulted[5] to the State from such[6] neglect or dilatoriness or from the non-carrying out of the superior's lawful[7] orders the punishment of deprivation of rank and office in perpetuity or temporarily is also awarded together with the punishment of imprisonment of from one week to three years according to the extent[8] thereof[9] ; and if any loss[10] to individuals has resulted[5] from this act that[11] also is caused to be made good in addition.[12]

To the above new Article the following notes may be added :—
[1] "fails to" lit. "does not."
[2] "lawfully given" lit. "given by being based (or 'by leaning') upon the provisions of the law."
[3] "superior" or "chief" lit. "commander."
[4] "taken," *i.e.*, from the offender.
[5] "resulted" lit. "come about."
[6] "such" lit. "this."
[7] "lawful" lit. "which are based on law."
[8] "extent" lit. "degree."
[9] "thereof," *i.e.*, of such injury.
[10] "loss" or "injury."
[11] "that," *i.e.*, such loss.
[12] "in addition" ; as in note 3 to Art. 101.

PART VI.

PUNISHMENT TO BE CARRIED OUT WHEN OPPRESSIONS OR ILL-TREATMENTS TAKE PLACE ON THE PART OF GOVERNMENT OFFICIALS TOWARDS INDIVIDUALS.

ART. 103.—If any of the members[1] of the Courts or Councils or any of other officials of the State commands[2] or carries out the tormenting or torturing of accused persons in order to make them confess[3] their offence[4] he shall be punished with the punishments of temporary confinement in a fortress and perpetual deprivation of rank and office; and if subordinate officials have done this by order of their superior[5] above them these punishments are carried out with regard to the person making this order; and if the tortured person dies from the effects of it or if any sort of injury or defect befalls one of his limbs in consequence of the torment the punishment for a murderer or wounder is also carried out with regard to the official who has ventured to do this.

ART. 103 NOTES—[1] "members of the Courts or Councils" lit. "men of the Courts or Councils," *i.e.*, persons specially connected with the Courts or Councils.

[2] "commands" or "orders."

[3] "confess" lit. "say."

[4] "offence" or "crime," "guilt."

[5] "superior"; as in note 1 to Art. 102.

ART. 104.—If any of the members of the Courts or Councils[1] or any of other officials of the State commands[2] or carries out the treatment of offenders with punishment which is more than that or in a manner more severe than that prescribed[3] by law he is imprisoned for from six months to three years and dismissed so as not to be employed in posts of the Courts or Councils thenceforth.

ART. 104 NOTES.—[1] "members of the Courts or Councils"; as in note 1 to Art. 103.

[2] "commands"; as in note 2 to Art. 103.

[3] "prescribed" or "provided" lit. "appointed," "determined," "designated."

ART. 105.[1]—Every official who in his official capacity[2] enters any person's house forcibly in cases other than matters permitted by the civil or military laws or the established police regulations[3] or by a method other than that prescribed[4] by the laws and regulations is imprisoned for from six months to three years and if it is proved[5] that he has done this by order of his superior[6] he[7] is held excused from punishment and this punishment is carried out with regard to his superior[6]

whoever he may be: and, also, whoever, other than officials, enters any person's house either by intimidation[8] or by force is punished with imprisonment of from one week to six months.

ART. 105 NOTES.—[1] Compare Art. 184 of the French Code Pénal:— " Tout fonctionaire de l'ordre administratif ou judiciaire, tout officier de justice ou de police, tout commandant ou agent de la force publique, qui, agissant en sa dite qualité, se sera introduit dans le domicile d'un citoyen contre le gré de celui-ci, hors les cas prevus par la loi et sans les formalités qu'elle a prescrites, sera puni d'un emprisonnement de six jours à un an, et d'une amende de seize francs sans préjudice de l'application de second paragraphe de l'article 114. Tout individu qui se sera introduit à l'aide de menaces ou de violence dans le domicile d'un citoyen, sera puni d'un emprisonnement de six jours à trois mois et d'une amende de seize francs à deux cent francs. (Loi, 28 Avril, 1832.)

[2] " in his officia' capacity " lit. " with the quality (or ' attribute ') of his office."
[3] " regulations " lit. " regulation " (" nizam "). *Vide* note 2 to Art. 15.
[4] " prescribed " ; as in note 3 to Art. 104.
[5] " proved " lit. " becomes manifest," " becomes evident."
[6] " superior " ; as in note 1 to Art. 102.
[7] " he," *i.e.*, the official who has acted under the order of the superior.
[8] " intimidation " or " threat." " menace."

Art. 105 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

If an official by abusing the duty of his office or in transgression of[1] the rules and conditions prescribed by law enters the residence of another or the appurtenances thereof he is imprisoned for from three months to three years or for from six months to three years if the said act is supplemented by another arbitrary action such as searching the residence; and if searches are made on private premises[2] such as the places of commercial business or offices of individuals the perpetrator is likewise imprisoned for from three months to three years; and if it is proved[3] that he has done this by order of his superior concerning matters lying within the duty of his[4] office he[5] is held excused from punishment and this punishment is carried out with regard to his superior whoever he[6] is; and any person whatsoever, other than officials, who enters the house of a person in contravention of the prohibition of the master[7] thereof either by intimidation[8] or force or in a clandestine manner is punished with imprisonment for from one week to six months.

To the new Article the following notes may be added:—
[1] " in transgression of " lit. " beyond " or " outside of."
[2] " premises " lit. " places."
[3] " proved " ; as in note 5 to the original Art. 105.
[4] " his," *i.e.*, of his superior.

[5] "he," *i.e.*, the subordinate.
[6] "he," *i.e.*, the superior.
[7] "master" or "owner."
[8] "intimidation"; as in note 8 to the original Art. 105.

ART. 106.[1]—If persons empowered with[2] the exercise of compulsive power,[3] police officers or summoning officers[4] dare,[5] by acting in manner other than the way[6] prescribed[7] by the law or regulations[8] in the carrying out of the business of their office[9] or in the putting into execution of the order of their superiors[10] who are above them, to exercise any ill-treatment against[11] any person that is to say to do anything[12] which will either be the cause of compromising[13] honour or repute or will occasion[14] bodily distress, they are punished with imprisonment for from one week to one year according to the degree of violence[15] of their acts.

ART. 106 NOTES.—[1] Compare Art. 186 of the French Code Pénal :— "Lorsqu'un fonctionaire ou un officier public, un administrateur, un agent ou un préposé du Gouvernement ou de la police, un exécuteur des mandats de justice ou jugements, un commandant en chef ou en sous-ordre de la force publique, aura, sans motif légitime, usé ou fait user de violences envers les personnes, dans l'exercice ou à l'occasion de l'exercice de ses fonctions, il sera puni selon la nature et la gravité de ces violences, et en élevant la peine suivant la règle posée par l'article 198 ci-après."

[2] "empowered with" lit. "commissioned to" or "charged with."
[3] "compulsive power"; this is literal. Nicolaides translates the passage "οἱ διοικηταὶ τῆς δημοσίας δυνάμεως." The sense is clear.
[4] "summoning officers." Nicolaides gives "κλητῆρες," *i.e.*, "sheriff's officers"; the French rendering is "les huissiers chargés de mandat d'amener."
[5] "dare" or "attempt."
[6] "way" lit. "manner" "method."
[7] "prescribed"; as in note 3 to Art. 104.
[8] "regulations" lit. "regulation."
[9] "the business of their office" or "their function."
[10] "superiors"; as in note 1 to Art. 102.
[11] "against" lit. "with regard to" or "towards."
[12] "thing" or "action."
[13] "compromising" lit. "breaking."
[14] "occasion" lit. "give."
[15] "violence" or "severity," "intensity."

Art. 106 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

[1]If persons empowered with[2] the exercise of compulsive power,[3] police officers or summoning officers[4] dare,[5] by acting in any case other than the circumstances prescribed[6] by the law or regulations[7] in the carrying out of the business of their office[8] or in the putting into execution of the orders of their superiors who are above them, to exercise any ill-treatment against[9] or do any act which will occasion[10] bodily distress to any person, or batter or wound such person

they are punished with the punishments of imprisonment for from one month to three months and of deprivation of rank and office in perpetuity or temporarily; and if the offence committed by them is graver[11] than these acts the punishment accruing to offences of that kind is awarded.[12]

To the above new Article may be added the following notes:—
[1] For notes 1, 2, 3, 4, 5 *vide* the corresponding notes to the original Art. 106
[6] "prescribed"; as in note 3 to Art. 104.
[7] "regulations"; as in note 8 to the original Art. 106.
[8] "the business of their office" (*vide* note 9 to the original Art. 106.)
[9] "against"; as in note 11 to the original Art. 106.
[10] "occasion"; as in note 14 to the original Art. 106.
[11] "graver" lit. "over" or "above."
[12] "awarded" or "determined," "prescribed."

ART. 107.—If acts[1] such as seizing, or causing to be sold, wrongfully the mal[2] or emlak[3] of a person by compulsorily purchasing or unjustly claiming the same take place on the part of great or small officials of or holders of rank in the Imperial Ottoman Government such emlak or emval[4] are made to be returned[5] to the previous[6] owner in kind or in the case of their non-existence[7] the value thereof in cash and the official who has dared to do this of whatever rank he may be is punished according to the gravity[8] of his offence with the punishment of exile of from six months to three years and perpetual deprivation of rank and office.

ART. 107 NOTES.—[1] "acts" lit. "states," "affairs," "circumstances," "facts."
[2] "mal," *i.e.*, "any property or possession" (*vide* note 5 to Art. 27).
[3] "emlak" pl. of "mulk"; roughly corresponds to "immovable property" (*vide* note 6 to Art. 27).
[4] "emval" pl. of "mal"; same as in note 2 above.
[5] "returned" or "restored."
[6] "previous" lit. "first."
[7] "non-existence," *e.g.*, supposing that the things had been destroyed, lost, eaten or otherwise disposed of.
[8] "gravity" lit. "degree."

ART. 108.[1]—If great or small officials found at the head of an office[2] or officials appointed to be under them[3] or the agents[4] whom the officials employ or persons who farm[5] under contract[6] any kind of State revenues or the agents[4] of such take[7] or obtain anything more than the amount of the taxes[8] or tithes[9] or duties[10] or other dues[11] which are fixed by the State, the officials who are at the head of an office and revenue-farmers[12] are punished with the punishment of temporary confinement in a fortress and the subordinate officials and the agents[4] of officials[13] with the punishment of from six months to three years imprisonment and

after the money which they take in excess, of whatever amount it may be, has been made to be returned[14] an amount equal to what they have so taken[15] is also taken and obtained[16] as fine.

ART. 108 NOTES.—[1] Art. 174 of the French Code Pénal is to some extent comparable :— "Tous fonctionaires, tous officiers publics, leurs commis ou préposés tout percepteur des droits, taxe, contributions, deniers, revenus publics ou communaux, et leurs commis ou préposés, qui se seront rendu coupables de concussions, en ordonnant de percevoir ou en exigeant ou en recevant ce qu'ils savaient n'être pas dû, ou excéder ce qui était dû pour droit, taxes, contributions, deniers ou revenus, ou pour salaires ou traitements, seront punis, savoir, les fonctionnaires ou les officiers publics, de la peine de la réclusion ; et leur commis ou préposés, d'un emprisonnement de deux ans au moins et de cinq ans au plus. Les coupables seront de plus condamnés à une amende dont le *maximum* sera le quart des restitutions et des dommages-intérêts et le *minimum* le douxième."

[2] "office" ; apparently any office. Nicolaides uses the phrase "*οἱ προϊστάμενοι ὑπηρεσίας.*" The French rendering is "à la tête d'une administration."

[3] "appointed to be under them" or simply "appointed under them."

[4] "agents" lit. "men," *i.e.*, "employés." Nicolaides uses "*οἱ ὑπὸ τὰς διαταγὰς αὐτῶν ἐργαζόμενοι.*" The French rendering is "les préposés."

[5] "farm" lit. "undertake."

[6] "under contract" lit. "fixedly," "in a fixed way," *i.e.*, "at a fixed price." The "farming of revenue" has been explained before (*vide* Art. 29, note 3). The phrase "who farm under contract any kind of State revenues" is rendered by Nicolaides "*οἱ ἀναλαμβάνοντες κατ' ἀποκοπὴν τὴν εἴσπραξιν παντὸς εἴδους δημοσίων προσόδων.*"

[7] "take" or "receive."

[8] "taxes" ; the word in the Turkish text is "verghi." Nicolaides translates as "*φόρον*" ; the French rendering is "les impôts."

[9] "tithes." The word in the Turkish text is "a'shar." Nicolaides translates as "*δεκάτην,*" the French uses "les dîmes."

[10] "duties." The word in the Turkish text is "rusumat." Nicolaides translates as "*δασμῶν.*" The French rendering is "les contributions indirectes."

[11] "other dues." Nicolaides translates "*ἄλλων τελῶν.*" The French rendering is "autres taxes et redevances." The word in the Turkish text for "dues" is "a'idat."

[12] "revenue-farmers" or "contractors of public revenue." The word in the Turkish text is "multezim." Nicolaides uses the word "*οἱ ἐνοικιασταὶ*" (*vide* note 3 to Art. 29).

[13] "the agents of officials." The Turkish text does not provide, apparently, any punishment for the agents of the revenue-farmers ; presumably an accidental omission unless the words "subordinate officials" or "agents of officials" are intended to cover the "agents of revenue-farmers." The translation of Nicolaides and the French rendering may be read to include the omitted class with the agents of officials but this is not clear in the original Turkish.

[14] "returned" or "restored."

[15] "an amount equal to what they have so taken" lit. "as much again the money which is what they have taken."

[16] "taken and obtained," *i.e.*, from the offenders.

ART. 109.—If any of the great or small officials takes any money or other thing little or much as penalty besides[1] the fine determined[2] by law, or who takes[3] anything little or much in excess of the amount of the fine with the collection of which he is charged by law or who takes before trial the

fine which may have to be determined, then[4] the thing taken by him is taken from him in twofold the one[5] being given to the owners and the official who has dared to do this is punished with the punishment for bribery.

ART. 109 NOTES.—[1] "besides," *i.e.*, "in excess of."
[2] "determined" or "prescribed," "fixed."
[3] "takes" or "receives."
[4] "then"; the word is inserted in the translation for clarity.
[5] "the one," *i.e.*, "the one-fold."

ART. 110.—If officials of the State or chief men of the country[1] employ men unremunerated[2] without payment[3] as *angaria*[4] in any work other than public services determined[5] by the State or by law[6] or considered necessary[7] as requisite for the people,[8] the wages locally ruling[9] of the men employed by them being taken from the persons who have dared to do this and delivered to the owners[10] they[11] are, if they are officials, dismissed and each one of them is punished with exile for from six months to three years according to the gravity[12] of his offence.

ART. 110 NOTES.—[1] "chief men of the country" or "chief men (or notables) of the place." The French rendering is "les notables des provinces" but this is not correct. Nicolaides translates better "οἱ προύχοντες τοπου τινός." The word "country" does not here mean necessarily a rural area.
[2] "unremunerated" lit. "without reward," "without recompense," "without wages."
[3] "without payment" lit. "gratis," "gratuitously."
[4] "angaria"; it means "forced labour without payment"; rendered by Nicolaides "ἀγγαριαν," in the French "en corvée."
[5] "determined" or "fixed," "prescribed."
[6] "law"; the word in the Turkish text is "nizam" (*vide* note 2 to Art. 15). "Nizam" undoubtedly should be here translated "Law." Nicolaides uses here "νόμος" not "κανονισμός"; and the French rendering has "loi" not "réglement."
[7] "considered necessary" lit. "for which necessity is seen."
[8] "as requisite for the people," *i.e.*, roughly "for public utility."
[9] "ruling" lit. "known," "recognized," "prescribed by custom," and hence "customary."
[10] "owners," *i.e.*, those to whom the wages are due.
[11] "they," *i.e.*, the offenders.
[12] "gravity" lit. "degree."

ART. 111.—If any officials great or small or agents[1] of officials or mubashirs[2] for business[3] or for summoning[4] or men or officers of the police or of the regular troops[5] alighting at the houses of the people at the places which they travel[6] through take compulsorily and without payment[7] forage or eatables they are, after the price of the article, whatever it may be, taken by them[8] has been made to be restored[9]

to the owners[10] and they themselves[11] have been dismissed from their office or service, punished with imprisonment for from one week to one month; and if regular troops[5] in their movements in a body dare to do such things the officers, after the price of the articles taken by them[12] has been recovered[13] from them[14] and made to be delivered to the owners,[10] are also[15] removed from their service and punished with imprisonment for from six months to three years.

ART. 111 NOTES.—[1] "agents" (*vide* Art. 108, note 4). Nicolaides here translates the passage "Οἱ . ὑπάλληλοι, οἱ ὑπηρέται αὐτῶν."

[2] "mubashirs"; a "mubashir" is an agent or subordinate officer generally of a law court deputed with the execution of some definite temporary duty such as the service of a summons or writ. One might almost say "Sheriff's Officer."

[3] "business," *i.e.*, *public business or affair.*

[4] "for *summoning*"; the word in the Turkish text is "ihzar" which means "to summon." "to cite," "to make to appear before a Court, etc."

[5] "regular troops" lit. "paid troops."

[6] "travel" lit. "come and pass."

[7] "without payment"; as in note 3 to Art. 110.

[8] "of the article, whatever it may be, taken by them" lit. "of whatever may be that which they have taken."

[9] "restored," *i.e.*, paid.

[10] "owners," *i.e.*, those to whom the price is due.

[11] "they themselves," *i.e.*, the offenders.

[12] "them," *i e*, the troops under their command as well as the officers.

[13] "recovered" lit "received" or "taken."

[14] "them," *i.e.*, the officers only. By this Article the officers are held entirely responsible and the rank and file escape any punishment under the Code.

[15] "also," *i.e.*, "in addition."

PART VII.

PUNISHMENT OF PERSONS OPPOSING, DISOBEYING OR INSULTING THE OFFICIALS OF THE IMPERIAL OTTOMAN GOVERNMENT.

ART. 112.[1]—If there be persons daring to use insulting treatment towards, malign[2] or intimidate[3] the officials of Courts or Councils[4] or other officials of the Imperial Ottoman Government so as to cause blemish[5] to their dignity or honour whilst they[6] are in the act of[7] carrying out their function[8] or because of the authority of office which they are exercising[9] they[10] are imprisoned for from one week to six months; and if these matters of insult, maligning, or intimidation

take place at the time of pleading[11] in the Courts or Councils[4] the person who dares to do this is imprisoned for from six months to one year.

ART. 112 NOTES.—[1] Compare Arts. 222 and 223 of the French Code Pénal. Art. 222. "Lorsq'un ou plusieurs magistrats de l'ordre administratif ou judiciaire auront reçu, dans l'exercice de leur fonctions, ou à l'occasion de cet exercice, quelque outrage par paroles tendant à inculper leur honneur ou leur délicatesse, celui qui les aura ainsi outragé sera puni d'un emprisonnement d'un mois à deux ans. Si l'outrage a eu lieu à l'audience d'une cour ou d'un tribunal, l'emprisonnement sera de deux à cinq ans.

Art. 223. "L'outrage fait par gestes ou menace à un magistrat dans l'exercice ou à l'occasion de l'exercice de ses fonctions, sera puni d'un mois à six mois d'emprisonnement; et si, l'outrage a eu lieu à l'audience d'une cour ou d'un tribunal. il sera puni d'un emprisonnement d'un mois à deux ans."

[2] "malign" lit. "lengthen out the tongue," *i.e.*, give loose rein to the tongue

[3] "intimidate" or "menace."

[4] "Councils" (*vide* note 4 to Art. 79).

[5] "blemish" lit. "defect."

[6] "they," *i.e.*, such officials.

[7] "in the act of" lit. "in the" simply.

[8] "function" or "office." "charge," "mission."

[9] "because of the authority of office which they are exercising"; it means on account ot something the official has done in the course of and by virtue of his official duty. Nicolaides translates the passage "ἤ διότι ἐξετέλεσε τα τῆς ὑπηρεσιας του" and the French rendering is "ou à l'occasion de cet exercice."

[10] "they," *i.e.*, the offenders.

[11] "at the time of pleading," *i.e.*, "during a hearing or trial." Nicolaides well translates "συνεδριάζοντος τοῦ δικαστηριου ἤ τοῦ συμβουλιου." The French rendering is "à l'audience."

ART. 113.[1]—If there be persons daring to use insulting treatment towards, malign[2] or intimidate[3] the regular troops or generally those who are placed by the Government in charge of the maintenance of order or of administration so as to cause blemish[4] to their dignity or honour whilst they[5] are in the act of[6] carrying out their function[7] or because of the authority of office which they are exercising[8] a fine of from one Mejidieh gold piece to three Mejidieh gold pieces is taken[9]; and if such insults take place against[10] the officers of regular troops or commandants of police they[11] are imprisoned for from one week to one month and if there be any who brandishes weapon[12] in the making of such insult or intimidation such[13] is in every case[14] imprisoned for from six months to two years.

ART. 113 NOTES.—[1] Compare Arts. 224 and 225 of the French Code Pénal. Art. 224. "L'outrage fait par parole, gestes ou menaces à tout officier ministériel, ou agent dépositaire de la force publique, dans l'exercice ou à l'occasion de l'exercice de ses fonctions sera puni d'une amende de seize francs à deux cents francs."

Art. 225. "La peine sera de six jours à un mois d'emprisonnement, si l'outrage mentionné en l'article précédent à été dirigé contre un commandant de la force publique."

[2] "malign"; as in note 2 to Art. 112.
[3] "intimidate"; as in note 3 to Art. 112.
[4] "blemish"; as in note 5 to Art. 112.
[5] "they," *i.e.*, the persons insulted.
[6] "in the act of"; as in note 7 to Art. 112.
[7] "function"; as in note 8 to Art. 112.
[8] "because of the authority of office which they are exercising"; as in note 9 to Art. 112.
[9] "is taken" from the offenders of course.
[10] "against" lit. "with regard to."
[11] "they," *i.e.*, the offenders.
[12] "brandishes weapon" or "draws and flourishes a weapon" lit. "exhibits weapon."
[13] "such," *i.e.*, such offender.
[14] "in every case" or "at all events," or "under all circumstances."

Art. 113 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

If there be persons daring to use insulting treatment towards, malign[1] or intimidate[2] the regular troops or generally those who are placed by the Government in charge of the maintenance of order or of administration so as to cause blemish[3] to their dignity or honour whilst they[4] are in the act of[5] carrying out their function[6] or because of the authority of office which they are exercising[7] they[8] are imprisoned for from one week to three months or a fine of from one Mejidieh gold piece to three Mejidieh gold pieces is taken[9]; and if such insults take place against[10] the officers of regular troops or of gendarmerie or commissaries of police or their assistants they[8] are imprisoned for from fifteen days to six months; and if there be any who brandishes weapon[11] in the making of such insult or intimidation such[12] is in every case[13] imprisoned for from six months to two years.

To the above new Article may be added the following notes:—
[1] "malign"; as in note 2 to Art. 112.
[2] "intimidate" or "menace."
[3] "blemish" (*vide* note 5 to Art. 112).
[4] "they," *i.e.*, the persons insulted.
[5] "in the act of"; as in note 7 to Art. 112.
[6] "function"; as in note 8 to Art. 112.
[7] "because of the authority of office which they are exercising"; as in note 9 to Art. 112.
[8] "they," *i.e.*, the offenders.
[9] "taken" from the offenders, of course.
[10] "against" lit. "with regard to."
[11] "brandishes weapon"; as in note 12 to the original Art. 113.
[12] "such," *i.e.*, such offender.
[13] "in every case"; as in note 14 to the original Art. 113.

ART. 114.[1]—If there be any one daring to beat[2] any one of the officials[3] or a private[4] in the troops of the regular army or police[5] whilst they are in the act of[6] carrying out their function[7] or because of the authority of office which they are exercising[8] he[9] is imprisoned for from six months to two years even if it[10] having been without a weapon there shall appear[11] no trace of wound.

ART. 114 NOTES.—[1] Compare Arts. 228, 230 and 232 of the French Code Pénal. Art. 228. "Tout individu qui, même, sans armes, et sans qu'il en soit résulté des blessures, aura frappé un magistrat dans l'exercice de ses fonctions, ou à l'occasion de cet exercice, sera puni d'un emprisonnement de deux à cinq ans. Si cette voie de fait a eu lie u àl'audience d'une cour ou d'une tribunal, le coupable sera en outre puni de la dégradation civique (Loi, 28 Avril, 1832).

Art. 230. "Les violences de l'espèce exprimée en l'article 228, dirigées contre un officier ministériel, un agent de la force publique, ou un citoyen chargé du ministère de service public, si elles ont eu lieu pendant qu'ils exerçaient leur ministère ou à cette occasion, seront punies d'un emprisonnement d'un mois à six mois."

Art. 232. "Dans le cas même (*vide* note 1 to Art. 115) où ces violences n'auraient pas causé d'effusion de sang, blessures ou maladie, les coupables seront punis de la réclusion, s'ils ont été portées avec préméditation ou de guet-apens."

[2] "beat" or "batter," "hit," "strike."

[3] "officials," *i.e.*, Government officials generally.

[4] "private"; this is literal but it probably really means a member of the forces who is not an officer. Nicolaides uses "ἁπλοῦς στρατιώτης" and the French rendering is simply "un soldat des troupes regulières, ou un agent de police."

[5] "police," *i.e.*, private in the police.

[6] "in the act of"; as in note 7 to Art. 112.

[7] "function"; as in note 8 to Art. 112.

[8] "because of the authority of office which they are exercising"; as in note 9 to Art. 112.

[9] "he," *i.e.*, the offender.

[10] "it," *i.e.*, the assault.

[11] "appear" or "occur."

Art. 114 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the nev Article is as follows:—

If there be any one daring to beat[1] or exercise[2] compulsive treatment or violence against any one of the officials[3] or a private in the regular army or in the ranks[4] of the gendarmerie or police whilst they are in the act of[5] carrying out their function[6] or because of the authority of office which they are exercising[7] he[8] is imprisoned for from six months to one year.

To th new Article the following notes may be added:—

[1] "beat"; as in note 2 to the original Art. 114.)

[2] "execise" lit. "do" or "make."

[3] "offiials" (*vide* note 3 to the original Art. 114.)

[4] "in the ranks" lit. "of the class" or "of the order."
[5] "in the act of"; as in note 7 to Art. 112.
[6] "function"; as in note 8 to Art. 112.
[7] "because of the authority of office which they are exercising"; as in note 9 to Art. 112.
[8] "he," *i.e.*, the offender.

ART. 115.[1]—If a man wounds any one of the[2] great or small Government officials charged with the exercise of authority[3] or with the government and administration of the country[4] whilst they[5] are carrying out the duties[6] of office or because of the authority of office which they are exercising[7] or dares to do any effective act[8] so as to be the cause of his illness he[9] is punished with double[10] the punishment provided[11] by law according to the gravity[12] of his offence.

ART. 115 NOTES.—[1] Compare Art. 231 of the French Code Pénal. Art. 231. "Si les violences exercées contre les fonctionnaires ou agents designés aux Articles 228 et 230, ont été la cause d'effusion de sang, blessures ou maladie, la peine sera la réclusion; si la mort s'en est suivie dans les quarante jours, le coupable sera puni des travaux forces à perpétuité." (Loi, 28 Avril, 1832.)
[2] "any one of the" lit. "one out of all the."
[3] "charged with the exercise of authority" or "commissioned (or appointed) to exercise rule." "Authority" might even be translated "jurisdiction" but here it means "executive authority." Nicolaides translates the passage "ἐπιτετραμμένος ἐκτελεστικην δύναμιν" and the French rendering is "dépositaires de la force publique."
[4] "with the government and administration of the country" or simply "(commissioned) to administer the country."
[5] "they," *i.e.*, the officials.
[6] "the duties" lit. "a duty."
[7] "because of the authority of office which they are exercising"; as in note 9 to Art. 112.
[8] "effective act"; it means "violent act." Nicolaides translates "βίαιος πρᾶξις"
[9] "he," *i.e.*, the offender.
[10] "double" lit. "the twofold of."
[11] "provided" lit. "accruing."
[12] "gravity" lit. "degree."

Art. 115 was repealed and a new Article issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

If a man beats[1] or wounds any one of the[2] great or small Government officials charged with the exercise of authority[3] or with the government and administration of the country[4] whilst they[5] are carrying out the duties[6] of office or because of the authority of office which they are exercising[7] or dare to do any effective act[8] so as to be the cause of his illness he[9] is punished with imprisonment for from six months to three years.[2]

To the above new Article the following notes may be added :—

[1] " beats " (*vide* note 2 to Art.114).

[2] Notes 2, 3, 4, 5, 6, 7, 8 to the original Art. 115 also apply to the above new Article (115), as shown by corresponding numbers.

ART. 116.[1]—If those who are officially summoned[2] to the Courts or Councils[3] refuse to come without any acceptable excuse there is taken from them a fine of from one white Mejidieh piece[4] to five gold Mejidieh pieces and when this refusal goes on being repeated the penalty is also increased and taken fold by fold.[5]

ART. 116 NOTES.—[1] Compare Art. 236 of the French Code Pénal :— " Les témoins et jurés qui auront allégué une excuse reconnue fausse, seront condamnés, outre les amendes prononcées pour la non-comparution, à un emprisonnement de six jours à deux mois.

[2] " officially summoned " lit. " officially invited."

[3] " Councils " (*vide* note 5 to Art. 79).

[4] " white Mejidieh piece," *i.e.*, a silver coin worth twenty Turkish piastres. The silver Mejidieh is worth 3*s.* 4*d.* in English money : the gold Mejidieh piece is the equivalent of 100 gold piastres equal to 18*s.* in English money.

[5] " and when this refusal goes on being repeated the penalty is also increased and taken fold by fold " ; a more literal translation would be " and every time that this refusal repeats itself (or ' occurs again ') the penalty too is added to and taken fold by fold." Compare Nicolaides' translation : " ἐν ὑποτροπῇ δὲ διπλασιάζεται ἑκάστοτε ἡ ποινὴ αὕτη." and the French rendering. " La chiffre de l'amende sera répété autant de fois qu'il y aura en de cas de refus."

Art. 116 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

Those who dare to exercise compulsive or violent treatment or to do any other effective act[1] in order to attack[2] or to impede the legal acts[3] of executive officers, or of an armed force, or of collectors,[4] or of mubashirs[5] or policemen bearing writs of summons[6] or arrest, or of officers delegated[7] by the Courts or of officers[8] of the administrative or judicial police while they[9] are serving or putting into execution[10] the laws or regulations[11] of the State or the orders of the Government or the decisions or judgments of the Courts or the provisions of writs of summons[6] or arrest or the writs of invitation[12] or citation or other judicial documents,[13] are punished as follows :—

Firstly : if these acts are committed by more than twenty persons and all of them are or one from amongst them is armed openly[14] punishment of imprisonment for from three months to three years is awarded ; and in the case of there being no armed person among them punishment of for from one month to two years is inflicted[15] on such persons.[16]

Secondly: if the said offences are committed by from three to twenty persons at the most and likewise even though one of them is armed[17] openly[14] as aforesaid[18] punishment of imprisonment for from fifteen days to one year is inflicted.[15] If there is found no one armed[19] among them they[20] are punished with imprisonment for from one week to six months.

Thirdly: if the above mentioned[21] acts are committed by one or two persons openly[14] armed they[20] are imprisoned for from one week to six months; and if these persons are unarmed[22] they are imprisoned for from twenty-four hours to one month.

If acts necessitating more severe punishment have been perpetrated in the course of the commission of the offences of opposition and disobedience stated[23] in these paragraphs the punishment requisite by law is inflicted[15] on every one of the perpetrators of such[24] acts.

To the above Article the following notes may be added:—

[1] "effective act" (*vide* note 8 to original Art. 115).

[2] "attack" lit. "aggress."

[3] "acts" or "actions."

[4] "collectors," *i.e.*, of revenue.

[5] "mubashirs" (*vide* note 2 to Art. 111).

[6] "summons" or "citation" (*vide* note 4 to Art. 111).

[7] "delegated" lit. "sent as substitute to some place"; it means here a person sent as substitute for some judicial officer.

[8] "officers" or "agents."

[9] "they," *i.e.*, the officials.

[10] "putting into execution" or "enforcing."

[11] "regulations"; the word in the Turkish text is "nizamat," pl. of "nizam" (*vide* note 2 to Art. 15).

[12] "invitation," *i.e.*, invitation to appear.

[13] "documents" lit. "papers."

[14] "openly," *i.e.*, in a manner open to view.

[15] "inflicted" or "ordered," "prescribed" lit. "determined."

[16] "such persons," *i.e.*, the offenders.

[17] "even though one of them is armed"; it means "even if only one is armed."

[18] "as aforesaid" lit. as above."

[19] "armed" lit. "bearing arms."

[20] "they," *i.e.*, the offenders.

[21] "above mentioned" lit. "cited."

[22] "are unarmed" lit. "are not bearers of any sort of arms."

[23] "stated" lit. "written."

[24] "such" lit. "the said."

PART VIII.

RELATES TO PERSONS DARING TO EFFECT THE ESCAPE OF PRISONERS OR TO HIDE CRIMINALS.[1]

PART VIII NOTE.—[1] "criminals" lit. "men of Jinayet."

ART. 117.[1]—When the escape takes place in whatsoever way it may be of persons taken[2] and detained[3] by the Government, the officers, privates[4] or mubashirs[5] charged with their transport and conveyance and the guards, warders,[6] gaolers, sentries and door-keepers[7] charged with their custody in the prisons and officials similar to them[8] if they behave carelessly or with supineness[9] contrary to rule and regulation[10] and[11] the escape of criminals[12] takes place those on whose part conduct occurs in that manner are imprisoned for from one week to two months; and if there is in this the act[13] or selfish object[14] of officials, the official who dares this is punished with imprisonment for from six months to three years according to the gravity[15] of the Jinayet[16] which has been the cause of the imprisonment of the persons who have escaped.

ART. 117 NOTES.—[1] Compare Art. 237 of the French Code Pénal:—"Toutes les fois qu'une évasion de détenus aura lieu, les huissiers, les commandants en chef ou en sous-ordre, soit de la gendarmerie, soit de la force armée servant d'escorte ou garnissant les postes, les concierges, gardiens, geôliers, et tous autres préposés à la conduite, au transport ou à la garde des détenus, seront punis ainsi qu'il suit."

The provisions of the French Code then proceed in Arts. 238-243 to lay down with precision the punishments applicable in cases of this kind, both to persons in charge of those in custody and to individuals not in charge who procure or facilitate in any way the escape of the prisoners. A regular scale of penalties is thus prescribed which are tabulated below and which may be of assistance to those who have to carry into effect the somewhat vague provisions of this Part (VIII) of the Ottoman Code. The French Code also provides further penalties, generally applicable, by way of compen- sation for persons whose pecuniary rights may have been adversely affected by the prisoner's escape and of police supervision in serious cases.

[2] "taken" or "seized."

[3] "detained," *i.e.*, "in custody."

[4] "privates" or "private soldiers." French, "soldats"; Greek, "στρατιῶται."

[5] "mubashirs" (*vide* note 2 to Art. 111 and compare Nicolaides' translation "κλητῆρες," and the French rendering "huissiers"

[6] "warders"; the same as "gaolers" really.

[7] "door-keepers" or "porters."

[8] "them," *i.e.*, all the officials mentioned above.

[9] "supineness" or "thoughtlessness," "heedlessness," "negligence."

[10] "regulation." The word in the Turkish text is "nizam" (*vide* note 2 to Art. 15).

[11] "and"; the words "in consequence of such behaviour" must be understood here.

[12] "criminals" lit. "men of Jinayet." Presumably it would include "suspects" or "accused persons" but the expression is typically lax.

[13] "act"; it means "connivance," "co-operation."

[14] "selfish object" or "private end," "spite," "grudge"; but it means here "of set purpose," "designedly." Nicolaides translates the whole passage "τῇ συνεργίᾳ καὶ τῇ προθέσει."

[15] "gravity" lit. "degrees."

[16] "Jinayet"; probably used loosely here.

TABLE OF PENALTIES UNDER THE FRENCH CODE PENAL FOR OFFENCES IN CONNECTION WITH THE ESCAPE OF PRISONERS.

The nature of the escaping prisoner's offence	PENALTY ON THOSE IN CHARGE				PENALTIES ON THOSE NOT IN CHARGE		
	If merely negligent	If with connivance	If assisting by supplying tools for forced or violent escape or attempted escape	If assisting, by supplying weapons, a forced or violent escape	If procuring or facilitating escape without bribery of or connivance with those in charge	If procuring or facilitating escape by bribery of or connivance with those in charge	If assisting, by supplying weapons, a forced or violent escape
Detained for— 1. *(a)* A "délit de police." *(b)* A "crime simplement infamant." 2. A prisoner of war.	Imprisonment 6 days to 2 months (Art. 238)	Imprisonment 6 months to 2 years (Art. 238)	Imprisonment 3 months to 2 years (Art. 241)	Travaux forcés à perpétuité (Art. 243)	Imprisonment 6 days to 3 months (Art. 238)	The same punishments as are prescribed for those in charge of prisoners, except in the cases in the last schedule (Art. 242)	Travaux forcés à temps (Art. 243)
Detained accused or condemned for an offence involving "une peine afflictive au temps."	Imprisonment 2 months to 6 months (Art. 239)	Réclusion (Art. 239)	Imprisonment 2 years to 5 years (Art. 241)	Travaux forcés à perpétuité (Art. 243)	Imprisonment 3 months to 2 years (Art. 239)		Travaux forcés à temps (Art. 243)
Detained, accused or condemned for an offence involving "la peine du mort" ou "des peines perpetuelles."	Imprisonment 1 year to 2 years (Art. 240)	Travaux forcés à temps (Art. 240)	Réclusion (Art. 241)	Travaux forcés à perpétuité (Art. 243)	Imprisonment 1 year to 5 years (Art. 240)		Travaux forcés à temps (Art. 243)

ART. 118.—If a man, being one of those persons who are not charged with the custody of persons imprisoned or detained[1] procures or facilitates the means of the escape of prisoners he is punished with imprisonment for from one week to six months.

ART. 118 NOTE.—[1] "detained" (*vide* note 3 to Art. 117).

ART. 119.—If a man, whether from among those who are charged with the custody of prisoners or from among other persons, in order to procure the means of the forcible[1] escape of prisoners gives to them[2] instruments, tools[3] or weapons[4] he is punished with the punishment of temporary kyurek.

ART. 119 NOTES.—[1] "forcible" or "by violence."
[2] "gives to them" or "supplies them with."
[3] "tools" or "appliances." Nicolaides translates as "ἐργαλεῖα" and the French rendering is "instruments."
[4] "weapons" or "arms."

ART. 120.—In case a person, from among those charged with the custody of prisoners, by taking money lets[1] a prisoner escape, if the offence of the prisoner is one of the Jinayets which render necessary[2] one of the punishments of putting to death or perpetual[3] kyurek or confinement in a fortress he is, in addition[4] to the recovery[5] of a fine twofold of the money taken by him, punished with the punishment of temporary kyurek and if the prisoner's offence is an offence below these[6] he is punished with the punishment prescribed for a Murteshi.[7]

ART. 120 NOTES.—[1] "lets" lit. "makes."
[2] "render necessary" lit. "call for."
[3] "perpetual." This governs both kyurek and confinement in a fortress.
[4] "in addition to" lit. "besides."
[5] "recovery" lit. "taking."
[6] "below these," *i.e.*, not so grave as those mentioned.
[7] "murteshi": "receiver of a bribe" (*vide* Art. 68, and note 15 to Art. 67).

ART. 121.[1]—If a person knowingly hides and conceals in his house him who has escaped from prison or him who is accused[2] of a Jinayet he is imprisoned for from six months to two years. His[3] ascendant and descendant relatives, spouses, brother and sister are, by exception, exempt from this punishment.

ART. 121 NOTES.—[1] Compare Art. 248 of the French Code Pénal:—"Ceux qui auront recélé ou fait recéler des personnes qu'ils savaient avoir commis des crimes emportant peine afflictive, seront punis de trois mois d'emprisonnement au moins et de deux ans au plus. Sont exceptés de la présente disposition les ascendants ou descendants, époux ou épouse même divorcés, frères ou sœurs des criminels récélés, ou leurs alliés aux mêmes degrés."

[2] "accused" or "charged with" or "found guilty of"; any of these meanings are applicable. Nicolaides translates "ὁ κατηγορούμενος," ("accused," "prisoner"); the French rendering is faulty.

[3] "his" lit. "and his," *i.e.*, "of the person concealed," *i.e.*, a person related, within the indicated degrees, to a fugitive, who has concealed such fugitive is not punishable under this Article.

PART IX.

PUNISHMENT OF PERSONS DARING TO BREAK OPEN SEALS AND TO ABSTRACT[1] EFFECTS[2] OR OFFICIAL DOCUMENTS IN TRUST-CUSTODY.

PART IX NOTES.—[1] "abstract" lit. "take."
[2] "effects" or "articles," "goods."

ART. 122.[1]—In case a seal placed[2] by order of the Administration or Courts of the State[3] for the conservation of any place or effects[4] or documents relating to whatsoever business[5] it may be, is violated[6] and opened, then[7] if there is an official in charge of the preservation of such seal and if this incident[8] has taken place through[9] his inattention or supineness[10] a fine of from five Mejidieh gold pieces to fifty Mejidieh gold pieces is taken[11]; and if such seal has been broken open when it was placed[12] on documents or effects[4] relating to Jinayets[13] the man charged with the conservation thereof is besides such fine punished with imprisonment for from three months to one year according to the gravity[14] of the Jinayet to which such documents or effects relate.

ART. 122 NOTES.—[1] Compare Arts. 249 and 250 of the French Code Pénal. Art. 249. "Lorsque des scellés apposés, soit par ordre du Gouvernement, soit par suite d'une ordonnance de justice rendue en quelque matière que ce soit, auront été brisés, les gardiens seront punis, pour simple négligence, de six jours à six mois d'emprisonnement."

Art. 250. "Si le bris des scellés s'applique à des papiers et effets d'un individu prévenu ou accusé d'un crime emportant la peine de mort, des travaux focés à perpétuité ou de la déportation, ou qui soit condamné à l'une de ces peines, le gardien négligent sera puni de six mois à deux ans d'emprisonnement."

[2] "placed," *i.e.*, "affixed."
[3] "State" or "Government."
[4] "effects"; as in note 2 to Part IX.
[5] "business" or "affairs."
[6] "violated" or "spoilt," "broken." Nicolaides uses the word "διάρρηξις" and the French rendering is "brisé."
[7] "then" this word is introduced: it is not in the Turkish text.
[8] "incident" or "circumstance."
[9] "through" lit. "with."
[10] "supineness"; as in note 9 to Art. 117
[11] "taken," *i.e.*, from the guardian.
[12] "placed" or "found."

[13] "Jinayets," *i.e.*, in the Greek "κακούργημα" and the French "crime." The second paragraph of this Article is thus restricted to cases of the greatest gravity as in the French Code.

[14] "gravity" lit. "degree."

ART. 123.[1]—The person who violates[2] and opens the seal placed on documents or effects[3] relating to Jinayets as stated above is punished with imprisonment of from six months to one year; and if the one[4] in charge of the conservation thereof[5] has done this[6] personally he is punished with imprisonment of from one year to three years.

ART. 123 NOTES.—[1] Compare Art. 251 of the French Code Pénal:—"Quiconque aura, à dessein, brisé des scellés apposés sur des papiers ou effets de la qualité énoncée en l'article précédent, ou participé au bris des scellés, sera puni de la réclusion; et si c'est le gardien lui-même, il sera puni des travaux forcés à temps."

[2] "violates"; as in note 6 to Art. 122.

[3] "effects"; as in note 2 to Part IX.

[4] "the one," *i.e.*, the person.

[5] "thereof," *i.e.*, of the seal; the word is not in the Turkish text but is introduced for clarity in the translation.

[6] "done this," *i.e.*, "broken the seal."

ART. 124.[1]—The person who violates and opens the seal found on a place, effects or documents relating to business of every other kind[2] is punished with imprisonment of from one week to six months; and if those in charge of the conservation thereof[3] have done this personally they are imprisoned for from six months to one year.[4]

ART. 124 NOTES.—[1] Compare Art. 252 of the French Code Pénal:—"A l'égard de tous autres bris de scellés, les coupables seront punis de six mois à deux ans d'emprisonnement; et si c'est le gardien lui-même, il sera puni des travaux forcés à temps."

[2] "every other kind," *i.e.*, other than the kind mentioned in the preceding two Articles.

[3] "thereof," *i.e.*, of the seal.

[4] "The notes to Arts. 122 and 123 may be consulted in reading this Article as they are applicable in the cases where similar words are used," *e.g.*, "violates," "effects," "business."

ART. 125.[1]—With regard to those who dare to commit that[2] theft which takes place by the breaking open of seals, exactly the same punishment as is provided with regard to those who dare to commit theft by breaking the door-locks[3] of a[4] place which is guarded[5] is carried out.

ART. 125 NOTES.—[1] Compare Art. 253 of the French CodeP énal:—"Tout vol commis à l'aide d'un bris de scellés sera punis comme vol commis à l'aide d'effraction."

[2] "that," *i.e.*, "that kind of."

[3] "door-locks" or "locks on the doors."

[4] "a" lit. "the."

[5] "guarded" or "preserved."

ART. 126.[1]—If important State[2] documents, deeds,[3] registers,[4] account books,[5] or papers relating to trials[6] are taken or stolen from the places assigned for their conservation or from the hands of the men charged with their conservation or are caused to be annihilated[7] or destroyed and[8] when it becomes verified[9] that this incident[10] arises from the carelessness or supineness[11] of those who are charged with the conservation thereof a fine to the amount of one month's salary of theirs[12] is taken and they are imprisoned for from one week to three months.[13]

ART. 126 NOTES.—[1] Compare Art. 254 of the French Code Pénal :—" Quant aux soustractions, destructions et enlèvements de pièces ou de procédures criminelles, ou d'autres papiers, registres, actes et effets, contenus dans des archives, greffes ou depôts publics, ou remis à un dépositaire public en cette qualité, les peines seront, contre les greffiers, archivistes, notaires ou autres dépositaires négligents, de trois mois à un an d'emprisonnement, et d'une amende de cent francs à trois cents francs."

[2] " State " ; the word governs all the five nouns immediately following.

[3] " deeds " or " vouchers." The word in the Turkish text is " senedat " (pl. of sened). Nicolaides translates " *δικαιόγραφα*."

[4] " registers " or " memorandum books," " scrolls." The word in the Turkish text is " jeridé." Nicolaides translates " *κώδικες*."

[5] " account books " or " records." The word in the Turkish text is " defatir " (pl. of defter). Nicolaides translates " *κατάστιχα*."

[6] " trials." The word in the Turkish text is " muhakemat " (pl. of muhakemé). It refers to and includes both civil and criminal proceedings.

[7] " annihilated " ; it means " disappear." Nicolaides translates " *ἐξαφανισθῶσιν*."

[8] " and " ; this word is not in the Turkish text.

[9] " verified " or " certain."

[10] " incident " ; as in note 8 to Art. 122.

[11] " supineness " ; as in note 9 to Art. 117.

[12] " of theirs," *i.e.*, of the custodians.

[13] The same remarks made in note 4 to Art. 124 apply here.

ART. 127.[1]—Persons who dare theft or the matters of annihilation or destruction as stated in the above Article are punished with imprisonment of from six months to two years ; and if such theft or destruction of important documents takes place on the part of those charged with the keeping thereof, they are, after one month's salary of theirs is taken[2] by way of fine, punished with imprisonment of from one year to three years.

ART. 127 NOTES.—[1] Compare Art. 255 of the French Code Pénal :—" Quiconque se sera rendu coupable des soustractions, enlèvements ou destructions mentionnés en l'article précédent, sera puni de la réclusion. Si le crime est l'ouvrage du dépositaire lui-même, il sera puni des travaux forcés à temps."

[2] " taken," *i.e.*, from the custodians.

ART. 128.[1]—In case these Jinayets of breaking open seals or theft or annihilation or destruction of documents take place by compulsion of or assault on, on the part of some

persons, those who are charged with the keeping of documents, those who dare to do this are punished with the punishment of temporary kyurek.

ART. 128 NOTE.—[1] Compare Art. 256 of the French Code Pénal :—" Si le bris de scellés, les soustractions, enlèvements ou destructions de pièces ont été commis avec violence envers les personnes, la peine sera, contre toute personne, celles des travaux forcés à temps, sans préjudice des peines plus fortes, s'il y a lieu, d'après la nature des violences et des autres crimes qui y seraient joints."

ART. 129.[1]—Officials opening or causing to be opened letters committed to the Post or to other means[2] of this kind and especially Postal officials who have knowledge of this[3] are, in addition to[4] the taking[5] of a fine of from one Mejidieh gold piece to five Mejidieh gold pieces, imprisoned for from one month to three years.

ART. 129 NOTES.—[1] Part of Art. 187 of the French Code Pénal is somewhat similar. " Toute suppression, toute ouverture de lettres confiées à la poste, commise ou facilitée par un fonctionnaire ou un agent du Gouvernement ou de l'administration des postes, sera punie d'un amende de seize francs à cinq cents francs et d'un emprisonnement de trois mois à cinq ans . . ." (Loi, 28 Avril, 1832.)

[2] " means," *i.e.*, " means of conveyance." Nicolaides translates " *εἰς ἄλλο τοιοῦτον μέσον ἀποστολῆς*," and the French rendering is " à d'autres intermédiaires de ce genre."

[3] " who have knowledge of this." This means " who are aware of the opening of the letters."

[4] " in addition to " lit. " besides."

[5] " taking," *i.e.*, " from the offenders."

PART X.

PERSONS ASSUMING OFFICIAL CAPACITY WITHOUT HAVING THE RIGHT OR AUTHORITY TO DO SO.

ART. 130.[1]—Whoever without having power or authority from the Imperial Ottoman Government appears[2] of himself in the capacity of a civil or military official or carries out matters pertaining to[4] these offices is punished with the punishment of imprisonment for not less than three months ; and if he who dares this action[5] ventures to commit forgery by producing[6] or publishing official documents such as a fictitious Imperial Firman,[7] Vizierial order or warrant[8] the punishment for forgers, as will be shown in Part XV., is also awarded and carried out separately[9] with regard to him.

ART. 130 NOTES.—[1] Compare Art. 258 of the French Code Pénal :—" Quiconque, sans titre, se sera immiscé dans les fonctions publiques, civiles ou militaires, ou aura fait les actes d'une de ces fonctions, sera puni d'un emprisonnement de deux à cinq ans sans préjudice de la peine de faux, si l'acte porte le caratère de ce crime."

[2] "appears in" or "assumes."
[3] "the capacity of a civil or military official" lit. "in the quality (or 'character') of a civil or military office"; "office" or "mission."
[4] "pertaining to" lit. "branching out of."
[5] "dares this action," *i.e.*, "dares to act in this way."
[6] "producing" lit. "showing."
[7] "Firman," *i.e.*, "decree," or "order."
[8] "warrant"; this word is not governed by the adjective Vizierial: "warrant" is in the Turkish text "buyruldu" and is translated by Nicolaides "πρόσταγμα" (command); the French rendering is "ordonnance." It means any warrant in the sense of a mandate, decree in writing, or rescript.
[9] "separately," *i.e.*, "in addition."

Art. 130 was amplified by an addendum dated 6 Jemazi' ul-Akhir, 1329 (4 June, 1911), of which the text is as follows:—

If a person recovers[1] his claim[2] personally by exercising force or violence where[3] he is able to apply to the Government at once, he is imprisoned for up to one year.

If the perpetrator of the offence proves the truth of the claim,[2] as much as three-fourths of the punishment to be undergone by him may be deducted.

The person who resumes possession or occupation of immovable properties after the same have been judicially taken off his possession and delivered to the person entitled thereto is imprisoned for from one month to one year.

If this act is committed[4] by way of using force or violence or exercising[5] threat on the part of armed and more than one persons the punishment of imprisonment is increased[6] to from six months to two years.

To the above addendum the following notes may be added:—
[1] "recovers" lit. "obtains."
[2] "claim" lit. "right."
[3] "where" or "in cases in which."
[4] "committed" or "perpetrated."
[5] "exercising" lit. "bringing about."
[6] "increased" lit. "extended."

ART. 131.[1]—Persons who wear decorations which they have not obtained[2] from or for which they are not authorized by the Imperial Ottoman Government or who put on official dress superior to that proper to their rank[3] or who put on uniform without having any rank or office[4] at all are punished with imprisonment for from three months to one year.

ART. 131 NOTES.—[1] Compare Art. 259 of the French Code Pénal:—"Toute personne qui aura publiquement porté un costume, un uniforme ou un décoration qui ne lui appartiendra pas, sera punie d'un emprisonnement de six mois à deux ans." (Loi, 28 Avril, 1832).
[2] "obtained" lit. "enjoyed" or "attained."
[3] "superior to that proper to their rank" lit. "of a rank above their own."
[4] "office" or "appointment," "mission."

PART XI.

RELATES TO PERSONS INTERFERING WITH[1] RELIGIOUS PRIVILEGES OR DESTROYING OR DAMAGING CERTAIN ANCIENT OR ESTEEMED MONUMENTS.

PART XI NOTE.—[1] " interfering with " or " attacking," " opposing."

ART. 132.[1]—If on the part of any person interference[2] takes place with the rites and ceremonies to the performance of which the classes of His Majesty's subjects are authorized by the State[3] or obstruction[4] by deed or threat takes place against the[5] performance thereof such person is punished with imprisonment of from one week to three months, according to the gravity[6] of his act.[7]

ART. 132 NOTES.—[1] The French Code Pénal dealt with this class of offence in five Articles (Nos. 260-264) in which the possible forms which such an offence might assume and the modes in which it might be carried out are elaborated at some length. The text of none of these five Articles sufficiently resembles Art. 132 of the Ottoman Penal Code as to be of much utility if introduced here.

Nicolaides Ott. Cod., p. 2463, gives in full a Circular emanating from the Ministry of Justice dated 20 Sefer, 1304 (18 November, 1886), from which it would appear that enquiries held by the Courts into blasphemous utterances against the Prophet were by confidential order dated 24 Rebi'ul-Akhir, 1280 (8 October, 1863), instructed to be held in camera and the records submitted to the Government and that by this later Circular the same system was extended to all similar judicial investigations into blasphemy affecting religion, creed, religious tenets and the like (though without submitting the results to Government) coupled with a rider to the effect that in the case of blasphemy against the Prophet the uprightness and acceptability of the witnesses for the prosecution must be vouched for by the local Naib (representative of the Cadi, *i.e.*, Judge of the Sher' Court).

[2] " interference " or " attack," " opposition ."

[3] " State " or " Government."

[4] " obstruction " or " opposition," " hindrance."

[5] " against the " lit. " to the."

[6] " gravity " lit. " degree."

[7] " act," more properly " treatment."

ART. 133.[1]—If there be anyone who demolishes or ruins buildings or monuments constituting[2] sacred pious foundations[3] or local embellishments[4] or damages parts thereof by breakage[5] or who cuts or destroys the trees in the yards of mosques or promenade grounds or streets[6] or squares[7] he is, after being made to make good[8] the damage, punished with imprisonment for from one month to one year and a fine of from one Mejidieh gold piece to ten Mejidieh gold pieces is taken.

ART. 133 NOTES.—[1] Compare Art. 257 of the French Code Pénal :—" Quiconque aura detrui, abattu, mutilé ou dégradé des monuments, statues et autres objets destinés à l'utilité ou à la décoration publique, et élevés par l'autorité publique ou avec son autorisation, sera puni d'un emprisonnement d'un mois à deux ans, et d'une amende de cent francs à cinq cents francs."

[2] " constituting " lit. " which are of."

[3] " pious foundations " or " charitable institutions."

[4] " local embellishments " lit. " embellishments of a city (or ' town ' or ' village ')." The French rendering " à la decoration publique " is as picturesque as Nicolaides' translation " ἔργα κοσμοῦντα τὴν πόλιν."

[5] " or damages parts thereof by breakage " lit. " or damages by breaking certain places thereof."

[6] " streets." The Arabic word " esvaq " (pl. of " suq ") in the Turkish text means literally " market places," but the ordinary meaning of the word is " streets."

[7] " squares " lit. " open places."

[8] " make good " ; it really means " repair a damage " or " make satisfaction for an injury."

Art. 133 was repealed and a new Article substituted on 28 Jemazi'ul-Akhir, 1311 (6 January, 1894), of which the text is as follows :—

[1]If there be any one who demolishes or ruins buildings or monuments constituting[2] sacred pious foundations[3] or local embellishments[4] or damages parts thereof by breakage[5] or who cuts or destroys trees in the yards of mosques or promenade grounds or streets[6] or squares[7] or interferes with[8] burial places or corpses he is, after being made to make good[9] the damages, punished with imprisonment for from one month to one year and a fine of from one Mejidieh gold piece to ten Mejidieh gold pieces is taken.

To the above new Article the following notes may be added :—

[1] Notes 2, 3, 4, 5, 6, 7, to the original Art. 133 also apply to the above new Art. 133 as shown by corresponding numbers.

[8] " interferes " or " tampers," " meddles."

[9] " make good " (*vide* note 8 to the original Art. 133).

PART XII.

PERSONS DERANGING[1] TELEGRAPHIC COMMUNICATIONS.[2]

PART XII NOTES.—[1] " deranging " or " spoiling," " impairing."

[2] " communications " ; the primitive meaning of the word in the Turkish text is " correspondence."

ART. 134.—Whosoever,[1] through carelessness, interrupts[2] the service, working[3] or apparatus of the telegraph in a manner so as to be a hindrance to communication[4] incurs[5] a fine of from five Mejidieh gold pieces to fifty Mejidieh gold pieces ; and if it is proved[6] that he has done this wilfully he is, in addition to[7] this fine, imprisoned for from three months to two years.

ART. 134 NOTES.—[1] " whosoever " lit. " whoever it may be."

[2] " deranges " ; as in note 1, Part XII.

[3] " working " lit. " movement," " motion," " action."

[4] " communication " ; as in note 2, Part XII.

[5] " incurs " lit. " is taken," *i.e.*, there is taken from him.

[6] " proved " or " established."

[7] " in addition to " or " over and above."

Art. 134 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows :—

Whosoever,[1] through disrespect of regulations,[2] deranges[3] the service, working[4] or apparatus of the telephone or telegraph in a manner so as to be a hindrance to communication[5] incurs[6] a fine of from five Mejidieh gold pieces to fifty Mejidieh gold pieces ; and if it is proved[7] that he has done this wilfully he is, in addition to[8] this fine, imprisoned for from three months to two years.

To the above new Article the following notes may be added :—

[1] " whosoever " ; as in note 1 to the original Art. 134.

[2] " regulations." The word in the Turkish text is " nizamat " (pl. of " nizam.") *Vide* note 2 to Art. 15.

[3] " deranges " ; as in note 1 to Part XII.

[4] " working " ; as in note 3 to the original Art. 134.

[5] " communication " ; as in note 4 to the original Art. 134.

[6] " incurs " as in note 5 to the original Art. 134.

[7] " proved " ; as in note 5 to the original Art. 134.

[8] " in addition to " ; as in note 7 to the original Art. 134.

ART. 135.—Whosoever,[1] through acts such as of breaking or destroying the telegraph wires or the insulators[2] or posts thereof, becomes the cause of the interruption[3] of communication[4] is imprisoned for from three months to two years and a fine of from five Mejidieh gold pieces to fifty Mejidieh gold pieces is taken.

ART. 135 NOTES.—[1] " whosoever " ; as in note 1 to the original Art. 134.

[2] " insulators " lit. " porcelains."

[3] " interruption " lit. " suspension."

[4] " communication " ; as in note 2 to Part XII.

Art. 135 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows :—

Whosoever,[1] through acts such as of breaking or destroying the telephone or telegraph wires or the insulator-posts[2] thereof, becomes the cause of the interruption[3] of communication[4] is imprisoned for from three months to two years and a fine of from five Mejidieh gold pieces to fifty Mejidieh gold pieces is taken.

To the above new Article may be added the following notes :—

[1] " whosoever " ; as in note 1 to the original Art. 134.

[2] " insulator-posts " lit. " porcelain-posts " ; this is probably a misprint, in the Turkish text, for insulators or posts." *Vide* the original Art. 135.

[3] " interruption " lit " suspension."

[4] " communication " ; as in note 2 to Part XII.

ART. 136.[1]—Whosoever,[2] during the occurrence of any disorder[3] or disturbance[4] of any sort within the dominions

of the Imperial Ottoman Government, by destroying one or more of the telegraph lines or otherwise preventing the working thereof or by forcibly or in other manner seizing the same interrupts[5] the communication or correspondence passing[6] between officials or prevents or restrains senders of messages[7] through the medium of the telegraph from exchanging correspondence or forcibly opposes the repairing of the telegraph line is put in kyurek temporarily in addition to[8] the taking of a fine of from fifty Mejidieh gold pieces to two hundred Mejidieh gold pieces.

ART. 136 NOTES.—[1] Nicolaides gives (Ott. Cod., p. 2465) the text of a Vizierial Order by which it is pointed out that the offences of interference with the railway line must be dealt with under the Instructions as to Railways of 8 Sefer, 1283 (11 June, 1867) and the Law of 6 Rebi'ul-Akhir, 1290 (3 June, 1873). The former may be found in the Destur, II, p. 340; Nicolaides, Ott. Cod., IV, p. 3456, and the latter in the Destur, IV, p. 363 (*vide* also Aristarchi, Leg. Ott., III, pp. 221-257 and in particular p. 228).

[2] "whosoever"; as in note 1 to the original Art. 134.

[3] "disorder" or "revolt."

[4] "disturbance" or "sedition." The word in the Turkish text is "fesad" (*vide* note 3 to Art. 49).

[5] "interrupts" or "suspends."

[6] "passing" lit. "to run."

[7] "messages" lit. "letters."

[8] "in addition to" lit. "besides," "apart from"

Art. 136 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows:—

Whosoever[1] during the occurrence of any disorder[2] or disturbance[3] of any sort within the dominions of the Imperial Ottoman Government, by destroying one or more of the telephone or telegraph lines or otherwise preventing the working thereof or by forcibly or in any other manner seizing the same, interrupts[4] the communication or correspondence passing[5] between officials or prevents or restrains senders of messages[6] through the medium of the telegraph from exchanging correspondence or from conversation by telephone or forcibly opposes the repairing of the telephone or telegraph line is put in kyurek temporarily in addition to[7] the taking of a fine of from fifty Mejidieh gold pieces to two hundred Mejidieh gold pieces.

To the above new Article the following notes may be added:—

[1] "whosoever"; as in note 1 to the original Art. 134.

[2] "disorder" or "revolt."

[3] "disturbance" (*vide* note 4 to the original Art. 136).

[4] "interrupts" or "suspends."

[5] "passing" lit. "to run."

[6] "messages" lit. "letters."

[7] "in addition to" lit. "besides," "apart from."

PART XIII.

RELATES TO PERSONS OPENING PRINTING HOUSES WITHOUT PERMISSION OR PRINTING AND PUBLISHING OFFENSIVE PAPERS IN PRINTING HOUSES OPENED BY ORDER AND PERMISSION AND TO THE RULES[1] OF TEACHING[2] IN SCHOOLS.[3]

PART XIII NOTES.—[1] "rules" or "method."
[2] "teaching" or "instruction."
[3] "in schools" lit. "of the schools."

ART. 137.[1]—Whoever prints books or papers[2] by opening a printing house without there being the order or permission of the Imperial Ottoman Government fifty Mejidieh gold pieces are taken from him[3] by way of fine[4] after his printing house has been closed.

ART. 137 NOTES.—[1] In connection with Arts. 137, 138 and 139 of the Ottoman Penal Code it is important to consult the provisions of "the Press Law" of 2 Shaban, 1281 (31 December, 1861), and its supplement of 10 Shaban, 1292 (11 September, 1875). The text of the former will be found in the Destur, II, p. 220; Nicolaides, Ott. Cod., IV, p. 4303; Aristarchi, Leg. Ott., III, p. 320; and of the latter in the Destur III, p. 443; Nicolaides, Ott. Cod. IV, p. 4311; Aristarchi, Leg. Ott. V, p. 236. The provisions of the above quoted Articles of the Penal Code are very materially affected and amplified by these two enactments which impose restrictions on the activities of journalism and almost form a definitive code of newspaper libel. The earlier law deals *inter alia* firstly with the somewhat elaborate requirements necessary to enable a journal to be started and carried on; and secondly prescribes the penalties for issuing a periodical without permission, for refusing to insert official communications, for fostering sedition, for outraging "la morale publique," decency or religious faiths, for attacks against the Sultan, the Imperial Family, the Imperial authority, Ministers, officials, friendly Powers and their representatives and private persons and for the dissemination of false news. The suppression of the offending journal, fines and imprisonment all enter into the penal scheme. The supplementary enactment extends the provisions of the law to what one may term "special editions" as opposed to the ordinary issues of a paper. The formalities required to obtain permission for the opening of a printing office are contained in Regulations of 20 Jemazi'ul-Evvel, 1273 (16 January, 1857), the text of which will be found in the Destur, II, p. 220; Aristarchi, Leg. Ott., III, p. 318.
[2] "papers"; Nicolaides translates by "ἔγγραφα."
[3] "from him"; these words are introduced into the translation for clarity.
[4] "by way of fine" or "as fine."

ART. 138.—In the case of a person[1] who dares to print and publish a newspaper or book or offensive[2] papers in printing houses, which have been opened by order or permission of the Imperial Ottoman Government, against the Ottoman Empire or Government authorities[3] or a nationality[4] subject to the Ottoman Empire, the things which he has caused to be printed are first seized[5] and, after the closing of his printing house[6] temporarily or altogether according to the gravity[7] of his offence, a fine of from ten Mejidieh gold pieces to fifty Mejidieh gold pieces is taken.

ART. 138 NOTES.—[1] " in the case of a person " literally simply " of a person."

[2] " offensive." Nicolaides uses the word " *ἐπιβλαβής*." The word " injurious " should be read as meaning " prejudicial to " in conjunction with the objects against which the offensive publications are directed. The French paraphrase is " préjudiciables aux intérets de l'Empire Ottoman, etc."

[3] " Government authorities " lit. men of (governmental) authority " or " men of administrative power."

[4] " nationality " ; this would also include a community bound together by religion (*e.g.*, the Roman Catholic community) but not necessarily territorially unified.

[5] " seized " or " confiscated."

[6] " after the closing of his printing house " lit. " after causing his printing house to be closed."

[7] " gravity " lit. " degree."

ART. 139.[1]—From the person who contrary to public morals[2] prints or causes to be printed or publishes in verse or in prose any things relative to jest or satire[3] or indecent[4] pictures or images[5] a fine of from one Mejidieh gold piece to five Mejidieh gold pieces is taken and he is imprisoned for from twenty-four hours to one week.

ART. 139 NOTES.—[1] *Vide* note 1 to Art. 137. It may be observed that Art. 14 of the Press Law of 2 Shaban, 1281, has a considerable bearing on this Article.

[2] " public morals " or " public decency." Nicolaides translates " *ἐναντίον τῶν χρηστῶν ἠθῶν*" ; the French rendering is " contraires aux bonnes moeurs."

[3] " things relative to jest or satire." The French rendering omits these phrases but Nicolaides translates the passage " *συντεταγμένος γελοιογραφικὰς καὶ σατυρικὰς διατριβάς* " (caricatures and lampoons.)

[4] " indecent " or " obscene."

[5] " indecent pictures or images." Nicolaides translates " *φωτογραφίας ἢ ἀσέμνους εἰκόνας* " and the French rendering is " des figures ou images obscènes."

ART. 140.—If a person opens a school contrary to the regulations[1] on public instruction a fine of from five Mejidieh gold pieces to thirty Mejidieh gold pieces is taken after the school opened by him has been caused to be closed.

ART. 140 NOTES.—[1] regulations." Nicolaides translates " *τὰς διατάξεις* " and the French rendering is " aux lois et règlements." The word in the Turkish text is " nizamat " (pl. of nizam) which might include any law, regulation or ordinance. (*Vide* note 2 to Art. 15.) The chief law on public instruction is that of 24 Jemazi'ul-Evvel, 1286 (1 September, 1869), of which the text is to be found in the Destur, II, p. 184 ; Aristarchi, Leg. Ott., III, p. 277.

ART. 141.—If there be anyone who practises schoolmastership without permission, contrary to the regulations[1] on public instruction, he is prohibited from the practice of[2] schoolmastership and a fine of from two Mejidieh gold pieces up to ten Mejidieh gold pieces is taken.

ART. 141 NOTES.—[1] " regulations " (*vide* note 1 to Art. 140).

[2] " the practice of " ; these words are introduced into the translation for clarity.

ART. 142.—If a book is taught in a school contrary to the regulations[1] on public instruction the director of the school who causes such book to be read and, if the school has no director, the schoolmaster who teaches such book is punished with imprisonment for from one week to one year.

ART. 142 NOTE.—[1] "regulations" (*vide* note 1 to Art. 140).

PART XIV.

SETS FORTH FALSE COINING.

ART. 143.[1]—Persons who coin[2] money in imitation of the gold or silver coins the circulation of which is legally accepted[3] and established[4] within the Ottoman Empire or by extracting or separating[5] gold or silver little or much from the said established coins by means of a file[6] or drill[7] or aqua fortis[8] or by other instruments or way diminish their value or with a view to passing off a coin for another more valuable coin gild the same in the colour thereof[9] or assist[10] the circulation in the Ottoman dominions of such spurious or base coins or in the coming from foreign countries and entrance into His Majesty's dominions thereof or are occupied with the passing[11] off of spurious coins are temporarily placed in kyurek for not less than ten years.

ART. 143 NOTES.—[1] Compare Art. 132 of the French Code Pénal:—"Quiconque aura contrefait ou altéré les monnaies d'or ou d'argent ayant cours légal en France, ou participé à l'émission ou exposition des dites monnaies contrefaites ou altérées, ou à leur introduction sur le territoire français, sera puni des travaux forcés à perpétuité." (Loi, 28 Avril, 1832).

[2] "coin" lit. "cut," *i.e.*, "strike." Nicolaides translates "ὁ ἐκτυπώσας"; the French rendering is "contrefait."

[3] "accepted," *i.e.*, "valid," "legally current."

[4] "established" lit. "fixed," "decided." Nicolaides translates the passage "ὧν (*νομισμάτων*) ἡ . κυκλοφορία ἐπιτρέπεται κατὰ τὸν νόμον"; and the French rendering is "ayant cours légal."

[5] "separating" or "detaching."

[6] "file"; "ῥίνη" in Nicolaides: "limes" in the French rendering.

[7] "drill" or "punch"; "δι' ἀποκοπτῆρος" in Nicolaides; "emporte-pièces" in the French rendering.

[8] "aqua fortis" or "nitric acid."

[9] "thereof," *i.e.*, "of the more valuable coin."

[10] "assist" lit. "are auxiliaries to."

[11] "passing off," *i.e.*, "uttering," "putting into circulation"; in Nicolaides "καταναλώσις."

ART. 144.[1]—Whoever coins[2] money in imitation of the copper coins circulating in the Ottoman dominions or assists in[3] the circulation in the Ottoman dominions or the coming

from foreign countries and entrance into the dominions of His Majesty the Sultan of such spurious coins is put in kyurek temporarily.

ART. 144 NOTES.—[1] Compare Art. 133 of the French Code Pénal :—" Celui qui aura contrefait ou altéré des monnaies de billon ou de cuivre ayant cours légal en France, ou participé à l'émission ou exposition des dites monnaies contrefaites ou altérées, ou à leur introduction sur le territoire français, sera puni des travaux forcés à temps." (Loi, 28 Avril, 1832).

[2] " coins " lit. " cuts," *i.e.*, " strikes." Nicolaides here translates " ὁ παραχαράξας " (παραχαράττω=to coin base money) : compare note 2 to Art. 143.

[3] " assists in " lit. " becomes an auxiliary to."

" ART. 145.[1]—Whoever coins[2] money in the Ottoman dominions in imitation of foreign coins or diminishes the value or alters the colour of foreign coins in the ways[3] set forth[4] in Art. 143 or assists in[5] the circulation in the Ottoman dominions or the entry into His Imperial Majesty's dominions from abroad[6] of such spurious or base coins or is occupied with the passing off[7] thereof is put in kyurek temporarily.

ART. 145 NOTES.—[1] Compare Art. 134 of the French Code Pénal :—" Tout individu qui aura, en France, contrefait ou altéré des monnaies étrangères, ou participé à l'émission. exposition ou introduction en France de monnaies étrangères contrefaites ou altérées, sera puni des travaux forcés à temps."

[2] " coins " (*vide* note 2 to Art. 143 which applies here also).

[3] " in the ways " or " by the means "

[4] " set forth " or " stated."

[5] " assists in " (*vide* note 3 to Art. 144).

[6] " abroad " lit. " outside."

[7] " passing off " (*vide* note 11 to Art. 143).

" ART. 146.[1]—It is not necessary that the offence of passing off[2] spurious coins should be imputed[3] to persons taking[4] or giving the spurious or debased[5] coins referred to[6] in the preceding Articles who suppose[7] they are genuine[8]; but if they pass off such vitiated coins after they have come[9] into their hands being aware of their being spurious or debased a fine of not less than three times or more than six times the amount[10] passed by them is taken and this fine may in no case be under one Mejidieh gold piece.

ART. 146 NOTES.—[1] Compare Art. 135 of the French Code Pénal :—" La participation énoncée aux précédents articles ne s'applique point à ceux qui, ayant reçu pour bonnes des pièces de monnaie contrefaites ou altérées, les ont remises en circulation. Toutefois celui qui aura fait usage des dites pièces après en avoir vérifié ou fait verifier les vices, sera puni d'une amende triple au moins et sextuple au plus de la somme représentée par les pièces qu'il aura rendues à la circulation, sans que cette amende puisse en aucun cas être inférieure à seize francs." Nicolaides (Ott. Cod., p. 2468) gives in full a Circular dated 19 Rebi'ul-Evvel, 1301 (18 January, 1884), issued from the Ministry of Justice prescribing that as, although the circulation of foreign silver coins had been prohibited from May, 1299 (May, 1883), owing to certain exceptions made in favour of persons who required these foreign silver coins in their business, the prohibited circulation continued, all persons who attempted to

force on the public either in exchange or other business this unlawful currency would be punishable under Art. 146. The Circular is also shortly referred to by Young, Corps de Droit Ott., VII, p. 30.

[2] "passing off" (*vide* note 11 to Art. 143).
[3] "imputed to" lit. "imputed with regard to" or "against."
[4] "taking," *i.e.*, "receiving."
[5] "debased" or "base."
[6] "referred to" lit. "set forth" or "stated."
[7] "who suppose" lit. "with the supposition that."
[8] "genuine" lit. "true," "correct," "good."
[9] "come" lit. "passed."
[10] "amount," *i.e.*, "the value of the coins." It probably means the alleged or face value though the Turkish text does not show this. Nicolaides follows the Turkish accurately but the French rendering is the same as the wording of the French Code.

ART. 147.[1]—Those from amongst the persons guilty of[2] the Jinayets set forth in Arts. 143, 144 and 145 who report[3] the matter and those[4] who have dared to commit them[5] to the Government before such Jinayets have been completely carried out or before the work[6] of investigations[7] has been entered upon[8] by the Government or who[9] after the work of investigations has been entered upon are instrumental in[10] the apprehension of still other guilty persons are exempted from punishment but are taken under police supervision temporarily.

ART. 147 NOTES.—[1] Compare Art. 138 of the French Code Pénal:—"Les personnes coupables des crimes mentionnés aux Arts. 132 et 133 seront exemptés de peines, si, avant la consommation de ces crimes et avant toute poursuites, elles en ont donné connaissance et révélé les auteurs aux autorités constituées, ou si, même après les poursuites commencées, elles ont procuré l'arrestation des autres coupables. Elles pourront néanmoins être mises, pour la vie ou à temps, sous la surveillance spéciale de la haute police."

[2] "guilty of" or also "accused of," "charged with."
[3] "report" or "denounce."
[4] "those," the culprits (accusative).
[5] "dared to commit them" lit. "dared them," "them," *i.e.*, these Jinayets.
[6] "work" lit. "business," "affair," "matter."
[7] "investigations" lit. "researches."
[8] "entered upon" or "commenced."
[9] "who"; the word is not in the Turkish text.
[10] "are instrumental in" lit. "serve to" or "render service to."

PART XV.

SETS FORTH FORGERY.

ART. 148.[1]—Persons who imitate or cause to be imitated Orders[2] of the Imperial Ottoman Government or who alter or cause to be altered the Supreme Orders[3] or who imitate or cause to be imitated the paraph[4] or signature of the officials of the State or who make a false[5] seal in imitation of a seal belonging to[6] the offices or officials of the Imperial

Ottoman Government or who use such a false[5] seal or who imitate or by forgery alter the bonds,[7] obligations,[8] pay-warrants[9] and every other description of deeds,[10] which are in circulation, of all the treasuries[11] or public chests[12] or who use or introduce into the Ottoman dominions such false[5] paper-moneys or deeds[10] are punished with the punishment of temporary[13] kyurek or confinement in a fortress for not under ten years.

ART. 148 NOTES.—[1] Compare Art. 139 of the French Code Pénal :—" Ceux qui auront contrefait le sceau de l'Etat ou fait usage du sceau contrefait ; ceux qui auront contrefait ou falsifié, soit des effets émis par le trésor public avec son timbres, soit des billets de banques autorisées par la loi, ou qui auront fait usage de ces effets et billets contrefaits ou falsifiés, ou qui les auront introduits dans l'enceinte du territoire français, seront punis des travaux forcés à temps."

[2] " Orders " ; the word in the Turkish text is " evamir " (pl. of " emr ").

[3] " the Supreme Orders." This phrase is only probably synonymous with the phrase " Orders of the Imperial Ottoman Government " above. The commentator Reshad takes this view.

[4] " paraph " ; the word in the Turkish text is " sahh " ; it might be freely translated " initials." Nicolaides translates by " *μονογραφὴν* " ; the French rendering is " paraphe " ; Walpole uses " initials."

[5] " false " or " counterfeit," " forged," " spurious."

[6] " belonging to " lit. " special to," " peculiar to."

[7] " bonds " lit. " shares." The expression refers to annuities sold by the Ottoman Treasury. The word in the Turkish text is " esham " (pl. of " sehm ").

[8] " obligations " or " Treasury bonds " ; the word in the Turkish text is " tahvilat " (pl. of " tahvil ").

[9] " pay-warrants " ; the word in the Turkish text is " sergi " (*vide* note 1 to Art. 85).

[10] " deeds " ; the word in the Turkish text is " senedat " (pl. of " sened ") ; the word also means " contracts," " vouchers," " documents." " obligations " (*vide* note 2 to Art. 85).

[11] " treasuries," *i.e.*, the public treasuries.

[12] " public chests." The word in the Turkish text is " mal sandiqlari " (pl. of " mal sandighi "). The expression no doubt means here the local or district treasuries.

[13] " temporary " ; the word qualifies both kyurek and confinement in a fortress.

ART. 149.[1]—Whoever imitates or alters by way of forgery any of the stamps[2] of every kind bearing the tughra[3] belonging to the public[4] is punished with the punishment of temporary kyurek or confinement in a fortress for not exceeding ten years[5] ; and the person who by obtaining possession by some means of one of such public[4] stamps[6] bearing the tughra uses it in a way to be prejudicial to the State or country is imprisoned for three years.

ART. 149 NOTES.—[1] Compare Arts. 140 and 141 of the French Code Pénal. Art. 140. " Ceux qui auront contrefait ou falsifié, soit un ou plusieurs timbres nationaux, soit les marteaux de l'Etat servant aux marques forestières, soit le poinçon ou les poinçons servant à marquer les matières d'or ou d'argent, ou qui auront fait usage des papiers, effets, timbres, marteaux ou poinçons falsifiés ou contrefaits, seront punis des travaux forcés à temps, dont le maximum sera toujours appliqués dans ce cas."

Art. 141. "Sera puni de la réclusion, quiconque s'étant indument procuré les vrais timbres, marteaux ou poinçons ayant l'une des destinations exprimés en l'article 140, en aura fait une application ou usage préjudiciable aux droits ou intérêts de l'Etat."

[2] "stamps." In the Turkish text the words used to express "stamps bearing the tughra" are "tughrali damgha." "Damgha" means according to Redhouse: 1. An instrument for stamping. 2. The mark stamped with such an instrument. The phrase would include therefore not only postage and revenue stamps but any plate or die for such or indeed any "stamp" or "mark" or the implements with which they were made, provided of course they belonged to the Government and comprised the "tughra" or Imperial Cypher. The distinction between Arts. 149 and 150 so far as the word "stamp" is concerned is that in the former it is qualified by the fact of comprising the Imperial Cypher, and in the latter it is not.

[3] "tughra": "The Imperial Cypher." (*Vide* Art. 16, note 6). This "chiffre" is a very familiar and prominent feature on all Turkish postage and revenue stamps.

[4] "public," *i.e.*, the public as represented by the Treasury.

[5] "for not exceeding ten years"; these words qualify both the punishments of temporary kyurek and confinement in a fortress.

[6] "such public stamps." The phrase refers only to genuine stamps. The translation of Nicolaides and the French rendering also support this view.

ART. 150.[1]—The person who imitates any kind of seals[2] or stamps[3] or marks[4] intended to[5] be impressed in the name of the Imperial Ottoman Government on any kind of merchandise or goods or which belong[6] whether to an office[7] or whether to an association authorized[8] by the State or whether to a commercial house or uses that sort of forged stamps or marks is punished with imprisonment for three years and the loss taking place on account of this forgery of his is caused to be made good[9] by him; and whoever obtains possession by some means of the originals[10] of such seals or stamps or marks and uses them in a manner[11] to be prejudicial to the interests whether of the Government or of offices[7] or whether of a commercial association or of any special body or society similar thereto is punished with imprisonment for from six months to one year and the loss taken place in this way is also caused to be made good[9] by that person.

ART. 150 NOTES.—[1] Compare Arts. 142 and 143 of the French Code Pénal. Art. 142. "Ceux qui auront contrefait les marques destinées à être apposées au nom du Gouvernement, sur les diverses espèces de denrées ou de marchandises ou qui auront fait usage des ces fausses marques;—ceux qui auront contrefait le sceau, timbre ou marque d'une autorité quelconque ou d'un établissement particulier de banque ou de commerce, ou qui auront fait usage de sceaux, timbres ou marques contrefaits,—seront punis de la réclusion."

Art. 143. "Sera puni de la dégradation civique, quiconque s'étant indûment procuré les vrais sceaux, timbres ou marques ayant l'une des destinations exprimées en l'art. 142, en aura fait une application ou usage préjudiciable ou droits ou intérêts de l'Etat, d'une autorité quelconque, ou même d'un établissement particulier." (Loi, 28 Avril, 1832.)

[2] "seals"; the word in the Turkish text is "muhr" which means "seal" and also "the impression of a seal."

[3] "stamps"; the word in the Turkish text is "damgha" (*vide* note 2 to Art. 149).
[4] "marks"; the word in the Turkish text is "nishan," which means "a distinguishing sign" or "an impression" or "print."
[5] "intended to" lit. "special to" or "peculiar to."
[6] "belonging to" lit. as in note 5 though the same English word cannot suitably be used in both passages (*vide* also note 6 to Art. 148).
[7] "office"; it means a public, *i.e.*, Government office. The word here is used in the sense of "a public employment" or "a public appointment."
[8] "authorised" lit. "which is with the permission of."
[9] "made good" lit. "restituted."
[10] "originals," *i.e.*, "genuine" lit. "real," "prototype."
[11] "in a manner" lit. "in a condition."

ART. 151.[1]—Whosoever from among persons guilty of[2] the forgery set forth in the preceding Articles reports[3] to the Government the matter and those who have dared to commit it[4] before such Jinayets have been completely carried out or before the work[5] of investigations[6] has been entered upon[7] by the Government or who even after the work of investigations has been entered upon is instrumental in[8] the apprehension of the other guilty persons is exempted from punishment but he is held[9] under police supervision temporarily.

ART. 151 NOTES.—[1] Art. 144 of the French Code Pénal prescribes that the provisions of Art. 138 of that Code (the text of which has been already given under note 1 to Art. 147) are applicable to Art. 139.
[2] "guilty of" or "charged with," "accused of," "arraigned for."
[3] "is instrumental in"; as in note 10 to Art. 147.
[4] "dared to commit it" lit. "dared it."
[5] "work"; as in note 6 to Art. 147.
[6] "investigations"; as in note 7 to Art. 147.
[7] "entered upon" or "commenced."
[8] "instrumental in"; as in note 10 to Art. 147.
[9] "held" or "kept."

ART. 152.[1]—Whosoever from among officials while carrying out[2] his office commits forgery whether by making additions[3] between the lines of judgments or mazbatas[4] or other deeds[5] or books[6] or registers or other records[7] or by altering the writing or seal or signature or placing in lieu of the name of a person the name of another person is punished with the punishment of temporary[8] kyurek or confinement in a fortress for not under ten years; and if the person committing this forgery is not an official he is punished with the punishment of temporary[8] kyurek or confinement in a fortress for not exceeding seven years.

ART. 152 NOTES.—[1] Compare Art. 145 of the French Code Pénal:—"Tout fonctionnaire ou officier public qui, dans l'exercice de ses fonctions, aura commis un faux,—soit par fausses signatures, soit par altération des actes, écritures ou signatures,—soit par supposition des personnes,—soit par des écritures faites ou intercalées sur des registres ou d'autres actes publics, depuis leur confection ou clôtures,—sera puni des travaux forcés à perpétuité."

Art. 147 of the French Code Pénal corresponds roughly to the latter parts of Arts. 152 and 153 of the Ottoman Code ; it runs " Seront punies des travaux forcés à temps, toutes autres personnes qui auront commis un faux en écriture authentique et publique, ou en écriture de commerce ou de banque,—soit par contrefaçon ou altération d'écritures ou de signatures,—soit par fabrications de conventions, dispositions, obligations ou décharges, ou par leur insertion après coup dans ces actes,—soit par addition ou altération de clauses, de déclaration ou de faits que ces actes avaient pour objet de recevoir et de constater."

[2] " carrying out " or " performing."
[3] " making additions " lit. " adding."
[4] " mazbatas " (*vide* note 3 to Art. 19.)
[5] " deeds " ; as in note 10 to Art. 148. Nicolaides uses " *δικαιόγραφα*."
[6] " books " or " account-books," " lists," " inventories."
[7] " records " ; it would include " Court-records."
[8] " temporary " ; it governs both punishments.

ART. 153.[1]—If an official, while drawing up by virtue of his office any kind of official deeds[2] or documents prepared[3] for men of business in Councils[4] or Courts or other places where affairs of men[5] are conducted,[6] commits forgery by fraudulently altering the principal[7] matter or the circumstances relative thereto[8] whether by perverting[9] the declarations or statements of the men of business or whether by putting an untrue matter in the place of that which is[10] true or representing as acknowledged[11] a case or a matter which has not been acknowledged is punished with the punishment of temporary[12] kyurek or confinement in a fortress for not less than ten years.

ART. 153 NOTES.—[1] Compare Art. 146 of the French Code Pénal :—" Sera aussi puni des travaux forcés à perpétuité, tout fonctionnaire ou officier public qui, en rédigeant des actes de son ministère en aura frauduleusement dénaturé la substance ou les circonstances, soit en écrivant des conventions autres que celles qui auraient été tracées ou dictées par les parties, soit en constatant comme vrais des faits faux, ou commes avoués des faits qui ne l'étaient pas." The latter part of note 1 to Art. 152 should also be noted.

[2] " deeds " (*vide* note 10 to Art. 148).
[3] " prepared " lit. " made " or " done."
[4] " Councils " (*vide* note 4 to Art. 79).
[5] " men," *i.e.*, the public : lit. " servants (of God)."
[6] " conducted," more literally " looked into," " examined into." (*Vide* also note 3 to Art. 78.)
[7] " principal " or " real," " essential," " original."
[8] " relative thereto " or " dependent thereon" lit. " branching out therefrom."
[9] " perverting " lit. " writing in a different way."
[10] " that which is " ; these words are inserted in the translation for clarity.
[11] " acknowledged " or " avowed," " confessed," " admitted."
[12] " temporary " ; the word governs both punishments.

ART. 154.[1]—Those who knowingly make use of[2] the forged papers set forth in the preceding two Articles are put in chains[3] or confined in a fortress temporarily[4] for not exceeding seven years.

ART. 154 NOTES.—[1] Compare Art. 148 of the French Code Pénal:—"Dans tous les cas exprimés au présent paragraphe (which contains Arts. 145, 146, 147), celui qui aura fait usage des actes faux sera puni des travaux forcés à temps."

For text of Arts. 145, 146, 147 *vide* notes 1, 1 to Arts. 152 and 153.

[2] "make use of" lit. "use."

[3] "put in chains"; the expression in the Turkish text is "prangabend": a loose equivalent for "kyurek" (*vide* note 3 to Art. 27).

[4] "temporarily"; it governs both punishments.

ART. 155.[1]—The persons who commit forgery, in manner set forth[2] above, on private documents[3] belonging to an individual[4] or who knowingly make use of[5] such forged papers are punished with imprisonment for from one year to three years.

ART. 155 NOTES.—[1] Compare Arts. 150 and 151 of the French Code Pénal. Art. 150. "Tout individu qui aura, de l'une de manières exprimées en l'article 147 (*q.v.* note 1 to Art. 152 above) commis un faux en écriture privée sera puni de la réclusion."

Art. 151. "Sera puni de la même peine celui qui aura fait usage de la pièce fausse."

[2] "set forth" or "stated."

[3] "documents" lit. "papers."

[4] "private documents belonging to an individual" lit. "special documents relating to an individual." Nicolaides translates "*ἐν ἐγγράφῳ ἰδιωτικῷ*."

The meaning is contradistinctive to public or official documents.

[5] "make use of" lit. "use."

Art. 155 was amended by an addendum dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows:—

The persons who prepare or cause to be prepared falsely[1] or who alter or distort[2] or cause to be altered or distorted the originals of invoices, declarations etcetera necessary to be produced to the customs administrations under[3] the law[4] or who knowingly produce or make use of[5] or cause to be produced or made use of such false or distorted documents[6] are imprisoned for from one week to one year or a fine of from five Liras to one hundred Liras is taken or both of these punishments are carried out together.[7]

To the above addendum the following notes may be added:—

[1] "falsely" lit. "as being contrary to truth"

[2] "distort" or "pervert." "falsify."

[3] "under" or "according to."

[4] "law" or "regulation." The word in the Turkish text is "nizam" (*vide* note 2 to Art. 15).

[5] "make use of" or "use."

[6] "documents" lit. "papers."

[7] "together" or "at the same time."

ART. 156.[1]—The person who causes forged names to be written in travellers' passes,[2] permits for journey,[3] or passports[4] or who becomes surety for the purpose of obtaining passes[5] by such fraud is imprisoned for from six months to two years.

ART. 156 NOTES.—[1] Compare the first part of Art. 154 of the French Code Pénal:—"Quiconque prendra, dans un passe-port, un nom supposé, ou aura concouru comme témoin à faire délivré le passe-port sous le nom supposé, sera puni d'un emprisonnement de trois mois à un an." This Article of the French Code has since (1863) been modified.

[2] "travellers' passes." The word in the Turkish text is "yol emri." These were special "passes" issued to travellers of distinction; they were abolished in 1880 and replaced by "Vizierial letters of recommendation" to the authorities of the localities to which the traveller intended to proceed.

[3] "permits for journey"; in the French "feuilles-de-route." Distinguished from "passports" by being applicable for internal journeys. The words in the Turkish text are "murur tezkeresi." These and the words "yol tezkeresi" (translated as "permit of way") in Art. 14 have the same meaning.

[4] "passports"; for travelling abroad. The regulations as to passports in the Ottoman Empire have varied at different times. An interesting chapter on Passports and Feuilles-de-route will be found with the text of the regulations applicable at the date of his publication in Young's Corps de Droit Ottoman, Vol. II, pp. 262-278.

[5] "passes" lit. "road papers."

Art. 156 was amplified by an addendum dated 25 Sefer, 1328 (8 April, 1908), of which the text is as follows:—

Those who use a traveller's pass or permit for journey, issued in[1] the name of another person, without altering or distorting[2] it but merely assuming the name of such person, or give the said papers to another person knowingly that[3] they[4] will be used under a pseudonym[5] are imprisoned for from one week to one month, and those who use passports in this manner or give them to another person knowingly that[3] they are to be used under a pseudonym[5] are imprisoned for from six months to two years.[6]

To the above addendum the following notes may be added:—

[1] "in" lit. "to."

[2] "distorting" (*vide* note 2 in addendum to Art. 155).

[3] "knowingly that," *i.e.*, "with the knowledge that."

[4] "they" lit. "it."

[5] "under a pseudonym" lit. "with a borrowed name," *i.e.*, by assuming a fictitious name.

[6] In this Addendum for the meaning of the words "traveller's pass," "permit for journey," and "passport" (*vide* notes 2, 3, and 4 to Art. 156).

ART. 157.[1]—The persons who forge a traveller's pass, permit for journey or passport or alter or distort[2] such passes[3] which are genuine[4] or make use of such forged, altered or distorted papers are imprisoned for from one year to three years.

ART. 157 NOTES.—[1] Compare Art. 153 of the French Code Pénal:—"Quiconque fabriquera un faux passe-port ou falsifiera un passe-port originairement véritable ou fera usage d'un passe-port fabriqué ou falsifié, sera puni d'un emprisonnement d'une année au moins et de cinq ans au plus." This Article of the Code has since been altered. (Loi, 13 Mai, 1863.)

Art. 156 of the French Code deals with the fabrication of "une feuille de route" in identical words with Art. 153 except that the punishments are elaborated in

a scale varying in degree according to the object with which the forged document was effected and to the loss, if any, occasioned to the public Treasury by such forgery.

[3] "such passes" lit. "such a road paper."

[4] "genuine" lit. "true."

ART. 157 was amended and re-issued on 7 Jemazi'ul-Akhir, 1310 (27 December, 1892). The following is the text of the new Article:—

The persons who forge a traveller's pass, permit for journey, or Tezkeré-i-Osmanieh,[1] or alter or distort these papers, or use such forged, altered or distorted papers are imprisoned for from one year to three years.[2]

To the above new Article the following notes may be added:—

[1] "Tezkeré-i-Osmanieh"; this is a certificate of Ottoman nationality issued by the Ministry of the Interior.

[2] In this new Article for the meaning of "traveller's pass" and "permit for journey" *vide* notes 2 and 3 to Art 156. For "distort" *vide* note 2 in addendum to Art. 155. The text of the new Article may be found in Djiz-i-Kav, p. 972; Young, Corps de Droit Ott., VII, p. 32.

ART. 158.[1]—If inn-keepers, coffee-house keepers, keepers of lodging-houses for strangers,[2] hotel-keepers or other such persons who lodge people[3] by day-rent cause the persons to whom they furnish rooms or habitation[4] to be enregistered[5] falsely under other names while knowing their true names they are imprisoned for from one month to three months.

ART. 158 NOTES.—[1] Compare the last paragraph of Art. 154 of the French Code Pénal:—"Les logeurs et aubergistes qui sciemment inscriront sur leurs registres, sous des noms faux et supposés, les personnes logées chez eux, seront puni d'un emprisonnement de six jours au moins et d'un an au plus." The penalties in the French Code have since (1863) been lessened.

[2] "lodging-houses for strangers." The words in the Turkish text are "bekiar odajisi" meaning a keeper of a kind of inn or lodging-house where rooms are let to artisans and labourers, generally strangers.

[3] "people" lit. "this and that" or "the one and the other."

[4] "habitation" or "quarters," "lodgings."

[5] "enregistered" lit. "registered in the book."

ART. 159.[1]—Officials who issue[2] permits for journey[3] without binding over on bail[4] according to the requirement of the rules[5] and regulations[6] in force[7] in that behalf are punished with dismissal from their office and imprisonment for from six months to one year. If such officials knowingly write false names on the passes[8] to be issued[9] by them they are imprisoned for from six months to two years.

ART. 159 NOTES.—[1] Compare Arts. 157 and 158 of the French Code Pénal:—"Les peines portées en l'article précedent seront appliquées, selon les distinctions qui y sont posées, à toute personne qui se sera fait délivrer, par l'officier public, une feuille de route sous un nom supposé." For the preceding Article (156) *vide* note 1 to Art. 157.

Then Art. 158 completes the above as follows :—" Si l'officier public était instruit de la supposition du nom lorsqu'il a delivré la feuille, il sera puni, savoir . . . " then setting out grades of punishment on the lines indicated in note 1 to the Ottoman Art. 157 above.

[2] " issue " lit. " give."

[3] " permits for journey " (*vide* note 3 to Art. 156).

[4] " without binding over on bail," *i.e.*, without taking security.

[5] " rules " or " method," " system."

[6] " regulation." The word in the Turkish text is " nizam " (*vide* note 2 to Art. 15). The formalities necessary to obtain a " feuille-de-route (Passe-port Intérieur) have varied from time to time but are rather complicated. A version in French of the regulations of 18 Zilqadé, 1304 (8 August, 1887) may be found in Young's Corps de Droit Ottoman, II, p. 273 ; and in Greek in Nicolaides Ott. Cod., p. 3688 ; in Turkish in the Lah-i-Kav, I, p. 138.

[7] " in force " lit. " observed," " respected."

[8] " passes " lit. " road papers."

[9] " to be issued " lit. " to be given."

ART. 160.[1]—The person who, in order to cause himself or another to be exempted from any[2] kind of State[3] services, makes a false certificate in the name of doctors or surgeons as to[4] his bodily ailment[5] is imprisoned for from one year to three years.

ART. 160 NOTES.—[1] Compare Art. 159 of the French Code Pénal :—" Toute personne qui, pour se rédimer elle-même ou en affranchir une autre d'un service public quelconque, fabriquera sous le nom d'un médecin, chirurgien ou autre officier de santé, un certificat de maladie ou d'infirmité sera puni d'emprisonnement de deux à cinq ans." The punishment prescribed in this Article of the French Code has since been altered to the same as that in the Ottoman Code (Loi, 13 Mai, 1863).

[2] " any " lit. " every."

[3] " State," *i.e.*, " Public " or " Government."

[4] " as to " lit. " comprising."

[5] " ailment " or " infirmity."

ART. 161.[1]—Whoever from amongst doctors or surgeons in order to cause some one to be exempted from State[2] service testifies without foundation on the solicitation[3] of a person or for the sake of[4] some one to the effect that one has a disease[5] or ailment[6] is imprisoned for from one year to three years ; and if he has committed this forgery[7] by taking[8] money or a present the punishment for a Murteshi[9] is carried out with regard to him and the punishment for a Rashi[10] with regard to the giver of money.

ART. 161 NOTES.—[1] Compare Art. 160 of the French Code Pénal :—" Tout médecin, chirurgien et autre officier de santé, qui, pour favoriser quelqu'un, certifiera faussement des maladies ou infirmités propres à dispenser d'un service public, sera puni d'un emprisonnement de deux à cinq ans :—

" S'il y a été mu par dons ou promesses, il sera puni du bannissement : les corrupteurs seront en ce cas, punis de la même peine."

This Article of the French Code has since (1863) been altered.

[2] " State " ; as in note 3 to Art. 160.

[3] " solicitation " or " request." It really means a request of a favour for some one.

[4] " for the sake of " or " out of favour for." Nicolaides translates " πρὸς χάριν τινὸς " and the French rendering is " par complaisance."

[5] " disease," *i.e*, bodily disease.

[6] " ailment " ; as in note 5 to Art. 160.

[7] " forgery " or " fraud."

[8] " taking " or " receiving."

[9] " Murteshi," *i.e.*, " bribee " (*vide* Art. 68 note 1).

[10] " Rashi," *i.e.*, " briber " (*vide* Art. 69 note 1).

ART. 162.[1]—Persons who unknowingly use[2] any forged or counterfeit thing[3] of any[4] kind are held excused[5] from punishment.

ART. 162 NOTES.—[1] Compare Art. 163 of the French Code Pénal which runs—" L'application des peines portées contre ceux qui ont fait usage de monnaies, billets sceaux, timbres, marteaux, poinçons, marques et écrits faux, contrefaits, fabriqués, ou falsifiés ; cessera toutes les fois que le faux n'aura pas été connu de la personne qui aura fait usage de la chose fausse."

[2] " use " or " make use of."

[3] " thing " : not " document " as Walpole has it. The word would include anything mentioned in this Part (XV) of the Code and in Part XIV as well and is undoubtedly intended to follow in meaning the French Article quoted in note 1 above. The French Article is one of the " Dispositions communes " to the whole of that section of the French Code dealing with Forgery (Arts. 132-162).

[4] " any " lit. " every."

[5] " excused " lit. " pardoned."

PART XVI.

PUNISHMENT FOR INCENDIARIES.

ART. 163.[1]—The person purposely[2] setting fire to and burning any kind of buildings inhabited or uninhabited in a city, town or village or any buildings outside for human use[3] habitable or usable[4] or vessels is, whether they are his own property or not,[5] punished with the punishment of death.

ART. 163 NOTES.—[1] Compare the first paragraph of Art. 434 of the French Code Pénal :—" Quiconque aura volontairement mis le feu à des édifices, navires, bateaux, magasins, chantiers, quand ils sont habités ou servant à l'habitation, et généralement aux lieux habités ou servant à l'habitation, qu'ils appartiennent ou n'appartiennent pas à l'auteur du crime sera puni de mort." (Loi, 28 Avril, 1832.)

[2] " purposely " or " premeditatedly," *i.e.*, " with deliberate intent."

[3] " for human use " lit. " special to men," " peculiar to men."

[4] " usable " ; the correct translation of the Turkish text is " used " but this is no doubt a misprint.

[5] " whether they are his own property or not " ; the words qualify all the subjects of the arson mentioned in this Article.

Art. 163 was repealed and a new Art. 163 issued on 22 Redjeb, 1307 (14 March, 1890). The text of the new Article is as follows :—

The person purposely[1] setting fire to and burning any kind of buildings inhabited or uninhabited in a city, town or village or any vessels[2] is, in case the building or vessel he has burned is the property of others or it being his own property the building or vessel of others is also burnt by the spreading of the fire, punished with the punishment of death if the fire which has been brought about has been the cause of destruction of life,[3] and with that of kyurek in perpetuity if it has not been the cause of destruction of life.[3] But if the building or vessel burnt is his own property and the fire too does not extend[4] to and burn the building or vessel of others[5] he is put in kyurek temporarily for not more than ten years.

To the new Article the following notes may be added :—

[1] "purposely"; as in note 2 to the original Art. 163.

[2] "vessels"; in the Turkish text the words "the perpetrator thereof" occur after the word "vessels": the presence of these words is apparently the result of careless construction and they are omitted in the translation.

[3] "life" lit. "person."

[4] "extend" lit. "spread."

[5] "others" lit. "another."

The text of the Article as amended may be found in Djiz-i-Kav, p. 974; Karakoch Sarkis, p. 95; Nicolaides, Ott. Cod., pp. 2472, 2473; Young, Corps de Droit Ott. VII, p. 33.

ART. 164.[1]—The person purposely[2] setting fire to and burning buildings which are not for human use[3] or habitable or usable outside cities, towns or villages or vessels, woods, forests or crops[4] which are still found on the soil, not being his own property,[5] incurs the punishment of kyurek in perpetuity: and in the case of their being his own property and harm[6] accruing to others by the spreading of the fire caused by his so purposely burning them, then to temporary kyurek.[7]

ART. 164 NOTES.—[1] This Article was taken from the third and fourth paragraphs of Art. 434 of the French Code Pénal :—"Quiconque aura volontairement mis le feu à des édifices, navires, bateaux, magasins, chantiers, lorsqu'ils ne sont ni habités, ni servant à l'habitation, ou à des forêts, bois taillis ou récoltes sur pied, lorsque ces objets ne lui appartiennent pas, sera puni de la peine des travaux forcés à perpetuité. Celui qui en mettant le feu à l'un des objets énumérés dans le paragraphe précédent et à lui-même appartenant, aura volontairement causé un préjudice quelconque à autrui, sera puni des travaux forcés à temps."

Nicolaides, Ott. Cod., pp. 2474, 2475 gives the text of a lengthy circular emanating from the Ministry of Justice dated 23 Shaban, 1297 (21 July, 1881) which, after reciting the causes which led to forest fires and stating that they were often intentionally carried out, ordered that exemplary punishment should be meted out to offenders and that owners of flocks and the chief men in villages adjacent to outbreaks of forest conflagrations should be bound over on recognisances against the recurrence of forest-burning in their vicinity.

[2] "purposely"; as in note 2 to the original Art. 163.

[3] "for human use"; as in note 3 to the original Art. 163.

[4] "crops" or "produce."

[5] "not being his own property"; this qualifies all the subjects of the arson mentioned in this Article.

[6] "harm" or "injury."

[7] The above is the text of the Article as it originally appeared. It was first of all amended on 1 Ramazan, 1291 (12 October, 1874) the amendment consisting merely in the insertion of the words "or temporarily for not less than fifteen years" after the words "punishment of kyurek in perpetuity." The Article as thus amended and re-translated is given in Nicolaides, Ott. Cod., p. 2473.

Art. 164 was again amended on 22 Redjeb, 1307 (14 March, 1890). The Article as thus amended reads thus:—

The person purposely[1] setting fire to and burning buildings outside cities, towns or villages whether for human use[2] or habitable or usable or not or to woods, forests or crops[3] which are still found on the soil, incurs the punishment of kyurek in perpetuity or temporarily if the thing burned by him is the property of others, or of kyurek temporarily if it[4] being his own property injury[5] accrues to others by the spreading of the fire. Those who set about[6] intentionally[7] to burn any kind of buildings inside or outside a city[8] but fail to carry it into effect[9] are placed in kyurek temporarily.

To the above Article as amended the following notes may be added:—

[1] "purposely"; as in note 2 to the original Art. 163.

[2] "for human use"; as in note 3 to the original Art. 163.

[3] "crops" or "produce."

[4] "it," *i.e.*, the thing burned by him.

[5] "injury" or "harm."

[6] "set about" or "attempt," "dare."

[7] "intentionally" or "deliberately," "with malice prepense."

[8] "city" or "town."

[9] "fail to carry it into effect" lit. "cannot carry it into effect"; "it": "the burning."

The text of the Article thus amended may be found in Djiz-i-Kav, p. 974; Karakoch Sarkis, p. 96; Nicolaides, Ott. Cod., p. 2473; Young, Corps de Droit Ott., VII, p. 33.

The original Article was no doubt inconsistent with the original Art. 163, the latter (163) providing the punishment of death for incendiaries of vessels whether or not the property of the incendiary whilst Art. 164 prescribed the punishment of kyurek in perpetuity for incendiaries of vessels not being the property of the incendiary.

ART. 165.[1]—The individual purposely[2] setting fire to felled[3] fire-wood or timber or mowed crops,[4] not being his own property, is placed in kyurek temporarily; and in the case of their being his own property and injury[5] accruing to others[6] by his so burning them voluntarily[7] he is confined in a fortress temporarily.

ART. 165 NOTES.—[1] Compare the fifth and sixth paragraphs of Art. 434 of the French Code Pénal :—" Quiconque aura volontairement mis le feu à des bois ou récoltes abattus, soit que les bois soient en tas ou en cordes, et les récoltes en tas ou en meules, si ces objets ne lui appartiennent pas, sera puni des travaux forcés à temps. Celui qui, en mettant le feu à l'un des objets énumérés dans le paragraphe précédent et à lui même appartenant, aura volontairement causé un préjudice quelconque à autrui sera puni de la réclusion." (Loi, 28 Avril, 1832.)

[2] " purposely " ; as in note 2 to the original Art. 163.

[3] " felled " or " cut."

[4] " crops " or " produce."

[5] " injury " or " harm."

[6] " others " or " other people."

[7] " voluntarily " or " wilfully." This word clearly refers to the " burning " and not to the causing of injury to others. That is to say the offender would commit an offence even without having the intention of doing injury to others provided, of course, such injury in fact accrued.

ART. 166.[1]—In any[2] case where the fire which takes place[3] becomes the cause of the destruction[4] of one or more lives[5] on its breaking out at the localities burnt, those who have placed the incendiary bundle[6] are unrestrictedly[7] punished with the punishment of death.

ART. 166 NOTES.—[1] Compare the last paragraph of Art. 434 of the French Code Pénal :—" Dans tout les cas, si l'incendie à occasionné la mort d'une ou plusieurs personnes se trouvant dans les lieux incendiés au moment où il a éclaté, la peine sera la mort."

[2] " any " lit. " every."

[3] " which takes place " or " which has taken place " ; " which has occurred," " which has happened."

[4] " destruction " or " perishing."

[5] " lives " lit. " persons."

[6] " the incendiary bundle," *i.e.*, combustible substance made into a bundle and placed somewhere in order to start or foster a fire.

[7] " unrestrictedly " or " absolutely," " universally." Nicolaides translates ἐν γένει. The word is omitted in the French rendering. It means " without exception," not " usually."

Art. 166 was amplified by an addendum dated 23 Rebi'ul-Akhir, 1281 (25 September, 1864), the text of which is as follows :—

If[1] there is found at a place contrary to regulation[2] gunpowder for sale it shall be seized and the owner and keeper of the gunpowder shall undergo[3] the punishment of kyurek for a period of three years. If fire breaks out and damage occurs from the taking fire[4] of the gunpowder found at the place prohibited by regulation[2] the owner of the gunpowder shall be placed in kyurek for from three years to five years according to the amount of damage and for from ten years to fifteen years if destruction of life[5] also takes place.

To this addendum the following notes may be added :—

[1] The text may be found in Djiz-i-Kav, p. 975 ; Karakoch Sarkis, p. 98 ; Nicolaides, Ott. Cod., p. 2475 ; Young, Corps de Droit Ott., p. 33 ; Aristarchi, Leg. Ott. II, p. 270 ; Walpole, p. 71.

[2] " regulation " ; the word in the Turkish text is " nizam " (*vide* note 2 to Art. 15).
[3] " undergo " or " suffer."
[4] " taking fire " lit. " inflammation," " blazing up."
[5] " life " lit. " person."

Art. 166 was further added to by a second addendum dated 5 Shaban, 1321 (26 October, 1903), the text of which is as follows :—

Those, who manufacture contrary to regulation[1] or import by way of smuggling gunpowder or cartridges, and their accomplices, are placed in kyurek for a period of three years.

To this second addendum the following note may be added :—
[1] " regulation " ; the word in the Turkish text is " nizam " (*vide* note 2 to Art. 15).

Art. 166 was the subject of a third addendum dated 19 Shaban, 1328 (24 November, 1910), of which the text is as follows :—

Whoever, without obtaining permission from the department concerned, manufactures within the Ottoman territories gunpowder or other explosive substances[1] or prohibited weapons[2] or cartridges for them, or imports into the Ottoman territories from foreign territories gunpowder or other explosive substances[1] or prohibited weapons[2] or cartridges for them, or becomes a medium for this sort of smuggling, or transports[3] or imports[4] from one place to another place within the Ottoman territories smuggled gunpowder or other explosive substances[1] or prohibited weapons[2] or cartridges for them is, in addition to the confiscation of such, put in prison for from two months to two years and a fine of from five Liras[5] to fifty Liras is taken. Those who, without permission, carry or sell such prohibited cartridges, weapons[2] gunpowder or explosive substances[1] are also punished with imprisonment for from one month to six months and by taking a fine of from one Lira to ten Liras. For the purposes of[6] the Penal Code " prohibited weapons " mean generally State or military weapons[2] and revolvers of which the barrels are more than[7] fifteen centimetres.[8]

To this addendum the following notes may be added :—
[1] " explosive substances " lit. " igneous chemicals."
[2] " weapons " or " arms."
[3] " transports " or " carries."
[4] " imports " or " introduces."
[5] " Lira "=18*s*.
[6] " for the purposes of," more literally " in the light of."
[7] " are more than " lit. " exceed " ; it means " longer than."
[8] This addendum to Art. 166 was put into force only temporarily being superseded almost immediately by the subsequent addendum.

Art. 166 was the subject of a fourth addendum dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), the text of which is as follows :—

Whoever, without obtaining permission from the department concerned, manufactures within the Ottoman territories gunpowder or other explosive substances[1] or prohibited weapons[2] or cartridges for them or imports into the Ottoman territories from foreign territories gunpowder or other explosive substances[1] or prohibited weapons[2] or cartridges for them, or becomes a medium for this sort of smuggling, or transports[3] or imports[4] from one place to another place within the Ottoman territories smuggled gunpowder or other explosive substances[1] or prohibited weapons[2] or cartridges for them is, in addition to the confiscation of such, put in prison for from two months to two years, and a fine of from five Mejidieh gold pieces[5] to fifty Mejidieh gold pieces is taken. Those who, without permission, carry or sell such prohibited cartridges, weapons,[2] gunpowder or explosive substances[1] are also punished with imprisonment for from one month to six months and by taking a fine of from one Mejidieh gold piece to ten Mejidieh gold pieces. For the purposes of[6] the Penal Code "prohibited weapons" mean generally State or military weapons[2] and revolvers of which the barrels are more than fifteen centimetres.[7]

To this addendum may be added the following notes :—

Notes 1, 2, 3, 4, 6 in the third addendum dated 19 Shaban, 1328 (21 November, 1910), to Art. 166 apply to this addendum as shown by corresponding numbers.

[5] "Mejidieh gold piece"=Lira=18*s*.

[7] This addendum to Art. 166 dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), supersedes the first three addenda given above. The text is given in Karakoch Sarkis, p. 98.

ART. 167.[1]—The person using[2] compulsion or constraint[3] on an individual for burning[4] any kind of buildings, emval[5] or emlak[6] is punished with the punishment of kyurek.[7]

ART. 167 NOTES.—[1] The translation of this Article in Walpole is, owing to the French of Aristarchi Bey, wrong and misleading ; but Nicolaides and Young give it correctly. Aristarchi Bey's French rendering runs :—"Celui qui aura employé la force ou la violence à mettre le feu à des édifices, propriétés immobilières ou mobilières de toute espèce, sera puni de la peine des travaux forcés."

[2] "using" lit. "doing."

[3] "constraint" or "force" : the word in the Turkish text is "ikrah" a technical word defined in the Mejelle in Art. 948 as "without right, to compel a person to do a thing without his consent by fear" (*vide* Tyser, Demetriades and Haqqi's Mejelle, p. 138).

[4] "burning" or "setting fire to." The passage means "anyone who forces another to set fire to."

[5] "emval" ; (*vide* note 5 to Art. 27).

[6] "emlak" ; (*vide* note 6 to Art. 27).

[7] "kyurek" ; the Article does not state for what period!

CHAPTER SECOND.

JINAYETS AND JUNHAS AGAINST PERSONS AND THE PUNISHMENTS PROVIDED THEREFOR.

PART I.

RELATES TO KILLING,[1] WOUNDING, BEATING[2] AND THREATENING.

PART I NOTES.—[1] "killing." The word in the Turkish text is "qatl," which is literally translated, "assassinating," "slaughtering," "slaying," "putting to death," and hence "homicide." Nicolaides uses "ἀνθρωποκτονία"; the French rendering is "homicide"; Walpole uses "homicide."

[2] "beating." The word in the Turkish text is "darb" which is, literally translated, "beating," "striking," "battering." Nicolaides uses "περὶ αἰκίσεως"; the French rendering is "coups"; Walpole uses "assault and battery."

ART. 168.[1]—Killing[2] is to put a person to death[3] either with a weapon or by poisoning or in other ways.

ART. 168 NOTES.—[1] In this and some of the following Articles the Ottoman Code breaks away very materially from the French model. The French Code Pénal starts by defining "meurtre" thus.

Art. 195. "L'homicide commis volontairement est qualifiée meurtre." It then proceeds to define "assassinat" as "meurtre avec préméditation ou guet-apens" (Art. 296); then it defines "préméditation" (Art. 297) and "guet-apens" (Art. 298); "parricide" (Art. 299); "infanticide" (Art. 300) and "poisoning" (Art. 301). The Ottoman Code is less elaborate and refined: it merely defines as above in Art. 168 "killing" and then in Art. 169 defines what must for want of better words be translated as "premeditated killing."

The two Codes after these divergences re-join each other in substance in Art 302 (French) and Art. 170 (Ottoman).

[2] "killing" *vide* note 1 to Part I.

[3] "to put a person to death" lit. "to annihilate a person."

ART. 169.[1]—To kill[2] premeditatedly[3] is for a person to have conceived and resolved upon in his mind the act of killing[4] before committing[5] it.

ART. 169 NOTES.—[1] The following Articles of the French Code Pénal may be here conveniently quoted:—Art. 296. "Tout meurtre commis avec préméditation ou de guet-apens est qualifié assassinat."

Art. 297. "La préméditation consiste dans le dessein formé, avant l'action, d'attenter á la personne d'un individu déterminé, ou même de celui qui sera trouvé ou rencontré, quand même ce dessein serait dépendant de quelque circonstance ou quelque condition."

Art. 298. "Le guet-apens consiste à attendre plus ou moins de temps, dans un ou divers lieux, un individu soit pour lui donner la mort, soit pour exercer sur lui des actes de violence."

It may be here observed that "guet-apens" cannot be present without "préméditation": the former being the larger term (Cours de Cassation, 4 Juin, 1812; 4 Mars,

1847) though, of course "préméditation" can exist without "guet-apens" (Cours de Cassation, 7 Germ. An VII; 3 Juill, 1845; 8 October, 1852).

[2] "to kill" *vide* note 1 to Part I.

[3] "premeditatedly." It is perhaps not of extreme importance what exact word is used here both in this and subsequent Articles inasmuch as what is meant is defined with clarity in this Article itself. The word in the Turkish text is the Arabic "ta'-ammuden" an adverb derived from "amd," meaning "purpose," "deliberate intention." Nicolaides translates the word "ἐκ προμελέτης" and the French rendering is "avec préméditation." Whatever word is used, the sense is explained by its definition and "premeditatedly" or "with premeditation" is used throughout the present work wherever the Turkish text runs as indicated in this note.

[4] "killing" *vide* note 1 to Part I.

[5] "committing" lit. "causing" or "bringing about."

ART. 170.[1]—If a person's being a killer[2] with premeditation[3] is proved according to law[4] sentence for his being put to death is passed according to law.[5]

ART. 170 NOTES.—[1] Here may conveniently be quoted the following two Articles of the French Code Pénal :—

Art. 296. "Tout meurtre commis avec préméditation ou guet-apens est qualifié assassinat."

Art. 302. "Tout coupable d'assassinat, de parricide, (defined in Art. 299), d'infanticide (defined in Art. 300) et d'empoisonnement (defined in Art. 301) sera puni de mort, sans préjudice de la disposition particulière contenue en l'article 13 (the details of the mode of execution of a parricide) rélativement au parricide."

[2] "killer" *vide* note 1 to Part I.

[3] "with premeditation." For the meaning of this word as defined in the Ottoman Code *vide* note 3 to Art. 169. The note to this Art. (170) in the Cyprus Appendix may be also consulted with advantage as to the ambit of the Article and its application to concrete cases. It may, however, be here pointed out that it is a question of fact in every case whether or not a homicide is premeditated; sometimes as in a case in which a man lies in wait for and shoots another and in many cases of poisoning the circumstances surrounding the homicide justify the conclusion of premeditation without difficulty; sometimes as in cases in which in a fit of hasty temper or a tavern brawl a man is killed a conclusion of premeditation is similarly without difficulty not justifiable; the difficulties lie in the cases falling between the well defined extremes. But much French commentary exists in the mode of ascertainment as to whether premeditation is present or not and it is generally agreed that it must be clear, in order to find premeditation, that the offender must have had time within which to resolve upon, to reflect upon and finally to execute the intention; this period is not accurately measurable in time but must be considered and determined from all the circumstances attendant upon the facts of the case.

[4] "is proved according to law" lit. "proves true according to law," *i.e.*, is legally proved.

[5] "according to law"; as in note 4: in both passages it means the Civil Law as distinguished from the Sher' Law.

Art. 170 was amended and re-issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text is as follows :—

The person who premeditatedly kills an individual or wilfully kills one of his ancestors of either sex[1] even though without premeditation is put to death.

To which the following note may be here appended :—

[1] "ancestors of either sex" lit. "fathers or grandfathers or mothers or grandmothers."

ART. 171.[1]—Whereas the effect[2] of the law[3] cannot defeat[4] the personal rights,[5] if the person killed has heirs the claim[6] for personal rights[5] is referred[7] to the Sher' Court at their[8] instance.

ART. 171 NOTES.—[1] Nicolaides, Ott. Cod., pp. 2476, 2477, quotes in full as a note to Art. 170 a memorandum issued by the Mejellé Board and authorized by Imperial Iradé dated 3 Ramazan, 1293 (21 September, 1876), which should really be annexed to Art. 171. It deals with the cases in which "diyet" is payable by the inhabitants of a quarter in which a killed person, whose slayer is unknown, is found.

[2] "effect" or "authority"; also "sentence," "judgment," "decree."

[3] "the law." It means the Civil Law as distinguished from the Sher' Law.

[4] "defeat" lit. "throw down" or "cast out"; also "nullify," "frustrate."

[5] "personal rights." This phrase refers of course to rights under the Sher' Law for an explanation of which *vide* Art. 1.

[6] "claim" or "action."

[7] "referred" or "committed."

[8] "their," *i.e.*, of the heirs.

ART. 172.—The killer[1] pardoned from the punishment of Qisas[2] or death is put to kyurek in perpetuity or temporarily for not less than fifteen years.

ART. 172 NOTES.—[1] "killer" *vide* note 1 to Part I.

[2] "pardoned from the punishment of Qisas or death." For explanation of Qisas, the lex talionis inflicted under sentence of the Sher' Court, *vide* note 5 to Art. 1.

The heirs might refrain from pressing their demand before the Sher' Court for Qisas either claiming Diyet (*i.e.*, compensation) in lieu of the death of the malefactor or simply withdrawing all claims against him.

For explanation of Diyet *vide* also note 5 to Art. 1. It may be here also observed that the provision of punishment for persons who thus escaped the death penalty of Qisas was no novel feature in Ottoman Law the idea having appeared in the Additional Articles promulgated 21 Ramazan, 1256 which supplemented the short Decree of 1 Rebi'ul-Akhir, 1256, constituting the first attempt at reform of the Criminal Law after the promulgation of the Khatt-i-Sherif (*vide* Introduction). In these Additional Articles it was prescribed that a murderer against whom the heirs of the victim claimed not Qisas but Diyet should nevertheless suffer seven years kyurek whilst, if escaping a claim for both Qisas or Diyet owing to the victim being without heirs or by reason of the renunciation by the heirs of any claim, the murderer would suffer fifteen years kyurek, though, if a person who had previously committed homicide, he would be executed in any case: if the existence of heirs of the victim was uncertain the malefactor remained in prison until either the heirs appeared or fifteen years had expired.

The above, of course, was superseded by the present Article (170) under which the criminal would, if sentenced to death by a Nizam Court (whether or not the heirs, having disclaimed Qisas, demanded Diyet), be, if his life was spared by the Sultan, placed in kyurek for at least fifteen years. It must not, however, be forgotten that the power of the Sher' Court to inflict in cases of homicide the penalty of death by way of Qisas was limited not only by numerous formalities of procedure (*vide* Introduction) but to cases in which a person had intentionally killed another with a murderous weapon; whilst the power of the Nizam Courts in cases of homicide is similarly restricted under the Penal Code to cases falling within Arts. 170 and 174 and their practically ancillary Articles such as Arts. 181 and 184.

The possibilities of conflict between the sentences of the Nizam and Sher' Courts has already been to some extent dealt with in the Introduction and in note 5 to Art. 1.

If a Nizam Court sentenced a murderer to death the murderer would be executed even if the heirs of the victim obtained an award of Diyet from the Sher' Court unless, as is usually the case, the criminal's sentence was under such circumstances commuted by the Sultan.

If a Nizam Court sentenced a murderer to a penalty less than death but the Sher' Court at the instance of the heirs ordered the death penalty to be carried out by way of Qisas the sentence would be carried out unless, as sometimes occurred, the Sultan issued an Iradé (decree) ordering the heirs to renounce their Qisas right and take Diyet.

The phrase in Art. 172: "The pardon from the punishment of . . . *death*" refers, as has no doubt been gathered already, to a pardon or commutation by the Sultan of a sentence of death passed by a *Nizam* Court thus distinguishing it from the pardon from the punishment of *Qisas* (*vide* note 3 to Art. 47).

ART. 173.[1]—If a person, being a man of habitual Jinayet or ruffianism,[2] tortures or atrociously[3] torments other persons[4] in order that he may[5] commit a great Jinayet[6] he is, if it becomes verified and manifest[7] that he is an old offender,[8] administratively sentenced to the punishment for[9] killers.[10]

ART. 173 NOTES.—[1] Compare Art 303 of the French Code Pénal. "Seront punis comme coupables d'assassinat (*vide* Art. 296 in note 1 to Art. 169 and Art. 302 in note 1 to Art. 170) tous malfaiteurs quelle que soit leur dénomination, qui, pour l'exécution de leurs crimes, emploient des tortures ou commettent des actes de barbarie."

[2] "a man of habitual Jinayet or ruffianism," *i.e.*, "an habitual perpetrator of Jinayets or ruffianism." Nicolaides translates "*ὁ πρότερον μὲν πολλάκις κακουργήσας*" the French rendering is "malfaiteurs de profession." For "habitual" and "ruffianism" *vide* notes 10 and 8 in addendum to Art. 62.

[3] "atrociously" lit. "in a very excessively cruel manner."

[4] "persons"; it is intended to cover the singular number: it is singular in the Greek and French translations though plural in the Turkish text.

[5] "in order that he may" lit. "in order to." It means "in order that the torturer may"; not "in order that the tortured persons may."

[6] "a great Jinayet." Nicolaides translates the passage "*πρὸς ἐκτέλεσιν μεγάλου κακουργήματος*"; the French rendering is "pour l'exécution d'un grand crime."

[7] "manifest" or "plain," "clear."

[8] "an old offender" (*vide* note 9 in addendum to Art. 62); lit. "a man of (bad) antecedents" which means of course of the bad antecedents referred to earlier in the Article (*vide* note 2). Nicolaides translates the passage "*ἂν ἀποδειχθῇ ὅτι ἔχει τοιαῦτα κακὰ προηγούμενα,*" and the French rendering is "les malfaiteurs de profession, reconnus comme tels par leur antecedents."

[9] "administratively sentenced to the punishment for": this means that although the offence mentioned in the Article is not in itself punishable with any of the punishments prescribed for homicide, yet, in view of the very serious nature of the offence, it is laid down that such offenders should be punished with the punishments prescribed for homicide. "Administratively" means, here, "as an administrative expedient," subject to a special Iradé of the Sultan, no doubt.

[10] "killers" *vide* note 2 to Art. 169.

ART. 174.[1]—If a person has killed[2] an individual without premeditation[3] he is placed in kyurek for a period of fifteen years; but if this matter of destruction of life[4] has taken place while committing another Jinayet either before the commission or after the commission,[5] or[6] for the sake of[7] committing a Junha, the person destroying[8] life is punished with the punishment of death according to law.[9]

ART. 174 NOTES.—[1] Compare Art. 304 of the French Code Pénal. "Le meurtre emportera la peine de mort lorsqu'il aura précédé, accompagné ou suivi un autre crime. Le meurtre emportera également la peine de mort, lorsqu'il aura eu pour objet, soit de préparer, faciliter ou exécuter un délit, soit de favoriser la fuite ou d'assurer l'impunité des autres ou complices de ce délit.

"En tout autre cas, le coupable de meurtre sera puni des travaux forces à perpétuité." (Loi, 28 Avril, 1832.)

[2] "killed" literally, here, "destroyed," *i.e*, destroyed the life of.
[3] "without premeditation" *vide* note 3 to Art. 169.
[4] "destruction of life" lit. "destruction of person" (*vide* note 8).
[5] "commission," *i.e.*, "commission thereof."
[6] "or"; the words "if this matter of destruction of life has taken place" must be read in here.
[7] "for the sake of" or "for the purpose of."
[8] "destroying," *i.e.*, "so destroying." The word in the Turkish text is "itlaf."
[9] "according to law" (*vide* note 4 to Art. 170).

Art. 174 was amended and re-issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the amended Article is as follows:—

If a person kills an individual wilfully[1] without premeditation he is put in kyurek for a period of fifteen years. But if this act of destruction of life[2] has been committed, firstly:—against one of the members of the National Council[3] or[4] State officials while in the state of performing duty or in consequence of the duty performed by them: secondly:—if it has been committed by carrying out torment or torture or if it has taken place against more than one person; the perpetrator thereof is put in kyurek perpetually.

The perpetrator of an act of killing committed for preparing or facilitating or carrying out an offence[5] or for securing[6] the flight or the avoidance from punishment[7] of the principal or secondary perpetrator[8] of the said act is put to death. If, by the effect of beating[9] committed spontaneously unaccompanied by[10] an intention[11] to kill or by wounding effected[12] by instruments which do not[13] cause destruction of life,[2] the beaten[9] or wounded person dies, the perpetrator of it is put in kyurek temporarily for not less than five years.[14]

To the above amended Article the following notes may be here added:—
[1] "wilfully": the word "but" should be read in after this word.
[2] "life" lit. "person."
[3] "National Council," *i.e.*, the Turkish Parliament.
[4] "or": here read in "one of the."
[5] "offence": the word in the Turkish text is "Jurm," which would cover Jinayet, Junha or Qabahat.
[6] "securing" or "assuring."
[7] "avoidance from punishment" lit. "remaining without punishment."
[8] "secondary perpetrator" *i.e.*, "accessory."

[9] "beating" (*vide* note 2 to Part I).
[10] "unaccompanied by" lit. "without being adjoined to."
[11] "intention" or "design."
[12] "by wounding effected" lit. "of wounding taken place."
[13] "do not," *i.e.*, do not in themselves.
[14] It will be observed that the amendment of 27 Rebi'ul-Akhir, 1292, to Art. 177 is repealed by the latter part of this Article.

ART. 175.[1]—The person who is an auxiliary[2] to a killer[3] is put in kyurek temporarily.[4]

ART. 175 NOTES.—[1] New Art. 45 issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), repeals this Article
[2] "auxiliary" lit. "assistant." Nicolaides gives "ὁ συνεργήσας (βοηθὸς)": the French rendering is "qui a aidé."
[3] "killer" *vide* note 1 to Part I.
[4] This Article is one of the exceptions to the Rule laid down in Art. 45 that an accomplice in a felony is liable to the same punishment as the principal.

A new Art. 175 was enacted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), the text of which is as follows :—

If death[1] has come about by the concomitance[2] of pre-existent causes[3] unknown to the perpetrator[4] or by the supervention of a cause altogether independent of the act[5] the punishment of kyurek is awarded for not less than fifteen years in cases calling for the punishment of death,[6] or for not less than ten years in cases calling for perpetual or fifteen years' kyurek.

To the above Article the following notes may be added :—
[1] "death," lit. "destruction of person."
[2] "concomitance," lit. "accompaniment" or "association."
[3] "pre-existent causes," *e.g.*, a diseased state of the victim before receiving the wound.
[4] "perpetrator," *i.e.*, the assailant.
[5] "a cause altogether independent of the act," *e.g.*, some mishap or morbid affection of the body subsequent to and independent of the wound received but for which mishap or affection the wound would have been curable under ordinary circumstances. "Independent of," lit. "separate (or 'apart') from." "Act," *i.e.* the act of wounding.
[6] "punishment of death," lit. "putting to death."

ART. 176.[1]—He[2] who conceals the body of a killed person[3] and he who buries it without notifying to the Government or without an inquest on it[4] is imprisoned for from one month to one year and a fine of from one Mejidieh gold piece to five Mejidieh gold pieces is taken ; but if there is participation on the part of such person in the affair[5] of the killing[6] the punishment which he shall suffer[7] therefor is carried out[8] separately.[9]

ART. 176 NOTES.—[1] Compare Art. 359 of the French Code Pénal. "Quiconque aura recélé ou caché le cadavre d'une personne homicidée ou morte des suites de coups ou blessures, sera puni d'un emprisonnement de six mois à deux ans, et d'une amende de cinquante francs à quatre cent francs : sans préjudice de punis plus graves, s'il a participé au crime." The preceding Article in the French Code (Art. 358) makes the unauthorized burial of *any* corpse a serious offence.

[2] "he" lit. "the person."

[3] "of a killed person" lit. "of the killed" simply : for "killed" *vide* note 1 to Part I.

[4] "on it" or "of it."

[5] "affair" or "matter."

[6] "killing" ; *vide* note 1 to Part I.

[7] "suffer" or "undergo."

[8] "carried out" or "inflicted."

[9] "separately," *i.e.*, "in addition." Nicolaides translates "ἰδιαιτέρως." It is paraphrased in the French rendering.

ART. 177.[1]—If a person cuts off[2] or renders useless[3] a member[4] of an individual[5] by wounding or beating[6] him he is put to kyurek for a period of three years together with[7] the recovery from him of[8] the surgical[9] expenses and the Diyet[10] to be awarded therefor ; and if it becomes clear[11] that he has committed this Jinayet by previously conceiving and resolving upon it the punishment of kyurek is extended to as much as ten years.[12]

ART. 177 NOTES.—[1] There was nothing in the French Code Pénal corresponding to Art. 177 of the Ottoman Code at the date when the latter was published but in 1863 an amendment was made in Art. 309 of the former which with Art. 310 (also amended at the same date) roughly approximated to the above Art. 177 (*vide* note 1 to Art. 178).

[2] "cuts off" lit. "cuts" : it might also be translated "fractures."

[3] "renders useless" lit. "suspends (from action or from use)," *i.e.*, disablement or cessation from work.

[4] "a member," *i.e.*, a member of the body or "limb." For what is meant by a "member" or "limb' *vide* note 10 below and note 5 to Art. 1.

[5] "individual" or "person."

[6] "beating" ; *vide* note 2 to Part I.

[7] "together with" or "in addition to."

[8] "the recovery from him of" lit. "the receiving payment of." The phrasing in the Turkish text is awkward but the sense is clear.

[9] "surgical" : this is literal, but it is probably intended to include medical and hospital expenses.

[10] "Diyet" : for an explanation and an account of the different amounts of Diyet payable in respect of the loss of the different parts of the body (*vide* note 5 to Art. 1).

[11] "if it becomes clear," *i.e.*, "if it is proved." Reshad the commentator states that the parts of the body which are recognized as capable of being the subject of compensation under *this* Article are ; hand, fore-arm, upper-arm, nose, ear, eye, tooth, tongue, penis, glans penis, lip, eyelids, fingers and toes, and, in the case of females, the teats : and also that Diyet is payable for injury involving completely rendering useless the hand or foot. It should be observed that while any Diyet is only awarded by the Sher' Court the surgical expenses referred to in note 9 above are awarded to the victim by the Nizam Court simultaneously with the penalty of kyurek.

[12] "as much as ten years," *i.e.*, to a period not exceeding ten years.

Art. 177 was amplified by an addendum dated 27 Rebi'ul-Akhir, 1292 (2 June, 1875), which addendum was subsequently abrogated by the second paragraph of new Art. 174 (of 6 Jemazi'ul-Akhir, 1329=4 June, 1911). The following is the text of the abrogated addendum :—

If[1] the beaten[2] person dies from the effects of beating not committed[3] with intent to kill[4] the perpetrator is put to kyurek temporarily for not less than five years.[5]

To this addendum the following notes may be added :—

[1] The text of this addendum may be found in Destur, III, p. 158 ; Nicolaides, Ott. Cod., p. 1478 ; Aristarchi Bey, V, p. 72 ; Young, Corps de Droit, Ott., VII, p. 35. One may compare the second part of Art. 309 of the French Code Pénal which in the Law of 28 Avril, 1832, ran :—" Si les coups portés ou les blessures faites volontairement, mais sans intention de donner la mort, l'ont pourtant occasionée, le coupable sera puni de la peine des travaux forces à temps." And it is now still present in Art. 309 as modified as indicated in note 1 to Art. 177 thus now corresponding more closely in effect to the above addendum which no doubt owes its introduction into the Ottoman Code to the French paragraph quoted.

[2] " beaten " *vide* note 2 to Part I.

[3] " committed," *i.e.*, " inflicted."

[4] " with intent to kill " : the phrase literally runs " from the effects of beating committed without it (*i.e.*, the beating) being with intent to kill."

[5] It will be observed that this addendum is now repealed and replaced by the last part of the new Art. 174 dated 6 Jemazi'ul-Akhir, 1329.

Art. 177 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

The person intentionally[1] daring to beat or wound or to do[2] some other effective[3] act so as to[4] result in the cutting off or breaking or ceasing[5] from action of a member[6] or in some other permanent infirmity is put in kyurek temporarily in addition to the recovery[7] of the surgical expenses thereof. If the said acts have been committed premeditatedly the punishment of kyurek cannot be less than six years.

To the above new Article the following notes may here be added :—

[1] " intentionally " or " deliberately."

[2] " do " : the word is inserted in the translation for clarity.

[3] " effective " or " efficacious "

[4] " so as to " lit. " in a manner to."

[5] " ceasing " lit. " falling."

[6] " member " or " limb."

[7] " in addition to the recovery " : " recovery," *i.e.*, from the culprit : the phrase runs literally " together with the receiving payment."

ART. 178.[1]—If a person wounds or beats[2] an individual so as to be the cause of his being unable to work[3] or of his falling sick[4] for more than twenty days[5] he is imprisoned for from two months to two years and the[6] surgical[7] expenses as also the equivalent of the profit[8] or wages which the

wounded or beaten person would have earned in his state of good health are taken from him[9] and given to the wounded or beaten person, and if it becomes manifest[10] that he[11] has done this by conceiving and resolving upon it beforehand the period of his imprisonment is extended to from three months to three years.[12]

ART. 178 NOTES.—[1] Compare Arts. 309 and 310 of the French Code Pénal :—

Art. 309. " Sera puni de la réclusion, tout individu qui volontairement, aura fait des blessures ou porté des coups, s'il est résulté de ces sortes de violences une maladie ou incapacité de travail personnel pendant plus de vingt jours. Si les coups portés ou les blessures faites volontairement, mais sans intention de donner la mort, l'ont pourtant occasionée, le coupable sera puni de la peine des travaux forcés à temps." (Loi, 28 Avril, 1832.)

Art. 310. " Lorsqu'il y aura eu préméditation ou guet-apens, la peine sera, si la mort s'en est suivie, celle des travaux forcés à perpétuité, si la mort ne s'en est pas suivie celle des travaux forcés à temps." (Même loi.)

These two Articles of the French Code were modified on May 13th, 1863, and in Art. 309 was introduced a paragraph somewhat similar to Art. 177 of the Ottoman Code.

So that in the French Arts. 309 and 310 as amended in 1863 can be found the counterpart of Art. 177, the addendum to Art. 177 and Art. 178 of the Ottoman Code. The sequence of the Articles would appear to be as follows :—

1. Art. 309, French, 28 Avril, 1832 (*vide* above).
2. Art. 310, French, 28 Avril, 1832 (*vide* above).
3. Art. 177, Ottoman, 9 August, 1858 (no counterpart in French Code).
4. Art. 178, Ottoman, 9 August, 1858 (corresponding to the first part of Art. 309 and to Art. 310 of the French Code).
5. Amendment of Art. 309, French, 13 May, 1863 (part of the amendment corresponds to the first part of Art. 177 of the Ottoman Code).
6. Amendment of Art. 310, French, 13 May, 1863 (the amendment is not material but Art. 310 applies to all of Art. 309).
7. Addendum to Art. 177 of the Ottoman Code, 2nd June, 1875 (corresponds to the principal amendment of Art. 309 of the French Code).

There is it is true another amendment in Arts. 309 and 310 of importance which is not material in this connection but apart from that the only difference between the French Arts. 309 and 310 and the Ottoman Art. 177, addition to Art. 177 and Art. 178 is that in each of the two Ottoman Articles Art. 310 of the French is separately incorporated whilst the latter part of Art. 309 is contained in the Ottoman addendum.

[2] " beats " *vide* note 2 to Part I.

[3] " unable to work " lit. " to remain (back) from his work."

[4] " his falling sick " lit. " his becoming ill."

[5] " more than twenty days " : this qualifies both inability to work and illness.

[6] " the " lit. " his," *i.e.*, of the victim.

[7] " surgical " : as in note 9 to Art. 177.

[8] " profit " : it means " profit from trade."

[9] " him," *i.e.*, the offender.

[10] " if it becomes manifest," *i.e.*, " if it is proved."

[11] " he," *i.e.*, " the offender."

[12] " the period of his imprisonment is extended to from three months to three years " : this is literal. It means that the punishment is a minimum of three months and a maximum of three years. The possessive suffix in the Turkish text meaning " his " is probably a misprint in the Destur as it does not appear in other Turkish texts of the Code.

Art. 178 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

If a person wounds or beats an individual or commits an effective[1] act so as to be the cause of his being unable to work or of his falling sick for more than twenty days he is imprisoned for from three months to two years, and the surgical expenses, as also the equivalent of the profit[2] or wages which the wounded person would have earned in his state of good health, are taken from him[3] and given to the wounded or beaten person, and if it becomes manifest[4] that he has done this by conceiving and resolving upon it beforehand the period of imprisonment cannot be less than one year.

To the new Article may be added the following notes:—

[1] "effective" or "efficacious."

[2] "profit" as in note 8 to the original Art. 178.

[3] "him," *i.e.*, the offender.

[4] "manifest," *i.e.*, proved.

ART. 179.[1]—If the wounding or beating[2] is of a lighter degree than that mentioned in the preceding Article the person who is the wounder or beater is imprisoned for from one week to one year or as a substitute for this money from one Mejidieh gold piece to five Mejidieh gold pieces is taken[3] and given to the wounded or beaten person or both of these modes[4] are carried out together, and if it becomes manifest[5] that he has done this by conceiving and resolving upon it beforehand the period of his imprisonment is extended to from one month to two years[6] besides[7] the taking and giving of money to the amount mentioned.

ART. 179 NOTES.—[1] Compare Art. 311 of the French Code Pénal:—"Lorsque les blessures ou les coups n'auront occasioné aucune maladie ou incapacité de travail personnel de l'espèce mentionnée en l'Art. 309 (*vide* note 1 to Art. 178) le coupable sera puni d'un emprisonnement de six jours à deux ans, et d'une amende de seize francs à deux cents francs, ou de l'une de ces deux peines seulement. S'il y a eu préméditation ou guet-apens, l'emprisonnement sera de deux ans à cinq ans, et l'amende de cinquante francs à cinq cents francs." (Loi, 28 Avril, 1832.) This Article of the French Code was subsequently modified in 1863.

[2] "beating" *vide* note 2 to Part I.

[3] "taken," *i.e.*, "from the offender."

[4] "modes," *i.e.*, modes of punishment: it means both of the punishments mentioned.

[5] "if it becomes manifest"; as in note 10 to Art. 178.

[6] "the period of his imprisonment is extended to from one month to two years" *vide* note 12 to Art. 178 which here applies mutatis mutandis.

[7] "besides"; it means in addition to.

Art. 179 was amended by an addendum dated 3 Jemazi' ul-Akhir, 1277 (17 December, 1860), of which the text is as follows:—

The[1] person too who draws[2] a weapon[3] on one[4] not with intent to kill but merely for intimidation[5] is imprisoned for from one week to six months.[6]

To this addendum may be added the following notes :—

[1] The French Code Pénal introduced in Arts. 309 and 310 (as they appeared in that Code after amendment by the Law of 28 April, 1832 (*vide* note 1 to Art. 178), and in Art. 311 (*vide* note 1 to Art. 179) an amendment in 1863 including as offences under those Articles the commission of " autre violence ou voie de fait " which was intended to cover, according to various decisions of the Cour de Cassation (6 December, 1872 ; 1 May, 1897) " les actes commis méchamment envers une personne pour lui causer une émotion violent et, notamment, l'action de tirer, pour l'effrayer, un coup de feu, dirigé de telle sort que la charge, sans l' atteindre passe près d'elle."

[2] " draws " ; the passage runs literally " draws a weapon to one," *i.e.*, " on someone." Nicolaides translates " ὁ σύρων " : the French rendering is " fait usage."

[3] " weapon " or plural " weapons " ; and *vide* note 3 to Art. 48.

[4] " on one " lit. " to one," *i.e.*, on some one.

[5] " intimidation " or " frightening " also " threatening."

[6] It will be observed that this addendum is repealed and substantially re-enacted in the new Art. 179 dated 6 Jemazi'ul-Akhir, 1329, quoted below.

Art. 179 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The text of the amended Article is as follows :—

If the wounding or beating is of a lighter degree than that mentioned in the preceding Article the person who is the wounder or beater is imprisoned for from one week to one year and is sentenced to a fine of from one Lira[1] to ten Liras, or only one of these punishments is awarded : and if it becomes manifest that he has done this by conceiving and resolving upon it beforehand the period of imprisonment is extended to from one month to two years.[2] The person too who draws a weapon on one not with intent to kill but merely for intimidation is imprisoned for from one week to six months.

Those who beat or wound one of their ancestors of either sex[3] are punished in manner following[4] :

If the beating or wounding has not been the cause of any accident or ailment[5] the beater or wounder is imprisoned for from fifteen days to two years, or for not less than four months if it[6] has been the cause of the sickness mentioned in Art. 178.[7] If the beating or wounding has been the cause of the circumstances[8] mentioned in Art. 177[9] the perpetrator is put in kyurek for not less than five years or, if the act has been committed by conceiving and resolving upon it, for not less than ten years, or if the beaten or wounded person dies from the effects of the beating, or of the wounding taken place by instruments which do not[10] lead to destruction of life, likewise for not less than ten years ; or if

the beating, or the wounding taken place by instruments which do not[10] lead to destruction of life, which has produced the death of the beaten person, has been committed by conceiving and resolving upon it, for a period of fifteen years.

To the above may be added the following notes :—

[1] "Lira" : 18*s*.

[2] "the period of imprisonment is extended to from one month to two years" ; *vide* note 6 to the original Art. 179.

[3] "one of their ancestors of either sex" lit. "one of their fathers or grandfathers or of their mothers or grandmothers."

[4] "in manner following" lit. "as below."

[5] "any accident or ailment" lit. "accidents or ailments of any sort."

[6] "it," *i.e.*, the beating or wounding.

[7] "mentioned in Art. 178," *i.e.*, for more than twenty days.

[8] "circumstances" lit. "states," "conditions."

[9] "mentioned in Art. 177," *i.e.*, "cutting off or breaking or ceasing from action of a member, or other permanent infirmity."

[10] "do not," *i.e.*, do not in themselves.

The new Art. 179 was amplified on the same date (6 Jemazi'ul-Akhir, 1329=4 June, 1911) by an addendum the text of which runs :—

If the act stated in this Article has not been the cause of sickness for more than ten days, the taking of proceedings depends on the lodging[1] of a complaint.[2] Desistance on the part of[3] the complainant, even after the lodging[1] of the complaint,[2] from prosecuting cases[4] for such beating or wounding arising between kinsmen or relatives precludes[5] the case[4] for general rights.[6]

To which may be added the following notes :—

[1] "lodging" lit. "giving."

[2] "complaint" lit. "letter of complaint" or "complaint in writing."

[3] "on the part of" lit. "of," simply.

[4] "cases" : in the sense of "action," "legal proceedings."

[5] "precludes" or "defeats" lit. "drops" or "throws down."

[6] "general rights," *i.e.*, "compensation by civil process."

ART. 180.[1]—If it becomes manifest[2] that the act of wounding or beating[3] was essentially[4] with intent to kill but the killing[5] had not come into effect by the intervention of impediments[6] not in the control[7] of the wounder or beater, the person who is the wounder or beater is in every case placed in kyurek temporarily, whether the[8] sore or bruise be severe or slight,[9] after payment of the Diyet[10] or specified sum of money[11] and of the[8] surgical[12] expenses to be awarded according to the gravity[13] of the wound or beating as stated in the preceding three Articles has been received.[14]

ART. 180 NOTES.—[1] The system adopted in the French Code Pénal is different from that of the Ottoman Code so far as " attempts " are concerned and will be found in Arts. 2 and 3.

Art. 2. " Toute tentative de *crime* qui aura été manifestée par un commencement d'exécution, si elle n'a été suspendue ou si elle n'a manqué son effet, que par des circonstances indépendantes de la volonté de son auteur, est considerée comme le *crime* même." (Loi, 28 Avril, 1832.)

Art. 3. " Les tentatives de *délits* ne sont considérées comme délits que dans les cas déterminés par une disposition spéciale de loi."

[2] " if it becomes manifest " (*vide* note 10 to Art. 178).

[3] " beating " (*vide* note 2 to Part I).

[4] " essentially " lit. " in itself."

[5] " killing " lit. " the matter of killing."

[6] " impediments " lit. " preventing causes."

[7] " in the control " lit. " in the hand of choice."

[8] " the " lit. " his," *i.e.*, " of the victim," of course.

[9] " severe or slight " lit. " heavy or light."

[10] " Diyet " (*vide* note 5 to Art. 1).

[11] " specified sum of money." Under Art. 177 a regular Diyet is payable but under Arts. 178 and 179 compensation on special lines fixed in those Articles. " Specified " is, literally, " known."

[12] " surgical " (*vide* note 9 to Art. 177).

[13] " gravity " lit. " degree."

[14] " received," *i.e.*, by the victim.

Art. 180 was amended by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860), of which the text is as follows :—

Those[1] with regard to whom it has become proved that[2] they have used[3] a weapon[4] positively[5] with intent to kill but the killing[6] had not come into effect by the intervention of impediments[7] not in their control[8] are likewise placed in kyurek temporarily.

To this addendum may be added the following notes :—

[1] In the French Code Pénal the system of the Code relating to *attempts* is explained in note 1 to Art. 180.

[2] " those with regard to whom it has become proved that " lit. " those who it becomes certain that."

[3] " used " lit. " drawn."

[4] " a weapon " or " arms."

[5] " positively " or " solely," " simply."

[6] " killing " lit. " matter of killing."

[7] " impediments " ; as in note 6 to Art. 180.

[8] " in their control " ; as in note 7 to Art. 180.

Art. 180 was repealed and a new Article was issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the amended Article is as follows :—

If in a killing[1] taken place during a quarrel,[2] or in an injury to a member,[3] or in a death[4] from the effects of wounding, or in the perpetration of the acts of beating or wounding, several persons have participated and it has not been determined who the perpetrator is, the punishment

prescribed by law for the act in respect of each one of such persons is awarded by being reduced to from one-third to one-half; and in acts[5] rendering necessary the punishments of death or kyurek in perpetuity, the punishment of kyurek for not less than ten years is prescribed.

To the new Article the following notes may be appended :—

[1] "in a killing," *i.e.*, in the case of a homicide.

[2] "quarrel" more literally "squabble," "brawl."

[3] "an injury to a member" lit. "in a (case of) suspension of a member," *i.e.*, the serious injury contemplated in Art. 177 (*vide* note 4).

[4] "in a death," *i.e.*, in the case of death.

[5] "in acts," *i.e.*, in the case of acts.

ART. 181.[1]—If the acts of killing, wounding, or beating[2] are committed together with any sort of disorder[3] or pillaging or plundering[4] of property, besides the punishment to be suffered[5] by those who have specially[6] dared to do these acts,[7] those who are the cause, instigators, or authors of this state of disorder[3] are also punished in exactly the same way as if they had committed these acts[7] but in the matter of Qisas[8] the Sher' requirement[9] whatever it may be is carried out.

ART. 181 NOTES.—[1] Compare Art. 313 of the French Code Pénal :—"Les crimes et les délits prévus dans la présente section (Arts. 309-318) et dans la section précédente (Arts. 295-308) s'ils sont commis en réunion séditieuse, avec rébellion ou pillage, sont imputables aux chefs, auteurs, instigateurs ou provocateurs de ces réunions, rébellions ou pillages, qui seront punis comme coupables d'un de ces crimes ou de ces délits, et condamnés aux mêmes peines que ceux qui les auront personellement commis."

Nicolaides (Ott. Cod., pp. 2479, 2480) quotes in full as a note to this Article a Vizierial Order dated 15 August, 1292 (27 August, 1876) as to the payment of Diyet to the heirs of a victim killed : but the note seems inappropriately tacked on to this Article and has therefore been dealt with under Art. 1 (*vide* note 5).

[2] "beating" (*vide* note 2 to Part I).

[3] "disorder," *i.e.*, disturbance of the public peace, or trouble : also "insurrection," "rebellion," "riot."

[4] "pillaging" or "plundering" : Nicolaides well paraphrases the whole passage : "*μετά τινος διαταράξεως τῆς δημοσίας ἡσυχίας καὶ διαρπαγῆς.*"

[5] "suffered" or "undergone."

[6] "specially" : this is literal ; it means here "actually," "personally."

[7] "these acts," *i.e.*, of killing, wounding or beating.

[8] "Qisas" (*vide* note 5 to Art. 1).

[9] "Sher' requirement" : "for sher'" (*vide* note 5 to Art. 1). "Requirement" here might be translated also as "decree" or "ordinance." The effect of this proviso in this Article would be that the "strict" provisions of the Sher' law must be followed so far as Qisas was concerned.

ART. 182.[1]—If a person kills[2] an individual by mistake[3] or unintentionally[4] becomes the cause of the destruction of his life[5] he is, after satisfaction, upon trial, of the Sher' rights[6] of the person killed, punished with imprisonment for from six months to two years if this affair of killing has arisen from carelessness or unobservance of the laws.[7]

ART. 182 NOTES.—[1] Compare Art. 319 of the French Code Pénal :—" Quiconque par maladresse, imprudence, inattention, négligence ou inobservation des réglements, aura commis involontairement un homicide, ou en aura involontairement été la cause, sera puni d'un emprisonnement de trois mois à deux ans, et d'une amende de cinquante francs à six cents francs."

What is meant by Art. 182 is that the culprit has to pay " Diyet " in any case but if the homicide has been occasioned by the culprit's non-observance of any law he goes to prison in addition.

[2] " kills " ; as in note 2 to Art. 174.

[3] " mistake " or " blunder," " error."

[4] " unintentionally " : it means " without intent to kill."

[5] " destruction of his life " (*vide* note 4 to Art. 174).

[6] " Sher' rights," *i.e.*, the Diyet (*vide* note 10 to Art. 177).

[7] " unobservance of the laws ." The word used here in the Turkish text for " laws " is " Nizamat " (pl. of " Nizam ") which is usually translated in this work " Regulations " (but *vide* note 6 to Art. 110). Nicolaides translates the passage " *ἐξ ἀμελείας ἢ ὀλιγωρίας περὶ τὰς ἀστυνομικὰς διατάξεις* " ; the French rendering uses " réglements." " Unobservance " might also be translated " disrespect."

ART. 183.[1]—If a person wounds or beats[2] an individual by mistake[3] or unintentionally[4] becomes the cause of his being wounded or bruised he[5] is, after satisfaction of his[6] surgical[7] expenses and of his[6] Sher' Diyet[8] if he[5] has been the cause of the cutting[9] off of or rendering useless[10] a member[11] of his,[6] also[12] imprisoned for from one week to two months if this affair of wounding or beating[2] has arisen from carelessness or unobservance of the laws.[13]

ART. 183 NOTES.—[1] Compare Art. 320 of the French Code Pénal :—" S'il n'est résulté du défaut d'adresse ou de précaution que des blessures ou coups, l'emprisonnement sera de six jours à deux mois, et l'amende sera de seize francs à cents francs." This Article of the French Code Pénal was amended later in 1863.

Here, again, the meaning of Art. 183 is : If the culprit has accidentally wounded or beaten a person or unintentionally been the cause of a person being wounded or bruised he has to pay the medical expenses ; if the injury is of that graver character contemplated by Art. 177 the culprit has to pay the regular " Diyet " ; and in either case *if* the injury has been brought about by the culprit's carelessness or unobservance of law the culprit goes to prison as well.

[2] " beats " (*vide* note 2 to Part I).

[3] " mistake " (*vide* note 3 to Art. 182).

[4] " unintentionally " (*vide* note 4 to Art. 182).

[5] " he," *i.e.*, the offender.

[6] " his," *i.e.*, of the injured person.

[7] " surgical " (*vide* note 9 to Art. 177).

[8] " Sher' Diyet " (*vide* note 10 to Art. 177).

[9] " cutting " (*vide* note 2 to Art. 177).

[10] " rendering useless " (*vide* note 3 to Art. 177).

[11] " member " (*vide* note 4 to Art. 177).

[12] " also," *i.e.*, in addition to the payment of the surgical expenses or the Diyet.

[13] " unobservance of the laws " (*vide* note 7 to Art. 182).

ART. 184.[1]—If a person kills[2] an individual by command of an authoritative superior[3] the punishment for a killer is carried out with regard to such superior.

Authoritative superior[3] means a person who is able to destroy[4] the commanded[5] if he[6] opposes his[7] command.

In cases except[8] this, the commanded[5] cannot be excused[9] and the punishment for killing[2] is carried out with regard to him; and as regards a[10] non-authoritative superior[11] the punishment of temporary kyurek is awarded.

ART. 184 NOTES.—[1] The French Code Pénal deals with cases of the class referred to in Arts. 184 and 185 in a more comprehensive and legally sounder fashion than by isolated Articles of the character of the two referred to. Concerning a person acting under duress the French Art. No. 64 runs :—"Il n'y a ni crime ni délit lorsque le prévenu était en état de démence au temps de l'action, ou lorsqu'il a été contraint par une force à laquelle il n'a pu résister"; whilst with regard to the individual by whose command the offence is carried out Art. 59 and part of Art. 60 of the French Code apply.

Art. 59. "Les complices d'un crime ou d'un délit seront punis de la même peine que les auteurs même de ce crime ou de ce délit, sauf les cas où la loi en aurait disposé autrement."

Art. 60. "Seront punis comme complices d'une action qualifié crime ou délit, ceux qui, par dons, promesses, menaces, abus d'autorité ou de pouvoir, machinations, ou artifices coupables, auront provoqué à cette action ou donné des instructions pour la commettre."

[2] "kills"; as in note 1 to Part I.

[3] "authoritative superior": the words in the Turkish text are "amir-i-mujbir" and the most literal rendering would be "imperious (or 'compelling,' or 'forcing'), commander (or 'orderer')": it means a superior (or a person) ordering or commanding who forces or compels or is able to force or compel another to execute his order or command and is able to carry his threats into effect. Nicolaides translates "*κατὰ διαταγὴν τοῦ βίᾳ διατάσσοντος*": the French rendering is "par l'ordre d'un supérieur disposant des moyens de contrainte pour faire exécuter sa volonté." What the phrase exactly means in this and in Art. 185 is explained by the second paragraph of the Article.

[4] "destroy," *i.e.*, "kill."

[5] "commanded," *i.e.*, "the person ordered to do the killing."

[6] "he," *i.e.*, the commanded person.

[7] "his," *i.e.*, "of the superior."

[8] "except" or "besides," "other than."

[9] "excused" or "excusable" (*vide* note 4 to Art. 190); it does not mean he is entirely exempt from punishment.

[10] "a" lit. "such."

[11] "non-authoritative superior" (*vide* note 3 above). Nicolaides translates here "*ὁ μὴ βίᾳ διατάσσων*" and the French rendering is "le supérieur qui a ordonné l'homicide sans disposer de moyens de contrainte."

ART. 185.[1]—If a person wounds or beats[2] an individual by command of an authoritative superior[3] the above mentioned punishments for wounding or beating, according to the gravity[4] of the wound or bruise, are carried out with regard to his superior; and if the superior is non-authoritative[5] these punishments are carried out with regard to the perpetrator thereof[6] and those who are such non-authoritative superiors[5] are imprisoned for from one week to one year; but a person who orders the cutting off[7] or rendering useless[8] of a member[9] incurs[10] the punishment of temporary kyurek in every case.

ART. 185 NOTES.—[1] (*Vide* note 1 to Art. 184).

[2] "beats" (*vide* note 2 to Part I).

[3] "authoritative superior" (*vide* note 3 to Art. 184).

[4] "gravity" lit. "degree."

[5] "non-authoritative" (*vide* note 11 to Art. 184).

[6] "thereof," *i.e.*, of the wounding or beating.

[7] "cutting off" lit. "cutting" (*vide* note 2 to Art. 177).

[8] "rendering useless" lit. "suspension"; it means "permanent" injury of the character contemplated in note 11 to Art. 177. (*Vide* also note 3 to Art. 177.)

[9] "member" (*vide* notes 4 and 10 to Art. 177).

[10] "incurs" lit. "becomes deserving of."

ART. 186.[1]—Acts of killing or wounding taking place for defence or protection of self or honour[2] are pardoned.[3]

ART. 186 NOTES.—[1] Compare Arts. 328 and 329 of the French Code Pénal:—

Art. 328. "Il n'y a ni crime ni délit, lorsque l'homicide, les blessures et les coups étaient commandés par la nécessité actuelle de la légitime défense de soi-même ou d'autrui" (and see also Art. 329; note 1 to Art. 187 *infrâ*).

[2] "self or honour": an important point arises on this Article as to whether the Article applies only to the defence of one's own life or honour or also to the defence of the life or honour of another. From the Turkish text it would appear that the Article only applies to the defence of one's own life though it might possibly include the defence of the honour of another.

Nicolaides translates the passage "*τὴν ζωὴν ἢ τὴν τιμὴν αὐτοῦ*"; and the French rendering is "pour sauver sa vie ou se garantir d'un outrage à l'honneur et à la pudeur."

In Cyprus it has been held by the Supreme Court (Rex. v. Sava, 8 C.L.R., p. 99 and Rex. v. Ramadan, 9 C.L.R., Prelim. Issue, No. 6, p. 1.) that the Article applies to the defence of the life and honour of another.

[3] "pardoned" or "pardonable," *i.e.*, entirely exempt from punishment: it is not the same word as "excused" used in Art. 184.

It should be observed that the above Art. 186 was abrogated by an addendum, dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911) to Art. 42.

ART. 187.[1]—Acts of killing,[2] wounding or beating[3] committed[4] for repelling a person while he is getting up into the house, shop or room by setting up a ladder or while he is forcibly breaking open[5] places which are under lock or while he is breaking through[6] the wall of or breaking the door of an inhabited house or its appurtenances by night are likewise pardoned[7]; and if this affair is[8] in the day-time although these acts of killing, wounding or beating are not held entirely pardonable[7] yet the author[9] thereof is excused[10] and he is treated in the manner to be set forth[11] in Art. 190.

ART. 187 NOTES.—[1] The first part of this Article is taken from Art. 329 of the French Code Pénal; the second part from Art. 322 with which must be read Art. 321. They read thus:—Art. 329. "Sont compris dans le cas de nécessité actuelle de défense, les deux cas suivants:—1. Si l'homicide a été commis, si les blessures ont été faites ou si les coups ont été portés en repoussant pendant la nuit l'escalade ou l'effraction des clôtures, murs ou entrée d'une maison ou d'un appartement habité ou de leurs dépendances: 2. Si le fait a eu lieu en se défendant contre les auteurs de vols ou de pillage exécutés avec violence."

Art. 321. "Le meurtre ainsi que les blessures et les coups sont excusables, s'ils ont été provoqués par des coups ou violences graves envers les personnes."

Art. 322. "Les crimes et délits mentionnés au précédent article sont également excusables, s'ils ont été commis en repoussant pendant le jour l'escalade ou l'effraction des clôtures, murs ou entrée d'une maison ou d'un appartement habité ou de leurs dépendances. Si le fait est arrivé pendant la nuit, ce cas est reglé par l'Art. 329."

[2] "killing"; as in note 1 to Part I.

[3] "beating"; as in note 2 to Part I.

[4] "committed" lit. "taking place."

[5] "breaking open" lit. "spoiling" or it might be translated "demolishing," "deranging," "undoing."

[6] "breaking through" lit. "making a hole into (or through,)" "piercing."

[7] "pardoned"; as in note 3 to Art. 186.

[8] "is," *i.e.*, takes place.

[9] "author" lit. "actor," "agent."

[10] "excused" (*vide* note 4 to Art. 190).

[11] "set forth" or "stated," "explained."

ART. 188.[1]—If a person seeing his wife or one of his other mahrems[2] whilst committing the abominable act[3] with an individual kills both of them together[4] he is likewise excused.[5]

ART. 188 NOTES.—[1] Compare Art. 324 of the French Code Pénal:—Art. 324. "Le meurtre commis par l'époux sur l'épouse, ou par celle-ci sur son époux, n'est pas excusable, si la vie de l'époux ou de l'épouse qui a commis le meurtre n'a pas été mise en péril dans le moment même où le meurtre a eu lieu.—Néanmoins, dans le cas d'adultère, prévu par l'Art. 336, le meurtre commis par l'époux sur l'épouse, ainsi que sur le complice, à l'instant où il les surprend en flagrant délit dans la maison conjugale, est excusable.

[2] "mahrems," *i.e.*, relatives, such as wife, daughter, sisters, etc., who are within the forbidden degrees of kinship for marriage. The word only refers to females here.

[3] "the abominable act," *i.e.*, here, adultery or fornication.

[4] "together," *i.e.*, at the same time. Both offenders must be killed at the same time "*flagrante delicto*."

[5] "excused" not altogether "pardoned" (*vide* note 4 to Art. 190).

Art. 188 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

If a person seeing his wife or one of his other mahrems[1] in the state of committing the abominable act of adultery with an individual beats or wounds or kills one of them or both of them together[2] he is pardoned[3]; and if a person seeing his wife or one of his mahrems[1] in unlawful bed[4] with an individual beats or wounds or kills one of them or both of them together[2] he is excused.[5]

To the new Article the following notes may be added:—

[1] "mahrems" (*vide* note 2 to old Art. 188).

[2] "together" (*vide* note 4 to old Art. 188).

[3] "pardoned," *i.e.*, escapes punishment altogether (*vide* note 3 to Art. 186).

[4] "in unlawful bed": this is literal. It distinguishes here the case of the guilty pair being found in the same bed from that in which they are found actually "*flagrante delicto*."

[5] "excused": the distinction here between "pardoned" as in note 3 and "excused," *i.e.*, partial exemption from the full punishment owing to the provocative circumstances, is well marked: for "excused" (*vide* note 4 to Art. 190).

ART. 189.[1]—The person who commits the acts of killing,[2] wounding or beating[3] taking place in reciprocation[4] is likewise excusable[5]; but police officers are excepted in this respect and they do not become responsible for acts of killing[2] wounding or beating[3] which they may commit where permitted to do so by the law in that behalf[6] in the carrying out of the duties of their office and those[7] who reciprocate[8] on them[9] can on no account be excused.[10]

ART. 189 NOTES.—[1] Compare, for the latter part of the Article, Art. 327 of the French Code Pénal :—" Il n'y a ni crime ni délit, lorsque l'homicide, les blessures et les coups étaient ordonnés par la loi et commandés par l'autorité légitime " : for the former part of the Article compare Art. 321 (*vide* note 1 to Art. 187).

[2] " killing " ; as in note 1 to Part I.

[3] " beating " ; as in note 2 to Part I.

[4] " in reciprocation," *i.e.*, " in return " or " in retaliation." Nicolaides translates " *κατ' ἄμυναν* " : the French rendering is a paraphrase : "s'ils ont été provoqués pas des actes semblables "—" ils " referring to " le meurtre ainsi que les blessures et les coups "—and this gives exactly the meaning of the Turkish Article.

[5] " excusable " (*vide* note 4 to Art. 190).

[6] " where permitted to do so by the law in that behalf " lit. " pursuantly with the permission (or allowance) shown by the special law," *i.e.*, within those limits which are legally permissible. " Law " ; the word in the Turkish text is " Nizam " (*vide* note 2 to Art. 15). Nicolaides translates " *καὶ ἐντὸς τῶν ὑπὸ τοῦ νόμου διαγεγραμμένων ὅρων ἐνεργοῦντα* " : the French rendering is "lorsqu'ils ont agi dans les limites des réglements particuliers relatifs à leur service."

[7] " those," *i.e.*, persons.

[8] " reciprocate," *i.e.*, " retaliate " : Nicolaides translates " *οἱ δὲ κατ' αὐτῶν ἀμυνόμενοι* " : the French rendering is " qui useront de représailles envers eux "

[9] " them," *i.e.*, the police.

[10] " excused " or " excusable " (*vide* note 4 to Art. 190).

Art. 189 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

The person who commits the acts of killing, wounding or beating taking place in reciprocation is likewise excusable.[1]

To the new Article the following note may be added :—

[1] The notes to words given in the original Article are, where those words occur in this new Article, applicable.

ART. 190.[1]—The killer,[2] wounder or beater[3] whose excusableness[4] has been verified is imprisoned for from three months to three years and such are kept[5] under police supervision also for from five years to ten years as the case may require.[6]

ART. 190 NOTES.—[1] The French Code Pénal has as its counterpart to the above Article one more elaborated : *vide* Art. 326 which reads :—" Lorsque le fait d'excuse sera prouvé.—S'il s'agit d'un crime emportant la peine de mort, ou celles des travaux forcés à perpétuité, ou celle de la déportation, la peine sera réduite à un emprisonnement d'un an à cinq ans :—S'il s'agit de tout autre crime, elle sera réduite à un emprisonnement de six mois à deux ans :—Dans ces deux premiers cas, les coupables pourront de plus être mis par l'arrêt ou le jugement sous la surveillance de la haute police pendant cinq ans au moins et dix ans au plus.—S'il s'agit d'un délit, la peine sera réduite à un emprisonnement de six jours à six mois."

[2] "killer"; as in note 1 to Part I.
[3] "beater"; as in note 2 to Part I.
[4] "excusableness"; this Article gives the measure of the difference between the expression "excused" and pardoned." When Articles refer to an offender being "excused" or "excusable," the normal punishment is mitigated as indicated in this Article (190). "Pardoned," on the other hand, means complete avoidance of penalty.
[5] "kept" lit. "taken."
[6] "as the case may require" lit. "according to the requirement."

Art. 190 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

The punishments for those whose excusableness has been verified are as follows:—

If the act necessitates one of the punishments of death or perpetual kyurek or perpetual confinement in a fortress the perpetrator is imprisoned for from one year to three years. If the act necessitates other deterrent[1] punishment, the perpetrator is imprisoned for from six months to two years. If the act necessitates correctional[2] punishment the perpetrator is imprisoned for from twenty-four hours to six months, or sentenced to a fine of from five Beshliks[3] to two Liras according to the degree of the act and excusableness.

To the above amended Article the following notes may be added:—
[1] "deterrent" (*vide* Art. 3).
[2] "correctional" (*vide* Art. 4).
[3] "Beshliks" (*vide* note 20 to Art. 254).

ART. 191.[1]—If an individual either by despatching a letter[2] sealed or unsealed[3] and signed or unsigned[4] or by sending a man to a person bids him[5] to forward[6] to himself[7] or to a place indicated by himself[8] money in cash or certain[9] articles or makes other demands or proposals thereby[10] and intimidates or threatens him[5] by declaring[11] that if he[12] does not forward[6] that which he[13] wants[14] or does not carry out the proposal he[13] will inflict some harm upon[15] him[5] then,[16] if the harm stated by him[7] is one which makes the punishment of death or kyurek in perpetuity necessary according to law with regard to the offender[17] but it has not been brought to effect,[18] the individual who has dared to commit[19] this kind of Jinayet is placed in kyurek temporarily; and if the harm which he[7] has notified that he[7] would inflict is not one of the Jinayets which would make the punishments mentioned above necessary according to law but is one of lighter kind[20] and has likewise not been brought to effect,[18] the said individual is imprisoned for

from one year to three years and a fine of from three Mejidieh gold pieces to twenty Mejidieh gold pieces is taken from him.

ART. 191 NOTES.—[1] The construction of this sentence in the Turkish text is bad and awkward, little care having been apparently taken as to the grammar : the sense is clear though a literal translation requires many explanatory notes.

In the French Code Pénal this Article is represented by Arts. 305-308 forming a sub-heading (§ 11) entitled " Menaces " of Section 1 (Meurtres et autres crimes capitaux, menaces d'attentat contre les personnes) of Chapter II (Crimes et délits contre les personnes) of Book II (Crimes et délits contre les particuliers). These Articles read thus :—Art. 305. " Quiconque aura menacé, par écrit anonyme ou signé, d'assassinat, d'emprisonnement, ou de tout autre attentat contre les personnes qui seraient punissables de la peine de mort, des travaux forcés à perpétuité, ou de la déportation, sera puni de la peine des travaux forcés à temps, dans le cas où la menace aura été faite avec ordre de déposer une somme d'argent dans un lieu indiqué ou de remplir toute autre condition."

Art. 306. " Si cette menace n'a été accompagnée d'aucun ordre ou condition, la peine sera d'un emprisonnement de deux ans au moins et de cinq ans au plus, et d'une amende de cent francs à six cents francs."

Art. 307. " Si la menace faite avec ordre ou sous condition a été verbale, le coupable sera puni d'un emprisonnement de six mois à deux ans, et d'une amende de vingt-cinq francs à trois cents francs."

Art. 308. " Dans les cas prévus par les deux précédents articles, le coupable pourra de plus être mis, par l'arrêt ou le jugement, sous la surveillance de la haute police pour cinq ans au moins et dix ans aux plus."

[2] " letter " lit. " paper."

[3] " sealed or unsealed " lit. " with seal or without seal."

[4] " signed or unsigned " lit. " with signature or without signature."

[5] " him," *i.e.*, the person to whom the letter or emissary is sent.

[6] " forward " lit. " send."

[7] " himself," *i.e.*, the sender of the letter or emissary.

[8] " indicated by himself," *i.e.*, indicated by the sender in the letter or through his emissary.

[9] " certain " or " some."

[10] " thereby " lit. " therein," *i.e.*, in the letter or through the emissary.

[11] " declaring " or " stating," *i.e.*, in the letter or through the emissary.

[12] " he " ; as in note (5).

[13] " he " ; as in note (7).

[14] " wants " or " asks for."

[15] " will inflict some harm upon " lit. " will bring about some injury with regard to."

[16] " then " lit. " and."

[17] " offender " lit. " perpetrator thereof."

[18] " been brought to effect " lit. " come out to effect."

[19] " to commit " ; the words are inserted in the translation for clarity.

[20] " lighter kind," *i.e.*, lighter kind of Jinayet.

Art. 191 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The following is the text of the new Article :—

If an individual either by despatching a letter sealed or unsealed and signed or unsigned or by sending a man to a person bids him to forward to himself or to a place indicated by himself money in cash or certain articles or makes other demands or proposals thereby and intimidates or threatens

him by declaring that if he does not forward that which he wants or does not carry out his proposal he will inflict some harm upon him then, if the harm stated by him is one which makes the punishment of death or kyurek in perpetuity necessary according to law with regard to the author[1] thereof but it has not been brought to effect, the individual who has dared to commit this kind of Jinayet is placed in kyurek temporarily. If the threat made does not comprise money or certain articles or other demands and the harm to be brought about includes one of the offences indicated in the preceding paragraph but it has not been brought to effect the individual who has dared to make the threat is imprisoned for from one year to three years.

If an individual verbally threatens another person with the demands, proposals or harms mentioned in the first paragraph, or if the threat made is made by way of despatching a sealed or unsealed or signed or unsigned letter or of sending a man and the harm is of a lighter kind of Jinayet than those in the said paragraph and has likewise not been brought to effect, such individual is imprisoned for from three months to three years. If the threat or intimidation taken place with regard to the demands made necessitates correctional[2] punishment or if the threat is one of divulgence[3] against his honour or dignity the offender[4] is imprisoned for from one week to one year.[5]

The following notes may be appended to the new Article :—

[1] "author," lit. "perpetrator."

[2] "correctional" (*vide* Art. 4).

[3] "divulgence" or "exposure." The whole passage literally translated runs "or if threat of divulgence against his honour and dignity takes place."

[4] "offender" lit. "perpetrator thereof."

[5] The notes to the original Article on such words as "letter," "sealed or unsealed," "signed or unsigned," "forward," "wants," "inflict some harm upon," "be brought to effect," "lighter kind," are also applicable to the new Article.

PART II.

THE PUNISHMENT PROVIDED FOR PERSONS CAUSING ABORTION, SELLING ADULTERATED DRINKS,[1] OR POISONS[2] WITHOUT SURETY.[3]

PART II NOTES.—[1] "adulterated drinks" lit. "mixed drinks," or "impure drinks."

[2] "poisons" or "poisonous substances" : the words "who sell" should be read in before the word "poisons."

[3] "without surety" or "without guarantee" (*vide* note 6 to Art. 196, under "without surety" *infrâ*).

ART. 192.[1]—If a person becomes the cause of the miscarriage[2] of a pregnant woman by beating[3] her or by any other act[4] he is after recovery of the Diyet under the Sher' law[5] placed in kyurek temporarily if this violence[6] of his has been on purpose.[7]

ART. 192 NOTES.—[1] The meaning of this Article is that a person who is the cause of a woman's miscarriage is liable to pay the compensation fixed by the Sher' law whether he has intentionally or unintentionally caused the miscarriage but if he *has* done so intentionally then in addition to the payment of the compensation he is punished with temporary kyurek.

Compare the first paragraph of Art. 317 of the French Code Pénal :—" Quiconque par aliment, breuvage, médicament, violence ou par tout autre moyen, aura procuré l'avortement d'une femme enceinte, soit qu'elle y ait consenti ou non, sera puni de la réclusion.

[2] " miscarriage " lit. " dropping of the foetus."

[3] " beating " also " striking " (*vide* note 2 to Part I).

[4] " by any other act " lit. " by any act of other sort." This is not confined to physical violence.

[5] " after recovery of the Diyet under the Sher' law " lit. " after receiving (*i.e.*, the receiving by the injured woman from the offender) the Sher' Diyet therefor." For the meaning of and amount of Diyet payable under the Sher' law *vide* Introduction. The " Diyet " for the destruction of a foetus through abortion is called " ghurreh."

[6] " violence " or " cruelty," " excess."

[7] " on purpose " also " purposely," " intentionally " or " deliberately."

Art. 192 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

The woman miscarrying her foetus[1] by making use, or by giving her consent for the making use by another, of special means, is imprisoned for from six months to three years.

The individual causing a woman to miscarry her foetus by preparing[2] special means with her consent, is condemned to imprisonment for from one year to three years. If as the result of such miscarriage of foetus, or in consequence of[3] the means made use of for miscarriage, destruction of person[4] comes about, he[5] is put in kyurek for from four years to seven years.

If a person, without the consent of a woman of whose pregnancy he[5] is aware brings about miscarriage by making use of special means, or by beating,[6] wounding, or committing other acts, he[5] is condemned to kyurek for from three years to ten years.

If as a result[7] of such miscarriage, or in consequence of[3] the means made use of for miscarriage the woman dies,[8] the punishment is kyurek for not less than[9] fifteen years.

If the individuals committing these acts are one of the physicians, or health officers or persons practising[10] under Government supervision such as midwives, the specified punishment is increased by one-sixth.[11]

To the new Article the following notes may be added :—

[1] " miscarrying her foetus " lit. " dropping foetus " ; the note is applicable wherever the expression occurs throughout this Part (II).

[2] " preparing " or " providing."

[3] " in consequence of " lit. " from."

[4] " destruction of person," *i.e.*, the death of the woman.

[5] " he," *i.e.*, the offender, whether male or female.

[6] " beating " ; as in note 3 to the original Article.

[7] " as a result " lit. " at the result."

[8] " dies " lit. " is destroyed."

[9] " less than " lit. " below."

[10] " practising " lit. " carrying out profession."

[11] The new Article does away with the " Diyet " payable under the provisions of the original Article. It also affects Art. 193 (*vide* note 1 thereto).

ART. 193.[1]—If in order to make a pregnant woman make a miscarriage whether with her consent or without her consent she is treated with[2] drugs,[3] or the requirements[4] or means for it[5] are indicated[6] and the miscarriage is brought about[7] by the effect thereof, the person who has been the cause of this[8] is imprisoned for from six months to two years ; and if the person who has been the cause of this[8] is a physician, surgeon or druggist he is placed in kyurek temporarily.

ART. 193 NOTES.—[1] Compare the second and third paragraphs of Art. 317 of the French Code Pénal which should be read in conjunction with the first paragraph of the same Article quoted in note 1 to Art. 192 of the Ottoman Penal Code :—" La même peine sera prononcée contre la femme qui se sera procuré l'avortement à elle-même, ou qui aura consenti à faire usage des moyens à elle indiqués ou administrés à cet effet, si l'avortement s'en est suivi.

" Les médecins, chirurgiens et autres officiers de santé, ainsi que les pharmaciens qui auront indiqué ou administré ces moyens seront condamnés à la peine des travaux forcés à temps, dans le cas où l'avortement aurait eu lieu."

It is important to notice here the difference between the French and original Ottoman Codes in connection with the provision of punishment for a woman who herself brings about her own miscarriage. The former Code makes such action punishable, the latter did not. Whether or not the omission was intentional it was rather a serious one, but the fact that the state of the law was as above indicated is well recognized by the Courts of, at any rate, Cyprus. But *vide* new Art. 192, note 11.

[2] " treated with " lit. " made to drink."

[3] " drugs " lit. " medicine."

[4] " requirements " or " requisites," *i.e.*, what is necessary to produce the required effect.

[5] " it," *i.e.*, the miscarriage.

[6] " indicated " lit. " defined " or " described."

[7] " the miscarriage is brought about " lit. " her infant is caused to be dropped."

[8] " this." *i.e.*, the miscarriage.

ART. 194.[1]—An individual who though not causing the death of[2] a person becomes the cause of his illness or of his

not being able for a while[3] to occupy himself with his ordinary business[4] by purposely[5] administering[6] to him certain[7] things, is imprisoned for from one month to one year and a compensation[8] of from three Mejidieh gold pieces to twenty-five Mejidieh gold pieces is taken and given to the man affected.

ART. 194 NOTES.—[1] Compare the fourth paragraph of Art. 317 of the French Code Pénal :—" Celui qui aura occasioné à autrui une maladie ou une incapacité de travail personnel, en lui administrant volontairement, de quelque manière que ce soit, des substances qui, sans être de nature à donner la mort, sont nuisibles à la santé, sera puni d'un emprisonnement d'un mois à cinq ans, et d'une amende de seize francs à cinq cents francs ; il pourra de plus être renvoyé sous la surveillence de la haute police pendant deux ans au moins et dix ans au plus. Si la maladie ou incapacité de travail personnel a duré plus de vingt jours, la peine sera celle de réclusion."

[2] " causing the death of " lit. " destroying."

[3] " for a while " or " to some extent." Nicolaides has " ἐπι τινα χρόνον " ; the French rendering is " temporaire "

[4] " his ordinary business " lit. " with his work and gain."

[5] " purposely " or " intentionally."

[6] " administering " lit. " giving."

[7] " certain " or " some."

[8] " compensation " lit. " indemnity money."

ART. 195.[1]—Druggists who open druggists' shops without being the holders of a certificate[2] are punished by the taking of a fine of from ten Mejidieh gold pieces to fifty Mejidieh gold pieces after first of all causing their shops to be closed.[3]

ART. 195 NOTES.—[1] Nicolaides quotes (Ott. Cod., pp. 2483, 2484) a circular of the Ministry of Justice dated 22 Zilhijjé, 1303 (21 September, 1886) in which stringent orders are given for proceedings to be taken against all persons who without having obtained the requisite diploma and license from the Imperial Medical School practise medicine, surgery, midwifery, compounding or other branches of the medical profession (*vide* also " Loi sur l'exercise de la médicine civile ") : 7 Rebi'ul-Akhir, 1278 (11 October, 1861) : Destur, II, p. 817 ; Nicolaides, Ott. Cod., p. 4326 ; Aristarchi, Leg. Ott., III, p. 105).

[2] " certificate " or " diploma."

[3] " after first of all causing their shops to be closed," *i.e.*, their shops are closed down by the authorities."

ART. 196.[1]—Those who sell noxious[2] drugs which will injure[3] the public health or adulterated[4] drinks or poisonous substances[5] without surety[6] are imprisoned for from one week to two years and a fine of from one Mejidieh gold piece to twenty-five Mejidieh gold pieces is taken and the article,[7] whatever it may be, sold by them is seized by the Government.

ART. 196 NOTES.—[1] Compare Art. 318 of the French Code Pénal :—" Quiconque aura vendu ou debité des boissons falsifiées, contenant des mixtions nuisibles à la santé, sera puni d'un emprisonnement de six jours à deux ans, et d'une amende de seize francs à cinq cents francs. Seront saisies et confisqueés les boissons falsifiées trouvées appartenu au vendeur ou débitant."

[2] "noxious" or "injurious," "noisome."
[3] "injure" or "impair," "derange."
[4] "adulterated" lit. "mixed."
[5] "poisonous substances" lit. "poisons."
[6] "without surety." According to the Turkish text it is not clear whether it is the purchaser or the vendor who has to give the surety nor does Nicolaides attempt to explain the phrase translating it literally "ἄνευ ἐγγυήσεως" the French rendering, however, runs "sans avoir obtenu de l'acheteur les garanties necessaires" from which it would appear that the purchaser must give the vendor assurances that the poison is obtained with propriety.
[7] "article": the word in the Turkish text is plural "eshya," *i.e.*, things or goods (*vide* note 8 to Art. 27). The word is often used with a singular meaning as here translated. Upon a conviction, only those articles the sale of which might constitute an offence under this Article of the Code, are presumably, seizable under the provisions of the Article and not the whole of the offender's vendibles.

PART III.

SETS FORTH THE PUNISHMENT FOR PERSONS WHO VIOLATE HONOUR.

ART. 197.[1]—Whoever does the abominable act[2] to[3] a child under eleven years of age is punished with the punishment of temporary imprisonment for not less than six months.

ART. 197 NOTES.—[1] Compare Art. 331 of the French Code Pénal:—"Tout attentat à la pudeur consommé ou tenté sans violence sur la personne d'un enfant de l'un ou de l'autre sexe, âgé de moins de onze ans sera puni de la réclusion." (Loi, 28 Avril, 1832.)

Walpole (Ott. Pen. Cod., p. 85) states in a foot to this Article (197) that by a Vizierial Decree dated 7 Sefer, 1291, an offence of the character contemplated under the Article when committed on a child under thirteen is, even if the child is a consenting party, an offence committed with violence under Art. 198. The author no doubt refers to the Circular letter of the Ministry of Justice quoted by Nicolaides, Ott. Cod., pp. 2428, 2429 and already mentioned herein in note 1 to Art. 40 (*vide suprâ*). This Circular dated 7 Sefer, 1291 (26 March, 1874), may be found in the Destur, Vol. IV, p. 352 and 371. A translation from the Turkish text reads as follows:—

"It having been stated by the Department for Criminal Trials that whereas male and female children who have not completed the age of thirteen years are regarded as infant if (the) abominable act is done to them be it even with their consent by deceiving (*i.e.*, seducing) them, to regard it (*i.e.*, the outrage) as force (*i.e.*, "coercion" or "violence" or "compulsion") is a natural matter, their consent being of no effect (*i.e.*, their consent being immaterial); and that if the puberty of offenders who are above this (age), that is to say who have not yet completed the age of fifteen years, cannot be established (*i.e.*, proved), they (*i.e.*, such offenders) should be regarded as murahiq-i-mumeyyiz (*i.e.*, one who has not attained puberty but is on the verge of puberty and has the capacity of discriminating between right and wrong), in which case their consent too would necessarily be of effect to some extent (lit. in which case it would be necessary that their consent should also be of effect to some degree) and they should undergo punishment in accordance with Art. 40 of the Penal Code, the necessary action should (therefore) be taken accordingly."

The effect of this Circular is really threefold.

(*a*) An outrage on a person under 13 years old is regarded as an outrage with force and as falling under Art. 198 whether the person outraged consents or not to the act of outrage.

(*b*) Persons who are over thirteen years of age but who have not completed the age of fifteen and who have not reached the state of puberty who commit such an outrage on another are punished as indicated in Art. 40.

(*c*) The consent of persons, who being over thirteen years of age have not completed the age of fifteen and who have not reached the state of puberty, to such an outrage being committed on them is effective consent and the perpetrator of the outrage is not punishable. This rule as stated by Walpole is always acted upon in Cyprus.

[2] "the abominable act" or "infamous act." This is literal and includes either outrage by way of unnatural or natural intercourse (*i.e*, sodomitical or sexual). Nicolaides translates the passage "ὁ παρὰ φύσιν ἀσελγήσας": the French rendering is "tout attentat à la pudeur."

[3] "does . . . to," *i.e.*, actually commits on.

Art. 197 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (1 June, 1911). The text of the new Article is as follows:—

Whoever does the abominable act[1] to a child who has not completed the age of fifteen years is put in kyurek temporarily. If this act takes place by the exercise of compulsion[2] or violence the punishment of kyurek cannot be less than seven years.

To the new Article the following notes may be added:—

[1] "the abominable act" (*vide* note 2 to original Art. 197).

[2] "compulsion" or "force."

ART. 198.[1]—If a man does the abominable act[2] to[3] a person,[4] that is to say violates his honour, by force[5] he is placed in kyurek temporarily.

ART. 198 NOTES.—[1] Compare with this and the preceding Article (both of which should be read together in conjunction with the Circular letter of 7 Sefer, 1291, quoted in note 1 to Art. 197 and with the addendum to Art. 198 of 3 Jemazi'ul-Akhir, 1277, immediately following Art. 198), Art. 332 of the French Code Pénal:—"Quiconque aura commis le crime de viol sera puni des travaux forcés à temps. Si le crime a été commis sur la personne d'un enfant au-dessous de l'age de quinze ans accomplis, le coupable subira le *maximum* de la peine des travaux forcés à temps. Quiconque aura commis un attentat à la pudeur, consommé ou tenté, avec violence contre des individus de l'un ou de l'autre sexe, sera puni de la réclusion:—Si le crime a été commis sur la personne d'un enfant au-dessous de l'âge de quinze ans accomplis, le coupable subira la peine des travaux forcés à temps." (Loi, 28 Avril, 1832.)

[2] "abominable act" (*vide* note 2 to Art. 197).

[3] "does . . . to" (*vide* note 3 to Art. 197).

[4] "a person," *i.e.*, of either sex.

[5] "by force" or "by compulsion," "by constraint," "by coercion." It is important to notice here that "force" or "constraint" would, and has often been held in Cyprus to, include threats or coercion inducing a great state of fear:—*e.g.*, brandishing a knife, threatening to kill or disembowel and the like.

Art. 198 was amplified by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860). The text of the addendum is as follows:—

Where[1] one has attempted to commit such abominable act[2] by force[3] but it[4] has not come into effect by the intervention of impediments[5] not under his control[6] he is punished with the punishment of imprisonment for not less than three months.

To this addendum may be added the following notes :—

[1] The text of this addendum may be found in Djiz-i-Kav, p 983 ; Karakoch Sarkis, p. 116 ; Nicolaides, Ott. Cod., p. 2485 ; Young, Corps de Droit, Ott., Vol. VII, p. 39 ; Aristarchi, II, p. 270 ; Walpole, p. 85. The addendum may be compared with part of Art. 332 of the French Code Pénal quoted in note 1 to Art. 198. The effect of Arts. 197, 198, the Circular letter of 7 Sefer, 1291, and of the present addendum to Art. 198 is as follows :—

An outrage committed on any person with violence falls under Art. 198.

An outrage committed on a child under thirteen years of age is regarded as an offence with violence under Art. 198 in conjunction with the Circular letter of 7 Sefer, 1291.

An outrage committed on any person over thirteen years of age is no offence if the person upon whom such outrage is committed freely consents. An attempt to commit an outrage with violence which attempt is not effectually carried out owing to circumstances independent of the offender's control (*e.g.*, resistance of the victim, interference by or fright at the appearance of a third party) falls under the addendum to Art. 198.

It will be observed that unless committed with force or upon a person under thirteen years of age sodomy is not a criminal offence under the Ottoman Penal Code ; nor are unnatural offences with animals, criminal.

[2] " abominable act " (*vide* note 2 to Art. 197).

[3] " by force " (*vide* note 5 to Art. 198).

[4] " it," *i.e.*, the abominable act.

[5] " impediments " lit. " preventing causes."

[6] " under his control " lit. " in his hand of choice."

ART. 199.[1]—If the commission of the abominable act[2] by force[3] takes place on the part of the instructors[4] or guardians[5] of the victims[6] over whom[7] they[8] have authority[9] or on the part of their[10] salaried servants[11] punishment of temporary kyurek for not less than five years is awarded.

ART. 199 NOTES.—[1] Compare Art. 333 of the French Code Pénal :—" Si les coupables sont les ascendants de la personne sur laquelles a été commis l'attentat, s'ils sont de la classe de ceux qui ont autorité sur elle, s'ils sont ses instituteurs ou ses serviteurs à gages, ou serviteurs à gages des personnes ci-dessus désignées, s'ils sont fonctionnaires ou ministres d'un culte, ou si le coupable, quel qu'il soit, a été aidé dans son crime par une ou plusieurs personnes, la peine sera, celle des travaux forcés à temps, dans le cas prévu par l'Art. 331 (*vide* note 1 to Art. 197) et des travaux forcés à perpétuité, dans les cas prévus par l'article precédent " (Art. 332, *vide* note 1 to Art 198). (Loi, 28 Avril, 1832.)

[2] " abominable act " (*vide* note 2 to Art. 197).

[3] " by force " (*vide* note 5 to Art. 198).

[4] " instructors ' or " educators."

[5] " guardians " or also " protectors," " patrons," " near relatives," " next of kin."

[6] " victims " lit. " those who are subjected to this " : " this," *i.e.*, the abominable act.

[7] " whom," *i.e.*, the victims.

[8] " they," *i.e.*, the offenders.

[9] " have authority " ; the phrase literally runs " over whom their authority is current."

[10] " their," *i.e.*, of the victims.

[11] " salaried servants " lit. " servants with monthly pay."

ART. 200.—If such abominable act[1] by force[2] takes place with regard to a girl who has not yet been married to a man, the person who has dared[3] to do this further becomes liable to pay compensation in addition to such punishment of kyurek.[4]

ART. 200 NOTES.—[1] "abominable act" (*vide* note 2 to Art. 197).
[2] "force" (*vide* note 5 to Art. 198).
[3] "has dared" or "dared."
[4] "further becomes liable to pay compensation in addition to such punishment of kyurek." "Such (or 'this') punishment of kyurek" refers of course to the punishments prescribed in the preceding Articles.

Art. 200 was amplified by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860) of which the text is as follows :—

The[1] person who deceives[2] a virgin who has attained the age of puberty saying that he will take her to wife and does away with[3] her virginity and afterwards refuses to take her[4] is, after compensation has been recovered[5] from him for loss of virginity, imprisoned for from one week to six months ; but the issuing[6] of this sentence depends on either the male's confessing[7] and admitting the deceit[8] by promise of marriage or the girl's side[9] proving it.[10]

To this addendum may be added the following notes :—
[1] The text of this addendum may be found in Djiz-i-Kav, p. 984 ; Nicolaides, Ott., Cod., p. 2485 ; Young, Corps de Droit, Ott., Vol. VII, p. 39 ; Aristarchi, II, pp. 270, 271 ; Walpole, p. 86.
[2] "deceives" or "seduces."
[3] "does away with" lit. "removes," "obliterates."
[4] "take her," *i.e.*, take her to wife.
[5] "recovered" lit. "taken."
[6] "issuing" or "emanation."
[7] "confessing" or "acknowledging."
[8] "deceit" or "seduction."
[9] "the girl's side," *i e.*, the girl and her family and witnesses.
[10] "it," *i.e.*, the seduction *and* the promise of marriage by which the seduction was induced.

ART. 201.[1]—Whoever dares to behave[2] contrary to public decency[3] by making it a habit to[4] incite and entice young persons from amongst males or females to obscenities[5] by perverting[6] or deceiving[7] them or facilitating the means of the coming about thereof[8] is punished with imprisonment for from one month to one year ; and if this matter[9] of perverting[6] or deceiving[7] in this manner proceeds from persons who are the father or mother or guardian[10] they[11] are punished with imprisonment for from six months to one year and a half.

ART. 201 NOTES.—[1] Compare Art. 334 of the French Code Pénal :—" Quiconque aura attenté aux moeurs, en excitant. favorisant ou facilitant habituellement le débauche ou la corruption de la jeunesse de l'un ou de l'autre sexe au-dessous de l'âge de vingt-un ans, sera puni d'un emprisonnement de six mois à deux ans, et d'une amende de cinquante francs à cinq cents francs. Si le prostitution, ou la corruption a été excitée, favorisée ou facilitée par leurs pères, mères, tuteurs ou autres personnes chargées de leur surveillance, la peine sera de deux ans à cinq ans d'emprisonnement, et de trois cents francs à mille francs d'amende."

[2] " behave " or " act."

[3] " decency " or " modesty."

[4] " by making it a habit to," *i.e.*, by habitually.

[5] " obscenities," *i.e.*, indecent conduct. Nicolaides translates by " *εἰς ἀσέλγειαν* " ; and the French rendering is " la débauche."

[6] " perverting " or " seducing." Nicolaides uses " *ἀποπλανῶν.*"

[7] " deceiving " or " seducing." Nicolaides uses " *ἐξαπατῶν.*"

[8] " thereof," *i.e.*. of the obscenities.

[9] " matter," *i.e.*, the act.

[10] " father, mother or guardian," *i.e.*, of such young persons thus corrupted.

[11] " they," *i.e.*, the father, mother or guardian as the case may be.

Art. 201 was amplified by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860) the text of which is as follows :—

The[1] right to proceed against a woman for honour belongs absolutely to her husband[2] or to her guardian[3] if she has not got a husband ; and the woman whose having committed the abominable[4] act of adultery is proved[5] upon such proceedings[6] is punished with imprisonment for not less than three months or more than two years ; provided that the husband can defeat the effect of this punishment by consenting to take again[7] his wife.

The person also who is the partner in such adultery[8] of a woman convicted thereof is likewise punished with imprisonment for from three months to two years and apart from this a fine of from five Mejidieh gold pieces to one hundred Mejidieh gold pieces is taken from him ; and the proof[9] which may be admissible[10] against such partner in the offence can be deduced[11] from the actual performance of the said act[12] or further[13] from presence in[14] the harim[15] of a Mussulman or from letters and papers written by him.[16]

And as the operation[17] of this Article depends[18] entirely on a woman's committing the abominable[4] act of adultery and proceedings for honour[19] taking place on the part of her husband or guardian, the Police Regulations[20] of the Imperial Ottoman Government now in force with regard to such obscenities will apply as heretofore[21] in ordinary cases, and this[22] does not affect them[23] at all. A husband in the habit of committing[24] the hideous act of adultery with another woman

in the house wherein he is living with his wife and whose[25] commission of the said act is proved[5] on complaint made by his wife is punished by taking[26] a fine of from five Mejidieh gold pieces to one hundred Mejidieh gold pieces.

To this addendum the following notes may be added :—

[1] This addendum may be found in Djiz i-Kav, p. 884 ; Nicolaides, Ott. Cod., p. 2486 ; Young, Corps de Droit Ott., Vol. VII, pp. 39 and 40 ; Aristarchi, II, p. 371 ; Walpole, pp. 86 and 87. The addendum may be compared with Arts. 336, 337, 338 and 339, of the French Code Pénal :—

Art. 336. "L'adultère de la femme ne pourra être denoncé que par le mari ; cette faculté même cessera s'il est dans le cas prévu par l'Art. 339."

Art. 337. "La femme convaincue d'adultère subira la peine de l'emprisonnement pendant trois mois au moins et deux ans au plus. Le mari restera le maître d'arrêter l'effet de cette condamnation, en consentant a reprendre sa femme."

Art. 338. "Le complice de la femme adultère sera puni de l'emprisonnement pendant la même espace de temps et, en outre, d'une amende de cent francs a deux mille francs. Les seules preuves qui pourront être admises contre le prévenu de complicité, seront, outre le flagrant délit, celles résultant de lettres ou autres pièces écrites par le prévenu.

Art. 339. "Le mari qui aura entretenu une concubine dans la maison conjugale, et qui aura été convaincu sur la plainte de la femme, sera puni d'une amende de cent francs a deux mille francs."

[2] "the right to proceed against a woman for honour belongs absolutely to her husband" lit. "an honour action against a woman lies absolutely with her husband."

[3] "guardian" ; as in note 5 to Art. 199.

[4] "abominable" or "infamous."

[5] "is proved" lit. "has become certain."

[6] "upon such proceedings" lit. "upon action in such manner" ; action meaning here, legal proceedings.

[7] "take again" or "re-take," *i.e.*, take back.

[8] "adultery" lit. "abominable act"

[9] "proof" lit. "evidences," "demonstrations."

[10] "admissible" lit. "acceptable," *i.e.*, legally taken notice of.

[11] "deduced" or "inferred."

[12] "the actual performance of the said act" : the phrase is literally "from the state of performing (or doing) the said act" . it means from being found in the actual performance of the act *i.e.*, *flagrante delicto*.

[13] "further" lit. "also."

[14] "presence in" lit. "being found in."

[15] "harim" : this has strictly a wider meaning than "harem" : "harim" includes the precincts, interior and particularly the private apartments of a house. "Harem" ordinarily means the women's apartments. Nicolaides gives "εἰς γυναικωνιτην" ; the French rendering is "dans le harem."

[16] "by him" lit. "on his part."

[17] "operation" lit. "effect."

[18] "depends" lit. "hangs."

[19] "proceedings for honour" lit. "an honour action" or "an honour prosecution."

[20] "Regulations" or "Laws" (*vide* note 2 to Art. 15)

[21] "apply as heretofore," *i.e.*, "continue to apply" lit. "having to be current as heretofore."

[22] "this" lit. "it," *i.e.*, this Article.

[23] "them" lit. "that," *i.e.*, the Police Regulations. The phrase literally runs "it has absolutely no comprisal of that."

[24] "in the habit of committing" lit. "habituated to" or "accustomed to."
[25] "whose," *i.e.*, by the husband.
[26] "taking," *i.e.*, taking from him.

The following is a resumé of a Vizierial letter dated Sefer, 1276 (August-Sept., 1859), No. 71, with reference to punishments to be inflicted by the Police in ordinary cases upon persons discovered in the commission of the offence of unlawful sexual intercourse.

(*a*) In the case of the male offenders imprisonment for from forty-eight hours to one month, according to the gravity of the offence, there being taken into consideration aggravating circumstances such as (1) the offence having been committed in places within view of respectable people, (2) the offence having been the cause of uproar, quarrels or disturbance of public tranquillity and decency, (3) the repetition of the offence.

(*b*) In the case of the female offenders imprisonment for half that awarded to the males.

(*c*) In the case of persons discovered in the commission of the offence in the house of another person the male offender is punished with imprisonment for from one week to three months or with exile for from three months to six months; and the female offender with imprisonment for such period not exceeding one month as shall be determined on petition made by her guardian.

The above addendum of 3 Jemazi'ul-Akhir, 1277, was repealed and re-issued in an amended form on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The following is the text of the new addendum :—

The taking of proceedings against a woman in respect of adultery[1] committed by her voluntarily[2] with another individual depends, if matrimony is existent between them[3] or until the end of four months from the taking place of divorce, on a complaint being made by her husband[4] or by her guardian if she has no husband; and upon such complaint[5] the woman who it is proved[6] has committed adultery is punished with imprisonment for from three months to two years.

The individual too who is the partner of the woman in this act is imprisoned for from three months to two years if he is married or for from one month to one year if he is unmarried. Apart from this a fine of from five Ottoman gold pieces[7] to one hundred Ottoman gold pieces is taken from him. The proof[8] which may be admissible in this respect can be deduced[9] from being found in the state of performing the said act or in[10] the harim[11] of a Mussulman, or from letters or papers written by him.[12] Provided that if, either before or after sentence, the husband or guardian desists from prosecuting or the husband takes again his wife, the right to proceed and the punishment drop both as regards the wife and the accomplice; and if the complainant dies during the enquiries and trial, likewise no proceedings are taken as regards the others.

A husband the commission by whom of the hideous act of adultery with a woman in a house wherein he is residing with his wife is proved[6] on complaint made by his wife is punished with imprisonment for from three months to two years and by taking a fine of from five Ottoman gold pieces to one hundred Ottoman gold pieces.[7]

To the new addendum the following notes may be added :—

[1] "adultery" lit. "abominable act" (*vide* note 2 to Art. 197).

[2] "voluntarily" or "with acquiescence."

[3] "is existent between them," *i.e.*, is still existing between the erring wife and her husband.

[4] "on a complaint being made by her husband" lit. "on the complaint of her husband."

[5] "upon such complaint" lit. "upon the complaint taken place."

[6] "is proved" lit. "becomes certain."

[7] "Ottoman gold pieces," *i.e.*, Turkish Liras=18*s* each.

[8] "proof" lit. "evidences," "demonstrations."

[9] "deduced" or "inferred."

[10] "or in," *i.e.*, "or being found in."

[11] "harim" (*vide* note 15 in addendum of 3 Jemazi'ul -Akhir, 1277, to Art. 201).

[12] "by him" lit. "on his part."

ART. 202.[1]—The person who dares to commit the abominable act[2] publicly contrary to modesty and sense of shame is imprisoned for from three months to one year and a fine of from one Mejidieh gold piece to ten Mejidieh gold pieces is taken.[3]

ART. 202 NOTES.—[1] Compare Art. 330 of the French Code Pénal :—"Toute personne qui aura commis un outrage public à la pudeur, sera puni d'un emprisonnement de trois mois à un an, et d'une amende de seize francs à deux cents francs."

[2] "the abominable act" (*vide* note 2 to Art. 197).

[3] "taken," *i.e.*, from the offender.

Art. 202 was amended by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860), the text of which is as follows :—

Those[1] who address impertinent innuendos to young persons either males or females[2] are imprisoned for from one week to one month and those who act outrageously with their hands[3] for from one month to three months.

Those who in female attire enter places which are the abode[4] of women are, for this act alone, imprisoned for from three months to one year and if after their so entering in disguise they have set themselves to do a Jinayet or Junha[5] legally necessitating a more severe punishment than this punishment they are punished with the punishment for such act.[6]

To this addendum may be added the following notes :—

[1] The above addendum may be found in Djiz-i-Kav, p. 986 ; Nicolaides, Ott. Cod., pp. 2486, 2487 ; Young, Corps de Droit Ott., Vol. VII, p. 40 ; Aristarchi, II, pp. 271, 272 ; Walpole, pp. 87, 88 ; Karakoch Sarkis, p. 119.

[2] " those who address impertinent innuendos to young persons either males or females " lit. " those who lance words at young persons from amongst males or females." Nicolaides translates the passage " *οἱ ἀπευθύνοντες ἀσέμνους ἐκφράσεις πρὸς νέας ἢ νέους* " : the French rendering is " Ceux qui auront adressé des propos indécents à des jeunes gens de l'un ou de l'autre sexe."

[3] " act outrageously with their hands " lit. " those who do acts of outrage with their hands." " Outrage " may here be also translated as " violence " but it means " indecent touching." Nicolaides translates the passage " *οἱ δ' ἐπιβάλλοντες χειρα ἐπ' αὐτῶν* " : the French rendering is " les individus qui auront porté la main sur leur personne " and this well conveys the meaning."

[4] " abode " or " sojourn," also " habitation," " station," " seat."

[5] " if after their so entering in disguise they have set themselves to do a Jinayet or Junha " lit. " if their having so entered in disguise has set itself to (sic ! there is some grammatical or printing error here in the Destur) a Jinayet or Junha." From other Turkish texts of this addendum (*e.g.*, Qavanin-i-jezaiyeh Mejmuasi, p. 90 and Karakoch Sarkis, p. 120) it would appear that this passage should be translated " and if at the place where they have so entered in disguise they have set themselves to do a Jinayet or Junha " : and this is no doubt the proper reading.

[6] " such act," *i.e.*, such Jinayet or Junha.

The addendum given above was revised and re-issued on 6 Jemazi'ul-Akhir, 1329 (4 December, 1911). This revised addendum is identical with the original with the exception that in the revised addendum the words " *to females or to young persons of the male sex* " replace the words " *to young persons either males or females* " which appeared in the original addendum. It has therefore not been thought necessary to reproduce the revised addendum in full. The Turkish text may be found in Karakoch Sarkis, p. 119.

A further addendum (No. 2) to Art. 202 was made on the same date, 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows :—

If, with the intention of committing[1] obscenities[2] contrary to public decency,[3] women are made[4] to dance in open places, or in semi-open places such as vineyards and gardens which the people may easily become aware of, the persons who make them[5] dance and the women who voluntarily so[6] dance are punished with imprisonment for from one month to one year.[7]

To which may be added the following notes :—

[1] " committing " lit. " doing," " performing."

[2] " obscenities," *i.e.*, indecent behaviour.

[3] " decency " or " morals."

[4] " made," *i.e.*, " engaged."

[5] " them," this is inserted in the translation for clarity.

[6] " so " ; as in note 5 above.

[7] The text of this addendum may be found in Karakoch Sarkis, p. 120.

PART IV.

THE SHAMEFUL ACT[1] OF IMPRISONING[2] OR DETAINING[3] PERSONS CONTRARY TO RULE,[4] OF STEALING INFANTS OR MURAHIQS[5] AND OF ABDUCTION OF GIRLS.

PART IV NOTES.—[1] "shameful act" or "ignominy," "infamy."
[2] "imprisoning" or "confining."
[3] "detaining" or "arresting."
[4] "rule" or "system."
[5] "murahiqs," *i.e.*, young persons on the verge of puberty. For full explanation *vide* note 1 to Art. 40 *suprâ*.

ART. 203.[1]—Any person, whoever he may be, who without the order[2] of the officials of the Government[3] imprisons[4] or detains[5] an individual contrary to the rules[6] prescribed by the laws and regulations with regard to the detention[5] of guilty persons[7] or keeps an individual[8] as a hostage[9] is punished with imprisonment for from six months to three years. The person too who knowingly provides[10] place for concealing the persons imprisoned[4] or detained[5] or kept as a hostage[11] in this way is likewise imprisoned for from three months to three years.

ART. 203 NOTES.—[1] Compare Art. 341 of the French Code Pénal:—"Seront punis de la peine des travaux forcés à temps, ceux qui, sans ordre des autorités constituées et hors le cas où la loi ordonne de saisir des prévenus, auront arrêté, détenu ou séquestré des personnes quelconques:—Quiconque aura prêté un lieu pour exécuter la détention ou séquestration, subira la même peine."
[2] "order" or "authority."
[3] "officials of the Government": it means "Government authorities."
[4] "imprisons" or "confines."
[5] "detains" or "arrests."
[6] "contrary to the rules" lit. "outside the rules." Nicolaides translates the phrase "ἐκτὸς τῶν διατυπώσεων."
[7] "guilty persons" or "offenders" lit. "men of guilt," or "men of offence."
[8] "an individual": these words are inserted for clarity in the translation.
[9] "as a hostage" lit. "by way of pledge."
[10] "provides" lit. "shows."
[11] "kept as a hostage" (*vide* note 9 *suprâ*).

ART. 204.[1]—If a person dares to commit the offence of detaining[2] individuals mentioned in the preceding Article by assuming[3] the guise[4] or appearance[5] of an official of State or by giving[6] a fictitious name or by producing[7] a fictitious order from officials[8] the punishment of temporary kyurek is carried out with regard to him.

Likewise if the person detained[2] has been intimidated[9] with death or bodily torment[10] or torture has been inflicted on him[11] the person who has dared to do this incurs[12] the punishment of temporary kyurek in every case.[13]

ART. 204 NOTES.—[1] Compare Art. 344 of the French Code Pénal :—" Dans chacun des deux cas suivants :—Si l'arrestation a été exécutée avec le faux costume, sous un faux nom, ou sur un faux ordre de l'autorité publique :—Si l'individu arrêté, détenu ou séquestré, a été menacé de la mort,—Les coupables seront punis des travaux forcés à perpétuité. Mais la peine sera celle de la mort, si les personnes arretées, détenues ou séquestrées, ont été soumises à des tortures corporelles." (Loi, 28 Avril, 1832.)

[2] " detaining " or " arresting."

[3] " assuming " lit. " entering " or " going into."

[4] " guise " or " garb."

[5] " appearance " or " form," " dress," " costume." The phrase is translated by Nicolaides thus " περιβληθείς ἔνδυμα ἢ στολήν " *i.e.*, " having donned the dress or uniform "

[6] " giving " lit. " saying."

[7] " producing " lit. " showing."

[8] " officials," *i.e.*, Government officials or Government authorities.

[9] " intimidated " or " menaced," " threatened."

[10] " bodily torment " or " bodily ill-treatment."

[11] " inflicted on him " lit. " done with regard to him."

[12] " incurs " lit. " becomes deserving of."

[13] " in every case " : in the sense of " invariably."

ART. 205.[1]—Those who dare infamies such as changing an infant by putting another one in its place or representing a child as having been born from a woman who has not given birth to it are imprisoned for from six months to three years.

The person too who steals or effects the disappearance of[2] a child is likewise punished with imprisonment for from six months to three years provided that if he does not bring out the infant into view[3] during this period[4] he is not liberated from prison unless he brings[5] the infant or unless the death of the infant is proved.[6]

ART. 205 NOTES.—[1] Compare Art. 345 of the French Code Pénal :—" Les coupables d'enlèvement, de recélé ou de suppression d'un enfant, de substitution d'un enfant à un autre, ou de supposition d'un enfant à une femme qui ne sera pas accouchée, seront punis de la réclusion :—La même peine aura lieu contre ceux qui, étant chargés d'un enfant, ne le représenteront point aux personnes qui ont le droit de le réclamer."

[2] " effects the disappearance of " lit. " makes lost."

[3] " bring out . into view," *i.e.*, " produce " or " discover."

[4] " this period," *i.e.*, the period of his imprisonment.

[5] " brings," *i.e.*, produces.

[6] " is proved " lit. " becomes certain."

ART. 206.[1]—Whoever, by force or fraud, carries away[2] a child who has not attained the age of puberty[3] is imprisoned for from three months to one year ; and if the child thus[4] carried away is a girl who has not attained the limit of puberty[5] the abducting person[6] is placed in kyurek temporarily ; and if the abominable act[7] has been committed on[8] the abducted girl[9] the maximum[10] of the punishment provided[11] for that act is inflicted on[12] those who have

perpetrated this, and, if marriage has taken place in the case in which a girl is carried away, action is taken according to the requirement of the Sher' in the matter.[13]

ART. 206 NOTES.—[1] Compare Arts. 354. 355, 356 and 357 of the French Code Pénal :—

Art. 354. " Quiconque aura, par fraude ou violence, enlevé ou fait enlever des mineurs, ou les aura entraînés, détournés ou déplacés ou les aura fait entraîner, détourner ou déplacer des lieux où ils étaient mis par ceux à l'autorité ou à la direction desquels ils étaient soumis ou confiés, subira la peine de la réclusion."

Art. 355. " Si la personne ainsi enlevée ou detournée est une fille au-dessous de seize ans accomplis, la peine sera celles des travaux forcés à temps.'

Art. 356. " Quand la fille au-dessous de seize ans aurait consenti à son enlèvement ou suivi volontairement le ravisseur, si celui-ci était majeur de vingt-un ans ou au-dessus, il sera condamné aux travaux forcés à temps. Si le ravisseur n'avait pas encore vingt-un ans, il sera puni d'un emprisonnement de deux à cinq ans."

Art. 357. " Dans les cas où le ravisseur aurait épousé la fille qu'il a enlevé, il ne pourra être poursuivi que sur la plainte des personnes qui, d'après le Code Civil, ont le droit de demander la nullité du mariage ni condamné qu'après que la nullité du mariage aura été prononcée."

[2] " carries away " or " runs away with somewhere," *i.e*, " abducts."

[3] " child who has not attained the age of puberty " : it means " who has not attained the age of thirteen years " (*vide* note 1 to Art. 197).

[4] " thus " lit. " in this manner."

[5] " who has not attained the limit of puberty " lit. " who has not attained the point (or border) of puberty." It means " who has not attained the age of thirteen years " just as in note 3 *q.v.*

[6] " the abducting person " lit. " the person who carries away."

[7] " the abominable act " (*vide* note 2 to Art. 197).

[8] " committed on " lit. " carried out (or ' done ') with regard to."

[9] " abducted girl " lit. " the girl carried away."

[10] " maximum " lit. " the extreme degree."

[11] " provided " or " fixed," " prescribed."

[12] " inflicted on " lit. " carried out with regard to."

[13] " action is taken according to the requirement of the Sher' in the matter " lit. " action is taken according to the Sher' requirement thereof." This means, according to the commentator Reshad, the handing over of the girl to the man to whom she has been married and the consequent acquittal of the abductor ; provided always that the admission by the girl of the fact of marriage must not be the result of compulsion exercised on her, and, also, that the girl has not been married to the man by force against her will. If the girl is non-Moslem and if the question of and the marriage are disputed then the matter is dealt with in accordance with the rules and rites of the religion to which the girl belongs.

Art. 206 was amplified by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860), of which the text is as follows :—

Whoever[1] forcibly removes[2] and carries away a female who has attained puberty[3] is imprisoned for from three months to three years but if she has a husband the abducting person[4] is placed in kyurek temporarily.

Whoever assists the man carrying away a female who has attained puberty[3] or a female who has not attained puberty[5] in the affair of her forcible removal[6] and carrying away, is imprisoned for from one month to six months.

To this addendum may be added the following notes :—

[1] The text of this addendum may be found in Nicolaides, Ott. Cod., p. 2488 ; Aristarchi, II, p. 272 ; Young, Corps du Droit Ott., VII, pp. 41, 42 ; Walpole, pp. 90, 91.

[2] " removes " lit. " takes up."

[3] " attained puberty " : it means " has attained the age of thirteen years " (*vide* note 5 to Art. 206).

[4] " abducting person " (*vide* note 6 to Art. 206).

[5] " who has not attained puberty " : it means who has not attained the age of thirteen years

[6] " removal " lit. " taking up."

Art. 206 and the addendum of 3 Jemazi'ul-Akhir, 1277, were repealed and a new Article was issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of this new Article is as follows :—

Whoever by force or fraud carries away[1] a person whether of the male or female sex, is punished in manner following[2] :—

If the person carried away[1] is of the male sex and has not completed the age of fifteen years the offender[3] is imprisoned for from one year to three years. If the child in this manner carried away is of the female sex the offender[3] is put in kyurek temporarily, and if the abominable act[4] has taken place punishment of kyurek for not less than ten years is awarded to him.[5]

If the person whether of the male or female sex carried away[1] has completed the age of fifteen years the offender[3] is imprisoned for from two years to three years.

If marriage has taken place with regard to the girl carried away[1] and the girl too has completed the age of fifteen years the case[6] for general rights[7] lapses[8] by her desistance, or by that[9] of her guardian if she[10] has not completed that age,[11] from proceeding.[12]

If the woman carried away[1] has a husband or if the abominable act[4] has taken place the offender[13] is placed in kyurek for not less than five years.

If the person carried away[1] has been, within forty-eight hours at the most and without any aggression of any kind having taken place, spontaneously left at some safe place whence it is possible for him[14] to be taken by his[15] family the punishment is imprisonment for from one month to one year.

To the new Article the following notes may be appended :—

[1] " carries away " ; as in note 2 to original Art. 206.

[2] " in manner following " lit. " in manner below."

[3] " offender " lit. " perpetrator."

[4] " abominable act " (*vide* note 2 to Art. 197).

[5] " to him " lit. " with regard to him."

[6] " case," *i.e.*, in the sense of " prosecution," " claim."

[7] 'general rights": it means by civil as opposed to criminal process.
[8] "lapses" lit. "drops," "falls down."
[9] "that," *i.e.*, desistance.
[10] "she," *i.e.*, the girl carried away.
[11] "that age" lit. "it," *i.e.*, the age of fifteen years.
[12] "proceeding" or "prosecuting."
[13] "offender" lit. "perpetrator."
[14] "him" or "her."
[15] "his" or "her."

PART V.

THE PUNISHMENT FOR PERSONS WHO GIVE FALSE TESTIMONY[1] AND WHO SWEAR FALSELY.[2]

PART V NOTES.—[1] "who give false testimony" lit. "who do false witnessing."
[2] "swear falsely," *i.e.*, "commit perjury."

ART. 207.[1]—The individual who gives false evidence[2] either in favour of or against a person who is accused[3] of matters relating to Jinayets is placed in kyurek temporarily after public exposal; and if the person who has been accused by an imputation of Jinayets has by such[4] false evidence undergone[5] a more severe[6] punishment than the punishment of temporary kyurek this same punishment is carried out[7] with regard to the false witness too.

ART. 207 NOTES.—[1] Compare Art. 361 of the French Code Pénal:—"Quiconque sera coupable de faux témoignage en matière criminelle, soit contre l'accusé, soit en sa faveur, sera puni de la peine des travaux forcés à temps. Si néanmoins l'accusé a été condamnés à une peine plus forte que celle des travaux forcés à temps, le faux témoin qui a déposé contre lui subira la même peine.'
[2] "gives false evidence" lit. "does false witnessing."
[3] "accused" or "suspected" or 'guilty."
[4] "such" lit. "his," *i.e.*, of the false witness."
[5] "undergone" or "suffered."
[6] "severe" lit. "vigorous'
[7] "this same punishment is carried out" lit. "this punishment in its exactitude is carried out."

ART. 208.[1]—The individual who likewise gives false evidence[2] either in favour of or against those who are accused[3] of matters relating to Junhas or Qabahats is imprisoned for from one month to five months.

ART. 208 NOTES.—[1] Compare Art. 362 of the French Code Pénal:—"Quiconque sera coupable de faux témoignage en matière correctionnelle, soit contre le prévenu, soit en sa faveur, sera puni de la réclusion. Quiconque sera coupable de faux témoignage en matière de police, soit contre le prévenu, soit en sa faveur, sera puni de la dégradation civique et de la peine de l'emprisonnement pour un an au moins et cinq ans au plus." (Loi, 28 Avril, 1832.)
[2] "gives false evidence" (*vide* note 2 to Art. 207).
[3] "accused" (*vide* note 3 to Art. 207).

ART. 209.[1]—The individual who commits the offence of giving false evidence[2] in civil actions[3] is imprisoned for from six months to one year.

ART. 209 NOTES.—[1] Compare Art. 363 of the French Code Pénal :—" Le coupable de faux témoignage en matière civile, sera puni de la peine de la réclusion." (Loi, 28 Avril, 1832).

[2] " false evidence " ; as in note 2 to Art. 207.

[3] " civil actions " lit. " ordinary actions." Nicolaides translates " ἐπὶ πολιτικῆς δίκης " and the French rendering is " en matière civile."

ART. 210.[1]—If the individual committing the offence of giving false evidence[2] has received money for doing so[3] then[4] with regard to the receiver and giver the punishments for Murteshis[5] and Rashis[6] are carried out, a sum equal to[7] the money which has changed hands[8] being also taken.[9]

ART. 210 NOTES.—[1] Compare Art. 367 of the French Code Pénal :—" Le faux témoin en matière correctionelle ou civile, qui aura reçu de l'argent, une récompense quelconque ou des promesses, sera puni des travaux forcés à temps :—Le faux témoin en matière de police qui aura reçu de l'argent, une récompense quelconque ou des promesses, sera puni de la réclusion. Dans tous les cas, ce que le faux témoin aura reçu sera confisqué." (Loi, 28 Avril, 1832.)

[2] " false evidence " ; as in note 2 to Art. 207.

[3] " for doing so " lit. " for this purpose " or " in respect of this."

[4] " then " : the word is not in the Turkish text but is here inserted for clarity.

[5] " Murteshi," *i.e.*, the " bribee " (*vide* note 15 to Art. 67).

[6] " Rashi," *i.e.*, the " briber " (*vide* note 16 to Art. 67).

[7] " a sum equal to " lit. " as much again as."

[8] " which has changed hands " lit. " given over to one another."

[9] " taken." The meaning of the Article is that both receiver and giver of the bribe are punished with the penalties laid down for bribery (*vide* Arts. 67-81) : whilst *in addition* the receiver of the bribe is fined an amount equal to that of the bribe received.

ART. 211.[1]—With regard to the person who prevents forcibly[2] men of[3] true and upright evidence from giving evidence or who causes compulsorily false evidence to be given[4] the legal punishment accruing according to the gravity[5] of the offence of the false witnesses is inflicted.[6]

ART. 211 NOTES.—[1] Compare Art. 365 of the French Code Pénal :—" Le coupable de subornation de témoins sera passible des mêmes peines que le faux témoin, selon les distinctions contenues dans les articles précédents." (Loi, 28 Avril, 1832.)

[2] " forcibly " or " against one's will " or " against one's wish."

[3] " men of " or " men possessed of," lit. " possessors of."

[4] " causes forcibly false evidence to be given," lit. " forcibly makes false witnessing to be done."

[5] " gravity " lit. " degree."

[6] " inflicted " lit. " carried out."

ART. 212.[1]—The person who on oath becoming incumbent on[2] him in civil actions[3] swears falsely[4] is punished with the punishment of imprisonment for not less than six months after public exposal.

ART. 212 NOTES.—[1] Compare Art. 366 of the French Code Pénal :—" Celui à qui le serment aura été déféré ou référré en matière civile, et qui aura fait un faux serment, sera puni de le dégradation civique."

[2] " becoming incumbent on " or " accruing to," " befalling to." Nicolaides translates the passage thus " *εἰς τὸν ἐπὶ πολιτικῆς δίκης ψευδῶς ὀμόσαντα τὸν ἐπαχθέντα ὅρκον ἐπιβάλλεται κ.τ.λ.*"

[3] " in civil actions " lit. " in actions as to rights " : for the Greek *(vide* note 2 above).

[4] " swears falsely " lit. " makes false swearing."

PART VI.

SETS FORTH CALUMNY, VITUPERATION AND DIVULGENCE OF SECRETS.

ART. 213.[1]—If a person imputes[2] against[3] a man by word of mouth[4] at an assembly or by posting up[5] or publishing[6] manuscript or printed papers an offence which would, if really[7] committed by him, call for[8] legal punishment or[9] things which would cause[10] the aversion[11] of the people or spitefully[12] dares[13] to make slanders[14] against[15] officials of the State[16] and it is proved[17] that these imputations of[18] the aforesaid person are a slander,[19] exactly the same punishment as would by law accrue to the perpetrator of the matter imputed is inflicted on the slanderer[20] ; but the reporting of[21] occurrences to the Government according to law and regulation or the claiming of rights[22] are excepted from this rule.

ART. 213 NOTES.—[1] Compare Art. 367 (repealed on 17 May, 1819,) and Art. 373 of the French Code Pénal :—

Art. 367. " Sera coupable du délit de calomnie celui qui, soit dans les lieux ou réunions publics, soit dans un acte authentique et public, soit dans un écrit imprimé ou non qui aura été affiché, vendu ou distribué aura imputé à un individu quelconque des faits qui, s'ils existaient, exposeraient celui contre loquel ils sont articulés à des poursuites criminelles ou correctionelles, ou même l'exposeraient seulement au mépris ou à la haine des citoyens. La présente disposition n'est point applicable aux faits dont la loi autorise la publicité, ni à ceux que l'auteur de l'imputation était, par la nature de ses fonctions ou de ses devoirs, obligé de révéler ou de réprimer."

But the punishments under the French Code Pénal were differently graded (Art. 371) and other Articles defined with some precision the nature of the offence created by the Article and the circumstances under which it was punishable (Arts. 368-370).

Art. 373. " Quiconque aura fait par écrit une dénonciation calomnieuse contre un ou plusieurs individus, aux officiers de justice ou de police administrative ou judiciaire, sera puni d'un emprisonnement d'un mois à un an, et d'une amende de cent francs à trois milles francs."

In the French Code Pénal as it originally stood the expression " calomnie " was not defined ; but the word was deleted in the amending Law of 17 May, 1819, and new expressions " diffamation " and " injure " are there used which are defined in Art. 13 of that Law thus : " Toute allégation ou imputation d'un fait qui porte atteinte à l'honneur ou la considération de la personne, ou du corps auquel le fait est imputé, est une diffamation."

" Toute expression outrageante, terme de mépris ou invective, qui ne renferme l'imputation d'aucum fait, est une injure."

The expression " calomnie " in the original French Code Pénal was, though not specifically defined, restricted by the context of the Articles immediately succeeding that (Art 367) in which it first occurs to " une imputation à l'appui de laquelle aucune preuve authentique ne pouvait être rapportée, bien que le fait imputé fut vrai et notoire."

[2] " imputes " or " ascribes."

[3] " against " lit. " to."

[4] " word of mouth " lit. " speech " or " language "

[5] " posting up " or " placarding.'

[6] " publishing " or " circulating," " dissominating."

[7] " really " lit. " truly," *i.e.*, " in fact."

[8] " call for " lit. " invite."

[9] " or " : here must be read in " imputes " after " or."

[10] " cause " or " necessitate," " occasion."

[11] " aversion " or " loathing."

[12] " spitefully " or " with a selfish end."

[13] " dares " or " sets himself," " attempts."

[14] " slanders " or " calumnies."

[15] " against " lit. " with regard to."

[16] " officials of the State " lit. " State officials."

[17] " is proved " lit. " becomes manifest."

[18] " of," *i.e*, " made by."

[19] " slander " or " calumny."

[20] " exactly the same punishment as would by law accrue to the perpetrator of the matter imputed is inflicted on the slanderer " lit. " the punishment which would legally accrue to the doer of the matter imputed is carried out with regard to the slanderer (or ' calumniator ') in its exactitude."

[21] " the reporting of " lit " to notify," " to give information of."

[22] " the claiming of rights " lit. " to claim rights," *i.e.*, by legal process.

Art. 213 was repealed and a new Article was issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

Whoever spitefully imputes an offence against[1] a person, whom he knows is without guilt, by giving a written[2] information or complaint to the judicial authorities[3] or to an official who is obliged to commit the matter to the judicial department,[4] or fabricates against that person the material indications[5] and proofs of an offence like this, is imprisoned for from one week to three years according to the nature of the offence he has imputed and the degree of the strength of the material evidence[6] and proofs he has fabricated.

Where the offence imputed renders deterrent punishment necessary the punishment of temporary kyurek is awarded with regard to the slanderer,[7] likewise according to the importance of the material evidence[6] and proofs and considering the occurrence of any circumstance[8] limiting the personal freedom of the person against whom the slander[9] is made—such as his detention on account of imputations

taken place; and if a judgment comprising a conviction of Jinayet has issued with regard to the person against whom the slander[9] is made, punishment of temporary kyurek for not less than ten years is ordered with regard to the slanderer.[7] If the perpetrator[10] of the offence stated in the above paragraphs withdraws[11] from the imputation taken place or confesses the fabrication before the carrying out of legal proceedings with regard to the person against whom slander is made, the one-sixth of the above written punishments is ordered, and if the withdrawal from the imputation taken place or the confession of the fabrication takes place after legal proceedings have been commenced in respect of the matter of slander[12] as much as two-thirds of the original punishment is deducted.

To the new Article the following notes may be added :—

[1] "against" lit. "to."

[2] "a written" lit. "a letter of."

[3] "authorities" or "power."

[4] "department" lit. "quarter."

[5] "indications" lit. "marks," "traces," "vestiges."

[6] "evidence" or "evident proofs."

[7] "slanderer" or "calumniator."

[8] "circumstance" lit. "predicament," "condition."

[9] "slander" or "calumny."

[10] "perpetrator" or "author," lit. "doer."

[11] "withdraws" or "recedes."

[12] "in respect of the matter of slander" lit. "on account of the matter in respect of which the calumny is made."

ART. 214.[1]—If a person utters[2] defamatory words with regard to or reviles another person not by imputing a particular[3] matter but by ascribing some vice[4] or otherwise,[5] he is imprisoned for from twenty-four hours to one month or in substitution therefor a fine of from half a Mejidieh gold piece to three Mejidieh gold pieces is taken.

ART. 214 NOTES.—[1] Compare Art 375 (repealed on 17 May, 1819,) and Art. 376 of the French Code Pénal :—Art. 375. "Quant aux injures ou aux expressions outrageantes qui ne renfermeraient l'imputation d'aucun fait précis, mais celle d'une vice déterminé, si elles ont été proferées dans des lieux ou réunions publics, ou insérées dans des écrites imprimés ou non, qui auraient été répandus ou distribués, la peine sera d'une amende de seize francs à cinq cents francs."

Art. 376. "Toutes autres injures ou expressions outrageantes qui n'auront pas eu ce double caractére de gravité ne donneront lieu qu'a des peines de simple police."

[2] "utters" lit. "says."

[3] "particular" or "special," "specific."

[4] "ascribing some vice" lit "by ascribing something from among vices." "Vices" or "blemishes," "faults."

[5] "or otherwise," *i.e.*, "or in some other way"; alternative to "ascribing some vice."

Art. 214 was repealed and re-issued on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article reads as follows :—

Whoever commits disparagement of[1] another person by imputations ascribing[2] a particular[3] offence or stating a particular[3] matter not forming an offence, calculated to[4] expose him to the contempt[5] or enmity of the people or to break his honour or reputation,[6] he is imprisoned for from two months to one year.

It is a condition that disparagement in order to necessitate punishment should take place in one of the ways shown below :—

Firstly : it must be public, in the presence of the person attacked,[7] in an assembly or in a place where other persons would be able to hear.

Secondly : it must be made in the absence of the person attacked[7] but by holding communication with a good many persons collected together or separated.

Thirdly : it must take place by writing, drawing, croquis[8] or caricature[9] published or exhibited to the public or distributed to a party[10] of persons, or by open letter or postcard sent directly to the person attacked.[7]

Fourthly : it must be committed[11] by[12] daily or periodical journals or pamphlets of all sorts[13] or by[12] printings and means of publication of all sorts.[13]

If legal proceedings have been taken against the person, who has been subjected to attack[14] by disparagement, in respect of the matter forming[15] the subject of the disparagement and it is proved[16] that the offending person[17] has made imputations knowingly[18] that the person attacked[7] is guiltless[19] the disparagement changes into[20] slander and the tenor of the Article of the law with regard to slander is conformed with.

If the person committing the offence of disparagement desires to prove the truth or notoriety of the act imputed by him against[21] the person attacked[7] for the purpose of proving himself[22] free from guilt this claim of his is not admitted.[23] But if, however, the person attacked[7] is an official of the State and the act imputed is connected with the duty of his office or if[24] the subject of the disparagement, against whatever person it may be, is a legal offence, the claim to prove the truth thereof is admitted[23] and in such case if the act imputed is proved or the person who is attacked[7]

is convicted in consequence of such act[25] the punishment for disparagement lapses[26]; in the contrary case up to as much as the maximum of the punishment can be awarded.

Whoever commits the act of vituperation, by attacking the honour or reputation or dignity[27] of a person in whatsoever way it may be, without ascribing[2] any particular act,[28] is imprisoned for from fifteen days to six months, or, in lieu of this, a fine of from five Liras to fifteen Liras is taken.

It is a condition that the offence of vituperation, too, be committed[11] in one of the four ways set forth with regard to disparagement.

The claim which may take place on the part of the perpetrator[29] of vituperation regarding the proving of the truth of the imputations made[30] is absolutely rejected.[31] But if, however, the subject of the vituperation is an offence under the law the perpetrator[28] of the offence is at liberty to convert this[32] into a case of[33] a special[34] matter by[35] designating and specifying the same[36]; and in that case no further proceedings can be taken concerning the vituperation, and the provisions regarding[37] disparagement take effect[38] with regard to it.[39]

Even though the name of the person attacked[7] may not have been explicitly[40] mentioned or the imputations may have been made in a dubious manner[41] in the commission of the offences of disparagement or vituperation, the matter will be treated as if both a name had been mentioned and the imputations had been clearly stated, if there appear signs[42] to such an extent[43] as to admit no doubt,[44] having regard to the manner of the commission of the offence, as to the true nature of the imputations and as to their reference to the person of the plaintiff.

The individual who, apart from[45] disparagement or vituperation, insults a person by word of mouth,[46] by act in his[47] presence or by a letter addressed to him or intended to be brought to his knowledge or simply maligns[48] or makes insults by some special sign or by some rude treatment,[49] is imprisoned for from twenty-four hours to one month, or a fine up to as much as five Liras is taken.

If the person attacked[7] has by his own unjust action[50] provoked[51] the insult taken place or after being subjected to insult he too has insulted in return or has accepted an apology the Court can reduce by from one-third to

two-thirds or even remit[52] entirely the punishment of both or only of one of the parties according to the requirement of the case.

The taking of proceedings with regard to the offences set forth in this Part[53] depends on the person attacked[7] instituting a personal action according to the rule; but nevertheless in cases other than those of slander the action of general rights also lapses[26] by the plaintiff's desistance from the action after having instituted the action.

The complainant can, together with instituting an action and besides demanding the making good of the material loss sustained by him in consequence of the offence committed against him, claim as much pecuniary compensation as he may wish in return for the moral loss[54] as well, which he thinks has been occasioned to him. The amount of this compensation is assessed and awarded by the Court according to the importance and violence of the offence and[55] the social position of the person attacked.[7]

In the cases in which the offence is proved and the punishment lapses[26] the claim for compensation is rejected.

Those provisions of the Press Law dated 16 July, 1325[56] which are repugnant to these Articles are repealed.

To the new Article 214 the following notes may be added:—

[1] "of" lit. "against."
[2] "ascribing" lit. "designating," "assigning."
[3] "particular" or "specific."
[4] "calculated to": in the sense of "so as to."
[5] "contempt" or "scorn," "insult."
[6] "reputation" or "credit."
[7] "the person attacked" lit. "the person aggressed against."
[8] "croquis": this French word is used (transliterated of course) in the Turkish text; "*rough sketch*" *or* "*outline*" *would be a proper translation.*
[9] "caricature": this French word is used, transliterated, in the Turkish text.
[10] "party" or "set."
[11] "committed" lit. "occasioned," "brought about."
[12] "by," *i.e.*, "in."
[13] "of all sorts," *i.e.*, "of any kind."
[14] "attack" lit. "aggression."
[15] "forming" lit. "which is."
[16] "is proved" lit. "has become certain."
[17] "offending person" or "aggressor."
[18] "knowingly," *i.e.*, "with the knowledge."
[19] 'guiltless" lit. "without offence."
[20] 'changes into," *i.e.*, "assumes the (more serious) character of."
[21] "the act imputed by him against" lit. "the act he imputed to."
[22] "himself," *i.e.*, "the slanderer."
[23] 'admitted" lit. "accepted."
[24] "if": the word is inserted in the translation for clarity.
[25] "in consequence of such act" lit. "on account of this."
[26] "lapses" or "fails" lit. "falls through."

[27] " dignity " or " consideration," " importance."
[28] " act " lit. " matter."
[29] " perpetrator " lit. " doer."
[30] " made " lit. " taken place."
[31] " rejected " lit. " not accepted."
[32] " this," *i.e.*, the subject matter of the vituperation.
[33] " into a case of " lit. " into the state of."
[34] " special " or " specific."
[35] " by " lit. " by way of."
[36] " the same " lit. " it."
[37] " regarding " lit. " of."
[38] " take effect " lit. " run."
[39] " it " : the subject matter of the disparagement.
[40] " explicitly " or " clearly."
[41] " or the imputations may have been made in a dubious manner " lit. " or the imputations taken place may have been made vague."
[42] " signs " or " indications," " probable proof."
[43] " to such an extent " lit. " in such a degree."
[44] " doubt " lit. " hesitation."
[45] " apart from " lit. " outside of."
[46] " word of mouth " ; as in note 4 to Art. 213.
[47] " his," *i.e.*, of the insulted person "
[48] " maligns " lit. " gives loose rein to the tongue."
[49] " rude treatment " or " rough action."
[50] " action " or " conduct."
[51] " provoked " lit. " given cause for."
[52] " remit " lit. " drop," " throw down," " throw out."
[53] " this Part," *i e.*, Part VI.
[54] " loss " or " injury."
[55] " and " : this word is omitted in the Turkish text.
[56] " 16 July, 1325 "=28 July, 1909.

ART. 215.[1]—If physicians, surgeons, druggists,[2] midwives or similar persons[3] divulge in cases, other than those in which they are legally[4] bound to report,[5] the personal secrets which have been committed[6] to them by virtue of[7] their profession, they are imprisoned for from twenty-four hours to one week and a fine of from one Mejidieh piece of twenty[8] to one Mejidieh gold piece is taken.[9]

ART. 215 NOTES.—[1] Compare Art. 378 of the French Code Pénal :—" Les médicins, chirurgiens et autres officiers de santé, ainsi que les pharmaciens, les sages femmes, et toutes autres personnes dépositaires, par état ou profession, des secrets qu'on leur confie, qui, hors le cas où la loi les oblige à se porter dénonciateurs, auront révélé ces secrets, seront punis d'un emprisonnement d'un mois à six mois, et d'une amende de cent francs à cinq cent francs."
[2] " druggists " or " chemists."
[3] " similar persons " lit. " persons the similars of these."
[4] " legally " or " by law."
[5] " report " or " notify."
[6] " committed " · " entrusted."
[7] " by virtue of " lit. " according to " or " as a requirement of."
[8] " Mejidieh piece of twenty," *i.e.*, one silver Mejidieh piece of twenty piastres equal to 30 Cyprus piastres (*vide* note 4 to original Art. 116).
[9] " taken," *i.e.*, from the culprits.

PART VII.

RELATES TO THEFT.

PART VII NOTES.—This Part of the Ottoman Penal Code closely follows Sec. 1 (Vols.) of Chapter II of the French Code Pénal which is headed "Crimes et délits contre les propriétés."

Theft is defined by Art. 379 of the French Code Pénal thus:—"Quiconque a soustrait frauduleusement une chose qui ne lui appartient pas, est coupable de vol."

ART. 216.[1]—If a husband and wife, when they are together or when[2] they separate from[3] each other, take property belonging to one another[4]; or[5] children or other descendants take the property of the father or mother or other relatives who are ascendants; or if[6] a father or mother or other relatives who are ascendants take the property of the children or other descendants, the things which have been taken are recovered[7] and given to the owner thereof; and if the property taken has been spent or consumed[8] and the taker too is not able to make the same good and has made the matter of stealing a habit he is punished with the punishment of imprisonment; and the persons from outside[9] who act as receivers of[10] the articles[11] taken in this way[12] or use all of them or some[13] of them for their own advantage are punished simply as thieves.[14]

ART. 216 NOTES.—[1] Compare Art. 380 of the French Code Pénal:—"Les soustractions commises par des maris au préjudice de leurs femmes, par des femmes au préjudice de leurs maris, par un veuf ou une veuve quant aux choses qui avaient appartenues à l'epoux décédé, par des enfants ou autres descendants au préjudice de leurs pères ou mères ou autres ascendants, par des pères et mères ou autres ascendants au préjudice de leurs enfants ou autres descendants, ou par des alliés aux mêmes degrés, ne pourront donner lieu qu'à des reparations civiles. A l'égard de tous autres individus qui auraient recélé ou appliqué à leur profit tout ou partie des objets volés, ils seront punis comme coupables de vol."

[2] "when": the word is inserted in the translation.

[3] "separate from" or "leave": the whole passage "when they are together or when they separate from each other" might be loosely translated "whether living together or separately"

[4] "take property belonging to one another," *i.e.*, "take the property of the other."

[5] "or"; the word "if" should be understood here after the word "or."

[6] "if"; this word is inserted in the translation for clarity.

[7] "recovered" lit. "taken back."

[8] "consumed" or "used up," "annihilated."

[9] "from outside," *i.e.*, not within the relationship indicated.

[10] "of" lit. "as to."

[11] "articles" or "goods."

[12] "taken in this way," *i.e.*, taken under the circumstances of relationship indicated in the Article.

[13] "some" lit. "a quantity."

[14] "simply as thieves" or "as ordinary thieves."

ART. 217.[1]—The punishment of theft accompanied by all of the hereinafter mentioned five circumstances[2] is kyurek in perpetuity.[3]

The first of these circumstances is that of being night time[4]; the second is that of two or more persons being found together[5]; the third is that of these[6] or of even one from among them being armed clandestinely[7] or openly; the fourth is that of entering a house or the appurtenances thereof or a room thereof or in short[8] any[9] kind of place wherein man resides[10] by demolishing the wall thereof or by going up over the wall thereof by a ladder or by breaking the door thereof or by opening the lock thereof by an instrument or by taking[11] the guise[12] and appearance[13] of a State official or by producing[14] a fictitious order from officers[15]; the fifth is that of intimidating[16] by violent treatment[17] or the display of arms.[18]

ART. 217 NOTES.—[1] The Article may be compared with Art. 381 of the French Code Pénal :—" Seront punis des travaux forcés à perpétuité les individus coupables de vols commis avec la réunion des cinq circonstances suivantes : 1. Si le vol a été commis la nuit ; 2. S'il a été commis par deux ou plusieurs personnes ; 3. Si les coupables ou l'un d'eux étaient porteurs d'armes apparentes ou cachées ; 4. S'ils ont commis le crime, soit à l'aide d'effraction extérieure, ou d'escalade, ou de fausses clefs, dans une maison, appartement, chambre ou logement habités ou servant à l'habitation, ou leurs dépendances, soit en prenant le titre d'un fonctionnaire public ou d'un officier civil ou militaire, ou après s'être revêtus de l'uniforme ou de costume du fonctionnaire ou de l'officier, ou en alléguant un faux ordre de l'autorité civile ou militaire ; 5. S'ils ont commis le crime avec violence ou menace de faire usage de leur armes." (Loi, 28 Avril, 1832.)

[2] " of theft accompanied by all of the hereinafter mentioned five circumstances " lit. " for theft committed while all the five circumstances hereinbelow written are accompanied," *i.e.*, when the theft is committed under all the five circumstances.

[3] " kyurek in perpetuity " (*vide* new Art. 217).

[4] " night time " (*vide* note 3 to Art. 222).

[5] " two or more persons being found together," *i.e.*, when two or more persons are associated.

[6] " these," *i.e.*, " these persons."

[7] " clandestinely " or " secretly," " invisibly."

[8] " in short " or " finally," " in one word."

[9] " any " lit. " every."

[10] " resides " or " lives " lit. " sits."

[11] " taking " lit. " entering."

[12] " guise " or " garb."

[13] " appearance " or " form," " dress," " costume."

[14] " producing " lit. " showing."

[15] " officers " ; the word in the Turkish text is " zabitan " : it means " police or military officers " ; also " chief or superior officers " or " commanding officers."

[16] " intimidating " or " threatening," " frightening."

[17] " violent treatment " or " violence."

[18] " arms " lit. " arm," " weapon."

Art. 217 was repealed and replaced by a new Article on 1 Ramazan, 1291 (11 October, 1874). The only (though

important) alteration was the addition of the words "*or temporarily for not less than fifteen years*" after the words "*kyurek in perpetuity.*" It has therefore been thought unnecessary to give the new Article in full. It may be found in Destur, Vol. III, p. 158; Nicolaides, Ott. Cod., p. 2492; Aristarchi, V, p. 73.

ART. 218.[1]—Those who commit theft accompanied by the first and second of the five circumstances set forth in the preceding Article and with the exercise of compulsion[2] *and* violent treatment[3] are placed in kyurek temporarily; and if marks[4] of wounding have appeared[5] from the violent treatment[3] which has taken place in such commission of theft then[6] those who have dared to commit such theft are placed in kyurek in perpetuity.[7]

ART. 218 NOTES.—[1] The Article may be compared with Art. 382 of the French Code Pénal:—"Sera puni de la peine des travaux forcés à temps, tout individu coupable de vol commis à l'aide de violence, et, de plus avec deux des quatre premières circonstances prévues par le précédent article. Si même la violence à l'aide de laquelle le vol a été commis a laissé des traces de blessures ou de contusions, cette circonstance seule suffira pour que la peine des travaux forcés à perpétuité soit prononcée." (Loi, 28 Avril, 1832.)

[2] "compulsion" or "force," "constraint."

[3] "violent treatment" or "violence."

[4] "marks" or "signs," "traces."

[5] "appeared" or "occurred."

[6] "then" lit. "in that case."

[7] "kyurek in perpetuity" (*vide* new Art. 218 below).

Art. 218 was repealed and replaced by a new Article on 1 Ramazan, 1291 (11 October, 1874). The only alteration was the addition of the words "*or temporarily for not less than fifteen years*" after the words "*kyurek in perpetuity.*" It has therefore been thought unnecessary to give the new Article in full. It may be found in Destur, Vol. III, p. 78; Nicolaides, Ott. Cod., p. 2493; Aristarchi, V, p. 73.

ART. 219.[1]—If several persons commit theft on a public road by night[2] they are placed in kyurek in perpetuity.[3]

ART. 219 NOTES.—[1] The Article may be compared with Art. 383 of the French Code Pénal:—"Les vols commis sur les chemins publics emporteront la peine des travaux forcés à perpétuité, lorsqu'ils auront été commis avec deux des circonstances prévues dans l'Art. 381. Ils emporteront la peine des travaux forcés à temps, lorsqu'ils auront été commis avec une seule de ces circonstances. Dans les autres cas, la peine sera celle de la reclusion." (Loi, 28 Avril, 1832.) The original Art. 383 of the French Code Pénal ran simply. "Les vols commis dans les chemins publics emporteront également la peine des travaux forcés."

[2] "by night" (*vide* note 3 to Art. 222).

[3] "kyurek in perpetuity" (*vide* new Art. 219 below).

Art. 219 was repealed and replaced by a new Article on 1 Ramazan, 1291 (11 October, 1874). The only alteration was the addition of the words "*or temporarily for not less than five years*" at the end of the Article. The new Article is not therefore given in full. It may be found in Destur, Vol. III, p. 78; Nicolaides, Ott. Cod., 2493.

ART. 220.[1]—Those who commit theft by making a hole through the wall of or by going up over by a ladder or by opening with a special instrument the door of places which, although not places where men reside or connected with[2] any inhabited place, are closed[3] or are circumscribed with walls, are placed in kyurek temporarily.

ART. 220 NOTES.—[1] Compare Art. 384 of the French Code Pénal:—"Sera puni de la peine des travaux forcés à temps, tout individu coupable de vol commis à l'aide d'un des moyens énoncés dans le No. 4 de l'article 381, même quoique l'effraction, l'escalade et l'usage des fausses clefs aient eu lieu dans des édifices, parcs ou enclos non servant à l'habitation et non dependants des maisons habitées, et lors même que l'effraction n'aurait été qu'intérieure." For the text of Art. 381 *vide* note 1 to Art. 217 *suprâ*.

[2] "connected with" or "belonging to."

[3] "closed" or "shut up."

Art. 220 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows:—

Those who commit theft by making a hole through the wall of or by going up over by a ladder or by breaking or opening with a special instrument or in other ways the window or door of places which, although not places where men reside or connected with any inhabited place, are closed or are circumscribed with walls, are placed in kyurek temporarily.

Those who commit theft by way of breaking or of opening with a special instrument the doors of the rooms[1] or safes or bolted[2] boxes or cupboards in a house or in[3] the appurtenances thereof, even though not entered into by making a hole through a wall or by setting up a ladder or by opening with a special instrument, are also placed in kyurek temporarily.

To the new Article the following notes may be added:—

[1] "doors of the rooms" lit. "the room-doors."

[2] "bolted" or "locked."

[3] "in": this word is inserted in the translation for clarity.

ART. 221.[1]—If the theft has taken place with the exercise of violent treatment[2] but no mark[3] of wounding has appeared[4] from such violent treatment[2] and no other circumstance[5] has become added[6]; or if no violent treatment[2] has taken

place but it[7] has occurred[8] firstly at night[9] time and secondly on the part of two or more persons all of them or one from among them being armed those who have dared it[10] are likewise placed in kyurek temporarily.

ART. 221 NOTES.—[1] Compare Art. 385 of the French Code Pénal :—" Sera également puni de la peine des travaux forcés à temps, tout individu coupable de vol commis, soit avec violence, lorsqu'elle n'aura laissé aucune trace de blessure ou de contusion et qu'elle ne sera accompagnée d'aucune autre circonstance, soit sans violence, mais avec la réunion des trois circonstances suivantes : 1. Si le vol a été commis la nuit ; 2. S'il a été commis par deux ou plusieurs personnes ; 3. Si le coupable, ou l'un des coupables, était porteur d'armes apparentes ou cachées."

[2] " violent treatment " or " violence."

[3] " mark " or " sign," " trace."

[4] " appeared " or " occurred."

[5] " circumstance " or " mishap," " incident " " condition," " untoward circumstance."

[6] " added " or " joined," " become supplemented."

[7] " it," *i.e.*, the theft.

[8] " occurred " or " taken place."

[9] " at night time " (*vide* note 3 to Art. 222).

[10] " it " : the word is not in the Turkish text.

ART. 222.[1]—The person who commits theft accompanied by[2] one of the circumstances enumerated below is imprisoned for a term of three years. The first of the said circumstances is that of its being night time[3] and two or more persons being found together,[4] or of there existing[5] only one of these two circumstances but of its being[6] in an inhabited place[7] or in places of worship ; the second is that of the person who is the thief being armed clandestinely[8] or openly even though the affair of theft takes place by day,[9] or on the part of a single person and the place of theft be not an inhabited place; the third is that of a person being a paid[10] servant and stealing the property of the master whom he is serving or of a person who has come to the house of his master or of the master of a house whither he has gone accompanying his master, or that[11] of the person committing the theft being a labourer or an artisan's[12] apprentice and committing theft in the house, shop or store[13] of his master,[14] or that[11] of an individual committing theft at a place where he continuously works ; the fourth is that of innkeepers, hotelkeepers, coachmen,[15] boatmen or similar tradesmen or their agents stealing the whole or part of[16] the goods entrusted to them.

ART. 222 NOTES.—[1] Compare Art. 386 of the French Code Pénal :—" Sera puni de la peine de la réclusion tout individu coupable de vol commis dans l'un des cas ci-après :—1. Si le vol a été commis la nuit, et par deux ou plusieurs personnes, ou s'il a été commis avec une de ces deux circonstances seulement, mais en même temps dans un lieu habité ou servant à l'habitation, ou dans les édifices consacrés aux cultes légalement établis en France : 2. Si le coupable ou l'un des coupables était porteur

d'armes apparentes ou cachées, même quoique le lieu où le vol a été commis ne fût ni habité ni servant à l'habitation, et encore quoique le vol ait été commis le jour et par une seule personne ; 3. Si le voleur est un domestique ou un homme de service à gages, même lorsqu'il aura commis le vol envers des personnes qu'il ne servait pas, mais qui se trouvaient, soit dans la maison de son maître, soit dans celle où il l'accompagnait ; ou si c'est un ouvrier, compagnon ou apprenti, dans la maison, l'atelier ou le magasin de son maître ; ou un individu travaillant habituellement dans l'habitation où il aura volé ; 4. Si le vol a été commis par un aubergiste, un hôtelier, un voiturier, un batelier ou un de leurs préposés, lorsqu'ils auront volé tout ou partie des choses qui leur étaient confiées à ce titre." (Loi, 28 Avril, 1832.)

[2] "accompanied by," *i.e.*, "when the theft is committed under" (*vide* note 2 to Art. 217).

[3] "night time": Nicolaides quotes (Ott. Cod., p. 2495) a Vizierial Order dated 6 Rebi'ul-Akhir, 1290 (3 June, 1873) in which it is stated that "night time" is reckoned as from one hour after sunset. The text of this Order may be found in Destur, Vol. IV, p. 355.

[4] "two or more persons being found together" (*vide* note 5 to Art. 217).

[5] "existing" lit. "being."

[6] "but of its being," *i.e.*. but (at the same time) of it (*i.e.*, the theft) being committed."

[7] "inhabited place" lit. "in a place where man sits (or resides)."

[8] "clandestinely"; as in note 7 to Art. 217.

[9] "by day" or "during daylight."

[10] "paid" or "salaried."

[11] "that," *i.e.*, "the circumstance."

[12] "artisan's" or "artificer's," "tradesman's."

[13] "store" or "warehouse," "counting house."

[14] "master": in the sense of master-tradesman or master-craftsman, *i.e.*, "master of his trade"; not a "master" in correlation to a "servant."

[15] "coachmen" or "cart-drivers."

[16] "part of" or "some of," "a quantity of."

Art. 222 was repealed and re-issued amended on 14 Rebi' ul-Akhir, 1293 (8 May, 1876). The only alteration in the re-issued Article was that the term of imprisonment was altered from "*three years*" to "*from six months to three years.*" It has not therefore been thought necessary to give, in extenso, the re-issued Article. The text of the re-issued Article may be found in Destur, Vol. III, p. 158; Nicolaides, Ott. Cod., pp. 2494, 2495; Aristarchi, Vol. V, p. 74. A note giving the effect of the amendment appears in Young, Corps de Droit Ott., VII, p. 44.

Art. 222 (as amended) was repealed and replaced by a new Article on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The only alteration in the new Article was that the term of imprisonment was again changed, the words "*from one year to three years*" being substituted for the words "*from six months to three years.*" It has not therefore been thought necessary to give the full text of this new Article.

ART. 223.[1]—If cart-drivers, muleteers[2] or boatmen steal part[3] of the eatables or beverages carried[4] by them and replace[5] it by something[6] injurious[7] to the body, those who

dare to commit such theft are likewise put in prison for a term of three years; and if the substance[8] added by them to[9] such eatables or beverages is not a substance injurious[7] to the body they are punished with imprisonment for from one month to one year and a fine of from half a Mejidieh gold piece to five Mejidieh gold pieces is also taken.[10]

ART. 223 NOTES.—[1] Compare Art. 387 of the French Code Pénal :—" Les voituriers, bateliers ou leurs préposés, qui auront altéré des vins ou toute autre espèce de liquides ou de marchandises dont le transport leur avait été confié, et qui auront commis cette alteration par le mélange de substances malfaisantes, seront punis de la peine portée au précédent article. S'il n'y a pas eu mélange de substances malfaisantes, la peine sera un emprisonnement d'un mois à un an, et une amende de seize francs à cent francs."

[2] " muleteers " lit. " hirers-out " : hence hirers-out of mules or generally of beasts of burden. The word in the Turkish text is " kiraji."

[3] " part " or " some of," " a quantity of."

[4] " carried " or " transported," " conveyed."

[5] " replace " lit. " put in the place thereof."

[6] " something " lit. " a thing."

[7] " injurious " or " deleterious."

[8] " substance " lit. " thing."

[9] " added by them to " or " mixed by them with."

[10] " taken," *i.e.*, from the offenders.

ART. 224.[1]—Whoever steals a horse or other beast of burden, draught or saddle[2] or also big or small animals styled cattle or agricultural tools or implements[3] or firewood or timber which has been cut and prepared for being sold or stones excavated[4] in quarries or fish found in fish-ponds or leeches in pools is punished with imprisonment for from one month to one year and the stolen property is, if in existence, returned to its owner in kind and if not in existence it is caused to be made good.

ART. 224 NOTES.—[1] Compare paragraphs 1 and 2 of Art. 388 of the French Code Pénal :—" Quiconque aura volé ou tenté de voler dans les champs, des chevaux ou bêtes de charge, de voiture ou de monture, gros et menus bestiaux, des instruments d'agriculture, sera puni d'un emprisonnement d'un an au moins et de cinq ans au plus, et d'une amende de seize francs à cinq cents francs. Il en sera de même à l'égard des vols de bois dans les ventes, et de pierres dans les carrières, ainsi qu'à l'égard du vol de poisson en étang, vivier en reservoir." (Loi, 28 Avril, 1832.)

[2] " beasts of burden, draught or saddle " lit. " beasts of burden or of vehicles or of riding."

[3] " agricultural tools or implements " lit. " tools or implements relating (or belonging) to agriculture."

[4] " excavated " or " cut " lit. " broken."

Art. 224 was repealed and a new Article substituted on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

Whoever steals a horse or other beast of burden, draught or saddle[2] or also big or small animals styled cattle is imprisoned for from one year to three years.

Whoever steals agricultural tools or implements[3] or firewood or timber which has been cut and prepared for being sold or stones excavated[4] in quarries or fish found in fish-ponds or leeches in pools or poultry[5] or the bees in hives is punished with imprisonment for from one month to one year and the stolen property is, if in existence, returned to its owner in kind and if not in existence it is caused to be made good.

To which may be added the following notes :—
2, 3, 4 ; as in corresponding notes to original Art. 224.
[5] " poultry " lit. " animals of the hen house."

ART. 225.[1]—Whoever steals of mowed or plucked crops or other profitable produce of the soil[2] or of the heaps of cereals produced, is put in prison for from twenty-four hours to three months after the due[3] of the owner has been caused to be paid.[4]

If such theft in respect of produce takes place at night time[5] and on the part of several persons by means of carts or animals it[6] is punished with imprisonment up to one year.

ART. 225 NOTES.—[1] Compare paragraphs 3 and 4 of Art. 388 of the French Code Pénal :—" Quiconque aura volé ou tenté de voler dans les champs des récoltes ou autres productions utiles de la terre, déjà détachées du sol, ou des meules de grains faisant parties de récoltes, sera puni d'un emprisonnement de quinze jours à deux ans et d'une amende de seize francs à deux cents francs. Si le vol a été commis, soit la nuit, soit par plusieurs personnes, soit à l'aide de voitures ou d'animaux de charge, l'emprisonnement sera d'un an à cinq ans, et l'amende de seize francs à cinq cents francs."

[2] " profitable produce of the soil " lit. " other produce of the soil from which (produce) profit is derived."
[3] " due " lit. " the right."
[4] " paid " or " satisfied."
[5] " night time " (*vide* note 3 to Art. 222).
[6] " it " *i.e.*, " the theft."

Art. 225 was repealed and a new Article issued on 6 Jemazi' ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows :—

Whoever steals of mowed or plucked crops or other profitable produce of the soil[2] or of the heaps of cereals produced, is put in prison for from one month to one year after the due[3] of the owner has been caused to be paid.[4]

If such theft in respect of produce takes place at night time[5] and on the part of several persons by means of carts or animals it[6] is punished with imprisonment for from six months to two years.

To the new Article the following notes may be added :—
2, 3, 4, 5, 6 as in corresponding notes to original Article.

ART. 226.[1]—In the case of theft of crops or other profitable produce of the soil[2] taking place, whether by means of baskets[3] or bags or things[4] similar to them or whether[5] by means of carts or animals or whether by[6] several persons, whilst such[7] have not yet been mowed or plucked, those who have dared to do this are imprisoned for from twenty-four hours to three months.

ART. 226 NOTES.—[1] Compare paragraph 5 of Art. 388 of the French Code Pénal :—" Lorsque le vol ou la tentative de vol de récoltes ou autres productions utiles de la terre, qui, avant d'être soustraites, n'étaient pas encore détachées du sol, aura lieu soit avec des paniers ou des sacs ou autres objets équivalents, soit la nuit, soit à l'aide de voitures ou d'animaux de charge, soit par plusieurs personnes, la peine sera d'un emprisonnement de quinze jours à deux ans, et d'une amende de seize francs à deux cents francs."

[2] " other profitable produce of the soil " ; as in note 2 to Art. 225.

[3] " baskets " ; the word in the Turkish text is " kufeh " which is a kind of large basket, two of which make up the load of a donkey or other animal.

[4] " things," *i.e.*, " receptacles "

[5] " whether " ; the word is here inserted in the translation for clarity. There are three disjunctive sets of circumstances under any one of which an offence under the Article may be committed, *i.e.*, when the crops are stolen : 1. By means of baskets, etc. ; 2. By carts, etc. ; 3. By several people in unison.

[6] " by " or " through the means of."

[7] " such," *i.e.*, such crops or produce.

Art. 226 was repealed and a new Article substituted therefor on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The only alteration in the new Article was that the term of imprisonment was changed, the words " *from one month to one year* " being substituted for the words " *from six months to two years.*" It has not therefore been thought necessary to give the full text of this new Article.

ART. 227.[1]—If a person in order to commit theft changes the places of marks[2] for separating[3] emlak[4] he is punished with imprisonment for from fifteen days to three months.

ART. 227 NOTES.—[1] Compare Art. 389 of the French Code Pénal :—" Sera puni de la réclusion celui qui, pour commettre un vol, aura enlevé ou déplacé des bornes servant de séparation aux proprietés." (Loi, 28 Avril, 1832.)

[2] " marks " or " signs."

[3] " separating " or " distinguishing."

[4] " emlak," *i.e.*, roughly " real property " (*vide* note 6 to Art. 27).

The object of the Article is, of course, to prevent alteration of the boundary marks of land or other property of that class which in English law would be called " real " property.

ART. 228.[1]—Whoever counterfeits a key or makes some kind of instrument[2] wherewith to open locks is put in prison for from three months to one year and if he who has dared this is of the guild of locksmiths he is punished with the punishment of kyurek temporarily.

ART. 228 NOTES.—[1] Compare Art 399 of the French Code Pénal :—" Quiconque aura contrefait ou altéré des clefs, sera condamné à un emprisonnement de trois mois à deux ans, et à une amende de vingt cinq francs à cent cinquante francs. Si le coupable est un serrurier de profession, il sera puni de la réclusion Le tout sans préjudice de plus fortes peines, s'il y échet, en cas de complicité de crimes."

[2] " instrument " or " tool."

ART. 229.[1]—Whoever by compulsion[2] or force takes a promissory note[3] or a receipt[4] from the hand of a man or causes seal to be affixed[5] to or causes to be signed any such bond[6] is placed in kyurek temporarily.

ART. 229 NOTES.—[1] Compare the first paragraph of Art. 400 of the French Code Pénal :—"Quiconque aura extorqué par force, violence ou contrainte la signature ou la remise d'un écrit, d'un acte, d'un titre, d'une pièce quelconque contenant ou opérant obligation, disposition ou décharge, sera puni de la peine des travaux forcés à temps."

[2] " compulsion " or " constraint," " coercion."

[3] " promissory note " lit. " note of debt " or " bill of debt."

[4] " receipt " or " acknowledgement " lit. " proof of receipt," " voucher of receipt."

[5] " affixed " lit. " pressed on."

[6] " bond," also " a commercial bill," " note," " draft."

ART. 230.[1]—Those who dare to commit thefts other than such[2] as are[3] specified in this Part,[4] such as petty theft[5] or pocket-picking are put in prison for from three months to one year and such persons are also bound over on bail[6] by the Police.

ART. 230 NOTES.—[1] Compare Art. 401 of the French Code Pénal :—" Les autres vols non spécifiés dans la présente section, les larcins et filouteries, ainsi que les tentatives de ces mêmes délits, seront punis d'un emprisonnement d'un an au moins et de cinq ans au plus, et pourront même l'être d'une amende qui sera de seize francs au moins et de cinq cents francs au plus. Les coupables pourront encore être interdits des droits mentionnés en l'article 42 du présent Code pendant cinq ans au moins et dix ans au plus, à compter du jour où ils auront subi leur peine. Ils pourront aussi être mis, par l'arrêt ou le jugement, sous la surveillance de la haute police pendant le même nombre d'années."

[2] " such " lit. " the matters of theft."

[3] " as are " : these words are inserted in the translation for clarity.

[4] " in this Part," *i.e.*, Part VII of Chapter III.

[5] " petty theft." The word in the Turkish text is " akhizliq " which literally means the quality (or act) of one who takes. It here has the meaning of taking away something from a shop, house or place without the knowledge of the owner or taking something from a place the entrance or door of which has been left open, *i.e.*, simple thieving without any aggravating circumstances.

[6] " bound over on bail " lit. " taken under bail " or " taken under surety."

Art. 230 was amplified by an addendum dated 3 Jemazi'ul-Akhir, 1277 (17 December, 1860), the text of which is as follows :—

With[1] regard to thieves who having attempted the commission of the act of theft have not been able to take anything owing to[2] the intervention of impediments[3] not in

their control[4] the punishment for theft according to the gravity[5] of the act attempted by them[6] is carried out.

Those who act as receivers[7] to and assist thieves who are liable to[8] the punishment of kyurek knowing their[9] condition[10] and character[11] are placed in kyurek temporarily; and those who likewise knowingly act as receivers[7] to thieves liable to[8] the punishment of kyurek are punished with the kind[12] of punishment to which the thief to whom they have acted as receivers[7] would be liable.[8]

But if any of those who are the companions or assistants of or receivers[7] to thieves comes, before the investigations[13] are commenced, and reports[14] the real thieves to the Government or even[15] after the investigations[13] have been commenced likewise spontaneously comes and reports[14] the thieves and facilitates the means of their apprehension such[16] are exempted[17] from the punishment for theft only but are placed[18] under police supervision for not exceeding one year.

To the above addendum may be added the following notes :—

[1] This addendum may be found in Djiz-i-Kav, p. 996; Nicolaides, Ott. Cod., p. 2497; Young, Corps de Droit, Ott. VII, p. 46; Aristarchi, III, p. 272; Walpole, pp. 101, 102.

[2] "owing to" lit. "by."

[3] "impediments" lit. "preventing causes."

[4] "not in their control" lit. "not in his hand of choice."

[5] "gravity" lit. "degree."

[6] "them"; in the Turkish text this word is in the singular.

[7] "act as receivers" lit. "those who do receivership": "receivers" or "harbourers."

[8] "liable to" lit. "deserving of."

[9] "their," *i.e*, of the thieves.

[10] "condition" or "state," "status."

[11] "character" or "attribute," "quality."

[12] "kind" or "sort."

[13] "investigations" or "enquiries" lit. "searchings."

[14] "reports" or "denounces," *i.e.*, informs against.

[15] "even" lit. "also."

[16] "such" lit. "such ones," *i.e.*, the informers.

[17] "exempted" lit. "pardoned."

[18] "placed" or "kept" lit. "found."

Art. 230 was amended by a second addendum dated 3 Rebi'ul-Akhir, 1285 (24 July, 1868), the text of which is as follows :—

Those[1] who knowingly receive[2] stolen property are punished with the punishment of imprisonment for from twenty-four hours to one year according to the gravity[3] of their act and conduct and the thing which has been stolen is caused, if in existence, to be restored to, or, if it is not, to be made good to the owner.

To the above addendum may be added the following notes :—

[1] The text of this addendum may be found in Djiz-i-Kav, p. 996 ; Nicolaides, Ott. Cod., p. 2497 ; Young, Corps de Droit Ott., p. 47 ; Walpole, p. 102.

[2] " receive " lit. " take."

[3] " gravity " lit. " degree."

Art. 230 was again amended by an addendum dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), the text of which is as follows :—

If the person who commits one of the offences of theft, swindling, or abuse of confidence, which call for[1] correctional punishment, returns and restores to its owner the property he has acquired in an unlawful manner, before any judicial proceedings are commenced with regard to him, or, returning and restoration not being possible, he makes good the loss of the person who has suffered loss, the punishment to be undergone by him is reduced by from one-third to two-thirds ; and if this returning and restoring or making good takes place during the proceedings[2] but before sentence[3] the punishment is reduced by from one-sixth to one-third.

If the acts of theft, abuse of confidence and swindling have taken place in respect of petty articles[4] the punishment is reduced by from one-third to one-half.

If any of those who are the companions[5] or assistants[6] or receivers[7] to thieves comes, before the investigations[8] are commenced, and reports[9] the real thieves to the Government or even after the investigations[8] have been commenced likewise spontaneously comes and reports[9] the thieves and facilitates the means of their apprehension such[10] are exempted[11] from the punishment for theft only but are placed under police supervision for not more than one year.

To the above addendum may be added the following notes :—

[1] " call for " or " necessitate."

[2] " the proceedings," *i.e.*, the legal proceedings."

[3] " sentence " or " judgment."

[4] " articles " or " goods."

[5] " companions " or " accomplices."

[6] " assistants " or " auxiliaries."

[7] " receivers " ; as in note 7 to addendum dated 3 Jemazi'ul-Akhir, 1277, to Art. 230.

[8] " investigations " ; as in note 13 to addendum quoted in note 7.

[9] " reports " ; as in note 14 to addendum quoted in note 7.

[10] " such," *i.e.*, the informers.

[11] " exempted " ; as in note 17 to addendum quoted in note 7.

Art. 230 was again amended by an addendum dated 12 Rejeb, 1329 (9 July, 1911), of which the text is as follows :—

With regard to those who have set about to do the act of theft which renders necessary correctional punishment, the punishment provided by law for that act is awarded by being reduced by from one-third to two-thirds.

Art. 230 was still further amended by an addendum dated 21 Sefer, 1330 (9 February, 1912). The text is as follows :—

Those who purchase stolen property knowingly[1] and those who act as agent[2] for the buying and selling[3] of it, knowingly,[1] are punished with the punishment of imprisonment of from twenty-four hours to one year.

To this addendum the following notes may be added :—

[1] "knowingly," *i.e.*, knowing that the property is stolen property.

[2] "agent" or "broker," lit. "guide."

[3] "buying and selling" lit. "taking and giving."

PART VIII.

THE PUNISHMENT FOR PERSONS GUILTY OF BANKRUPTCY OR SWINDLING.

ART. 231.[1]—Those who become fraudulent bankrupts as described in the Commercial Code[2] and those whose complicity in this offence is proved[3] according to the provisions[4] of the Commercial Code[5] are punished with the punishment of temporary kyurek.

ART. 231 NOTES.—[1] Compare the first two paragraphs of Art. 402 and Art. 403 of the French Code Pénal :—

Art. 402. "Ceux qui, dans les cas prévus par le Code de commerce, seront déclarés coupables de banqueroute, seront puni ainsi qu'il suit. Les banqueroutiers frauduleux seront puni de la peine des travaux forcés à temps."

Art. 403. "Ceux qui, conformément au Code de commerce, seront déclarés complices de banqueroute frauduleuse, seront punis de la même peine que les banqueroutiers frauduleux."

[2] "as described in the Commercial Code" lit. "in manner the circumstances (or 'states,' 'conditions') of which are written in the Commercial Code."

[3] "whose complicity in this offence is proved" lit. "whose being accomplices (or 'partners') of offence to them (*i.e.*, to the fraudulent bankrupts) becomes manifest."

[4] "provisions" or "tenour."

[5] "Commercial Code" or "Law of Commerce."

ART. 232.[1]—Those guilty of ordinary[2] bankruptcy, that is to say those becoming bankrupt by lack of prudence,[3] are imprisoned for from one month to two years.

ART. 232 NOTES.—[1] Compare the third paragraph of Art. 402 of the French Code Pénal :—"Les banqueroutiers simples seront punis d'un emprisonnement d'un mois au moins et de deux ans au plus."

[2] "ordinary" or "simple."

[3] "lack of prudence" or "carelessness," "thoughtlessness," "negligence."

ART. 233.[1]—The person who by some means or other takes from the possession[2] of a man his[3] money or emlak[4] or bonds[5] or deeds or other articles[6] by exercising[7] divers[8] frauds or tricks[9] by way of[10] swindling[11] is imprisoned for from three months to three years and a fine of from one Mejidieh gold piece to fifty Mejidieh gold pieces is also taken from him and if he is a State official[12] he also[13] becomes liable[14] to the punishment of dismissal from office.

ART. 233 NOTES.—[1] Compare Art. 405 of the French Code Pénal :—" Quiconque soit en faisant usage de faux noms ou de fausses qualités, soit en employant des manœuvres frauduleuses pour persuader l'existence de fausses entreprises, d'un pouvoir ou d'un crédit imaginaire, ou pour faire naître l'espérance ou la crainte d'un succès, d'un accident ou de tout autre événement chimérique, se sera fait remettre ou délivrer des fonds des meubles ou des obligations, dispositions, billets, promesses, quittances ou décharges, et aura, par un de ces moyens, escroqué la totalité ou partie de la fortune d'autrui, sera puni d'un emprisonnement d'un an au moins et de cinq ans au plus, et d'une amende de cinquante francs au moins et de trois mille francs au plus."

[2] " possession " lit. " hand."

[3] " his," *i.e.*, of the man defrauded.

[4] " emlak " (*vide* note 6 to Art. 27).

[5] " bonds " or " commercial bills."

[6] " articles " or " goods," " effects," " objects."

[7] " exercising " or " using " " fabricating."

[8] " divers " lit. " various."

[9] " tricks " or " devices."

[10] " by way of " lit. " in the way (or ' practice ') of."

[11] " swindling " or " swindle." The term would include obtaining the things mentioned in the Article by false pretences. Nicolaides translates the passage " ὁ διὰ δόλου καὶ ἀπάτης αἰσχροκερδῶν καὶ λαμβάνων παρ' ἄλλου χρήματα :" the French rendering reads " Quiconque, en employant des manœuvres frauduleuses, se sera fait remettre des fonds . . . et ainsi escroqué le bien d'autrui."

[12] " a State official " lit. " one of the State officials."

[13] " also " or " in addition."

[14] " liable to " lit. " deserving of."

PART IX.

ABUSE OF CONFIDENCE.

ART. 234.[1]—Whoever, by taking advantage of[2] the wants or weakness or fancy of a child who can discriminate,[3] fraudulently takes from him[4] to his[5] detriment[6] a deed made in whatever way it may be containing an undertaking or acquittance relative to the giving of money on loan or the lending of goods or the giving of commercial or other kind of documents[7] is imprisoned for from two months to two years and in addition to[8] causing to be made good his loss[5]

which has taken place a fine, not exceeding one-fourth of the money made good[9] and in any case not less than one Mejidieh gold piece, is taken; and if the person who takes such deed is the patron[10] or guardian of such child who can discriminate[3] the period of imprisonment is extended[11] to from three months to three years.

ART. 234 NOTES.—[1] Compare Art. 406 of the French Code Pénal:—"Quiconque aura abusé des besoins, des faiblesses ou des passions d'un mineur, pour lui farie souscrire, à son préjudice, des obligations, quittances ou décharges, pour prêt d'argent ou de choses mobilières, ou d'effets de commerce, ou de tous autres effets obligatoires, sous quelque forme que cette négociation ait été faite ou déguisée, sera puni d'un imprisonnement de deux mois au moins, de deux ans au plus, et d'une amende qui ne pourra excéder le quart des restitutions et des dommages-intérêts qui seront dus aux parties lésées, ni être moindre de vingt-cinq francs. La disposition portée au second paragraphe de précédent article pourra de plus être appliquée" (*i.e.*, deprivation of certain civil rights).

[2] "taking advantage of" lit. "abusing."

[3] "a child who can discriminate" lit. "a discriminating (or 'distinguishing,' 'discerning') child." The expression in the Turkish text is "sabi-i-mumeyyiz" and is synonymous with "saghir-i-mumeyyiz" (meaning literally a discriminating minor) in and defined by Art 943 of the Mejellé, a translation of which Article is here appended for convenience:—

"Saghir-i-ghayr-i-mumeyyiz (*a*) is a child who does not comprehend sale and purchase, that is to say, does not know that sale takes away and purchase brings over (*b*) ownership, and who does not discriminate and distinguish from a slight deceit a deceit which it is apparent is an excessive deceit such as being deceived five in ten; and a child who discriminates these is called saghir-i-mumegyiz (*c.*)"

[4] "fraudulently takes from him" lit. "takes from his hand by fraud."

[5] "his." *i.e.*, of the child.

[6] "detriment" or "loss," "injury," "prejudice."

[7] "documents" or "papers." "letters."

[8] "in addition to" lit. "besides," "apart from."

[9] "made good his loss," *i.e.*, to replace the loss.

[10] "patron" or "next of kin," also "guardian." Nicolaides translates "ἐπίτροπος": the French rendering is "chargé de la surveillance" (*vide* note 5 to Art 199).

[11] "extended," *i.e.*, "increased to a period of."

ART. 235.[1]—If a person by taking advantage of[2] a blank[3] paper, with a seal or signature, entrusted or delivered to him in confidence, fills in the upper part of[4] such paper, with seal or signature, with sentences which contain an undertaking or an acquittance by way of[5] fraud or theft or makes[6] on it[7] a deed to incriminate in person or to injure in property the owner of the seal or signature[8] he is punished with imprisonment for not less than six months and a fine of from five Mejidieh gold pieces to fifty Mejidieh gold pieces is taken; and if such paper with a seal or signature has not been entrusted or delivered to him in confidence but he has written

(*a*) "saghir-i-ghayr-i-mumeyyiz": the expression literally means an indiscriminating minor, *i.e.*, a person under age who cannot discriminate.
(*b*) "brings over"; lit. "attracts."
(*c*) "saghir-i-mumeyyiz"; it literally means a discriminating minor, *i.e.*, a person under age who can discriminate.

such false things by obtaining possession of it[9] by some means or other he is regarded[10] as a forger and is punished with the punishment for forgers.

ART. 235 NOTES.—[1] Compare Art. 407 of the French Code Pénal :—" Quiconque, abusant d'un blanc-seing qui lui aura été confié, aura frauduleusement écrit au-dessus une obligation ou décharge, ou tout autre acte pouvant compromettre la personne ou la fortune du signataire, sera puni des peines portées en l'Art. 405. Dans le cas où le blanc-seing ne lui aurait pas été confié, il sera poursuivi comme faussaire et puni comme tel." For Art. 405 *vide* note 1 to Art. 233 *suprâ*.

[2] " taking advantage of " lit. " abusing."

[3] " blank " lit. " white "

[4] " the upper part of " lit. " on the upper side of "

[5] " by way of " lit. " in the form of."

[6] " makes " or " draws up."

[7] " on it," *i.e.*, on the upper part of such paper with seal or signature.

[8] " the owner of the seal or signature," *i.e.*, the person who has sealed or signed the blank paper.

[9] " obtaining possession of it " lit. " by bringing into (his) hand."

[10] " regarded " or " held."

ART. 236.[1]—The person who conceals or destroys,[2] to the prejudice of[3] the owners, emval,[4] goods,[5] cash,[6] commercial documents[7] or other deeds[8] containing undertakings or acquittances of any kind, given or delivered to him by way of trust[9] or commission in order that he should as a paid or unpaid service exhibit[10] and return or use[11] the same[12] in some specified manner[13] is imprisoned for from two months to two years and in addition to the payment[14] of the compensation[15] which may[16] be necessary a fine equal to[17] the one-fourth of the amount[18] of the compensation is also taken from him ; and if one from among the category[19] of salaried servants, apprentices, clerks or labourers commits this offence to the prejudice of[3] his superior[20] or master[21] he is after the loss has been caused to be made good imprisoned for not less than one year.

ART. 236 NOTES.—[1] Compare Art. 408 of the French Code Pénal :—" Quiconque aura détourné ou dissipé, au préjudice des propriétaires, possesseurs ou détenteurs, des effets, deniers, marchandises, billets, quittances ou tous autres écrits contenant ou opérant obligation ou décharge, qui ne lui auraient été rémis qu'à titre de louage, de depôt, de mandat, ou pour un travail salarié ou non salarié, à la charge de les rendre ou representer, ou d'en faire un usage ou un emploi determiné, sera puni des peines portées en l'Art. 406. Si l'abus de confiance prévu et puni par le précédent paragraphe a été commis par un domestique, homme de service à gages, élève, clerc, commis, ouvrier, compagnon, ou apprenti, au préjudice de son maître, la peine sera celle de la réclusion. Le tout sans préjudice de ce qui est dit aux Arts. 254, 255 et 256, relativement aux soustractions et enlèvements de deniers, effets ou pièces commises dans les depôts publics." (Loi, 28 Avril, 1832.)

[2] " destroys " or " loses."

[3] " to the prejudice of " lit. " by injuring."

[4] " emval " (the plural of " mal "). In a general sense the word would include movable and immovable property but here it refers only, no doubt, to movable property. Nicolaides translates as " *κινητά*." *Vide* note 5 to Art. 27.

[5] "goods" or "effects." The word in the Turkish text is "eshyia" (pl. of "shey") (*vide* note 8 to Art. 27)

[6] "cash" lit. "ready moneys" or "sums of ready money."

[7] "commercial documents" or "bonds," "notes," "negotiable papers."

[8] "deeds" or "instruments," "documents."

[9] "trust" or "deposit."

[10] "exhibit" or "show," "produce."

[11] "use"; this word is disjunctive with "exhibit and return"; *i.e.*, the sense is "in order that he should . . . exhibit and return them or use them."

[12] "the same"; these words are inserted in the text for clarity.

[13] "in some specified manner" lit. "in a manner which has been specified": "specified" or "defined," "indicated."

[14] "in addition to the payment" lit "together with the payment."

[15] "compensation" or "indemnity."

[16] "may" lit. "will."

[17] "equal to" lit. "as much as."

[18] "amount" lit. "equivalent."

[19] "category" or "class" lit. "set."

[20] "superior" or "chief" lit. "commander."

[21] "master": in the sense as in note 14 to Art. 222.

ART. 237.[1]—The person who steals or conceals in whatsoever way it may be a document[2] or a paper, after producing or delivering it to the Court during the course or trial of an action,[3] is punished by the taking of a fine of from one Mejidieh gold piece to fifteen Mejidieh gold pieces.

ART. 237 NOTES.—[1] Compare Art. 409 of the French Code Pénal:—"Quiconque après avoir produit, dans une contestation judiciaire, quelque titre, pièce ou mémoire, l'aura soustrait de quelque manière que ce soit, sera puni d'une amende de vingt-cinq francs à trois cents francs. Cette peine sera prononcée par le tribunal saisi de la contestation."

[2] "document" or "deed."

[3] "action" or "case."

PART X.

THE PUNISHMENT FOR PERSONS WHO INTRODUCE FRAUD[1] INTO AUCTIONS OR COMMERCIAL AFFAIRS.[2]

PART X NOTES.—[1] "who introduce fraud" lit. "who mix corruption, (or 'depravity,' 'intrigue')." The word in the Turkish text is "fesad" (*vide* note 3 to Art. 49).

[2] "commercial affairs" lit. "affairs (or 'matters') of commerce (or 'trade')."

ART. 238.[1]—Persons who injure[2] by word or deed the auction of emval[3] or emlak[4] to be sold or purchased or to be leased or hired by auction amongst the people[5] are punished with imprisonment for from fifteen days to three months and with the taking of a fine of from one Mejidieh gold piece to one hundred Mejidieh gold pieces.

ART. 238 NOTES.—[1] Compare Art. 412 of the French Code Pénal :—" Ceux qui, dans les adjudications de la propriété, de l'usufruit ou de la location des choses mobilières ou immobilières, d'une entreprise d'une fourniture, d'une exploitation ou d'un service quelconque, auront entravé ou troublé la liberté des enchères ou des soumissions par voies de fait, violences ou menaces, soit avant, soit pendant les enchères ou les soumissions, seront punis d'un emprisonnement de quinze jours au moins, de trois mois au plus, et d'une amende de cent francs au moins et de cinq mille francs au plus. La même peine aura lieu contre ceux qui, par dons ou promesses auront écarté les enchérisseurs."

[2] " injure " or " mar."

[3] " emval " (*vide* note 5 to Art. 27).

[4] " emlak " (*vide* note 6 to Art. 27).

[5] " amongst the people " lit. " among men."

ART. 239.[1]—Those who[2] by purposely publishing among the people matters[3] which are not true[4] or are of the nature of[5] calumny[6] or by offering a price more than the rate asked for by the vendor, or who, being the principal holders of[7] an article of merchandise[8] or provisions, by leaguing together[9] in order not to sell or not to allow to be sold[10] at more than a certain price[11] that article or, by adopting other fraudulent ways or means, dare[12] to raise or reduce[13] the prices, which free trade[14] would otherwise settle,[15] of merchandise[8] or goods or of the paper moneys or treasury bonds[16] of the State are punished with imprisonment for from one month to one year and a fine of from five Mejidieh gold pieces to one hundred Mejidieh gold pieces is taken; and if the action and conduct[17] stated above takes place in respect of meat, bread, firewood, charcoal or similar provisions or things[18] which are of the primary[19] necessaries of the people the punishment stated above is carried out in two-fold.

ART. 239 NOTES.—[1] Compare Arts. 419 and 420 of the French Code Pénal :—

Art. 419 " Tous ceux qui, par des faits faux ou calomnieux semés à dessein dans le public, par des suroffres faites aux prix que demandaient les vendeurs eux-mêmes, par réunion ou coalition entre les principaux détenteurs d'une même marchandise ou denrée, tendant à ne la pas vendre ou à ne la vendre qu'à un certain prix, ou, par des voies ou moyens franduleux quelconques, auront opéré la hausse ou la baisse du prix des denrées ou marchandises ou des papiers et effets publics au-dessus ou au-dessous des prix qu'aurait determinés la concurrence naturelle et libre du commerce, seront punis d'un emprisonnement d'un mois au moins, d'un an au plus, et d'une amende de cinq cents francs à dix mille francs. Les coupables pourront de plus être mis par l'arrêt ou le jugement, sous la surveillance de le haute police pendant deux ans au moins et cinq ans au plus."

Art. 420. " La peine sera d'un emprisonnement de deux mois au moins et deux ans au plus, et d'une amende de mille francs à vingt mille francs si ces manœuvres ont été pratiquées sur grains, grenailles, farines, substances farineuses, pain, vin ou toute autre boisson.

" La mise en surveillance qui pourra être prononcée sera de cinq ans au moins et de dix ans au plus."

[2] "those who" lit. "any person who" or "whosoever."
[3] "matters" lit. "certain matters."
[4] "not true" lit. "not near (or 'joined') to truth."
[5] "of the nature of" lit. "in the way of," "by way of."
[6] "calumny" or "slander."
[7] "who being the principal holders of" lit. "the principal holders of." "Holders" lit. "owners," "possessors."
[8] "merchandise" or "wares," "goods."
[9] "by leaguing together" lit. "by agreeing."
[10] "not to allow to be sold" lit. "to cause not to be sold."
[11] "a certain price" lit. "a price."
[12] "dare" lit. "dares" or "attempts."
[13] "raise or reduce" lit. "increase or diminish."
[14] "free trade" lit. "freedom in (or 'of') trade."
[15] "would otherwise settle" lit. "would settle."
[16] "treasury bonds" or "securities" lit. "shares."
[17] "conduct" or "act," "deed."
[18] "things" or "articles." The word in the Turkish text is "eshya" (*vide* note 8 to Art. 27).
[19] "primary" or "essential," "principal," "radical."

ART. 240.[1]—Whoever cheats a purchaser as to[2] the fineness[3] of gold or silver[4] or the quality of a false jewel sold as a genuine gem or of any other kind of merchandise[5] or commits[6] fraud, as to the quantity of things[7] sold, by using defective weights or measures[8] is imprisoned for from three months to one year and, in addition to[9] being caused to make good the loss, a fine not exceeding the one-fourth of the amount[10] of the compensation and in any case not less than three Mejidiehs[11] is taken and his defective weight or measure[8] is broken and destroyed.

ART. 240 NOTES.—[1] Compare Art. 423 of the French Code Pénal :—"Quiconque aura trompé l'acheteur sur le titre des matières d'or ou d'argent, sur la qualité d'une pierre fausse vendue pour fine, sur la matière de toutes marchandises, quiconque, par usage de faux poids ou de fausses mesures, aura trompé sur la quantité des choses vendues, sera puni de l'emprisonnement pendant trois mois au moins, un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts, ni être au-dessous de cinquante francs. Les objets du délit, ou leur valeur s'ils appartiennent encore au vendeur, seront confisqués ; les faux poids et les fausses mesures seront aussi confisqués, et de plus seront brisés."
[2] "as to" lit. "upon."
[3] "fineness," *i.e.*, the degree of fineness.
[4] "gold or silver" : one might add here the word "objects" which would include any thing of these metals.
[5] "merchandise" ; as in note 8 to Art. 239.
[6] "commits" lit. "does."
[7] "things" ; as in note *18* to *Art. 239*
[8] "measures" lit. "cubit measures," *i.e.*, measures of length.
[9] "in addition to" lit. "besides."
[10] "of the amount" lit. "of the equivalent."
[11] "Mejidiehs" : when the word "Mejidieh" is used without being qualified by the word "gold" it always means a silver Mejidieh piece of twenty piastres (*vide* note 8 to Art. 215).

ART. 241.[1]—As the person who prints or causes to be printed a book contrary to the privileges of authors[2] or makes or causes to be made a thing the manufacturing or doing of which has been restricted[3] to an individual or a company as a privilege[4] will have committed a sort of forgery the books etcetera[5] caused by him to be printed or the things caused by him to be made are seized and given to the holder[6] of the privilege and a fine of from five Mejidieh gold pieces to one hundred Mejidieh gold pieces is taken; and from those who import[7] into the Ottoman Empire[8] such[9] as have been printed or manufactured in this manner abroad[10] a fine of likewise from five Mejidieh gold pieces to one hundred Mejidieh gold pieces is taken; and those who knowingly sell such printings or manufactures are punished by the taking of a fine of from one Mejidieh gold piece to twenty-five Mejidieh gold pieces.

ART. 241 NOTES.—[1] Compare Arts. 425, 426, 427 and 429 of the French Code Pénal. Art. 428 is reproduced for convenience of arrangement and reference. :—

Art. 425. "Toute édition d'écrits, de composition musicale, de dessin, de peinture ou de toute autre production, imprimée ou gravée en entier ou en partie, au mépris des lois et règlements relatifs à la propriété des auteurs, est une contrefaçon, et toute contrefaçon est un delit."

Art. 426. "Le délit d'ouvrages contrefaits, l'introduction sur le territoire français d'ouvrages qui, après avoir été imprimés en France, ont été contrefaits chez l'étranger sont un délit de la même espece."

Art. 427. "La peine contre le contrefacteur ou contre l'introducteur sera une amende de cent francs au moins et de deux mille francs au plus et contre le débitant, une amende de vingt-cinq francs au moins et de cinq cents francs au plus. La confiscation de l'édition contrefaite sera prononcée tant contre le contrefacteur que contre l'introducteur et le débitant. Les planches, meules ou matrices des objets contrefaits, seront aussi confisqués."

Art. 428. "Tout directeur, tout entrepreneur de spectacle, toute association d'artistes, qui aura fait représenter sur son théâtre des ouvrages dramatiques au mépris des lois et règlements relatifs à la propriété des auteurs, sera puni d'une amende de cinquante francs au moins, de cinq cents francs au plus et de la confiscation des recettes."

Art. 429. "Dans les cas prévus par les quatre articles précédents, les produits des confiscations, ou les recettes confisquées, seront remis au propriétaire, pour l'indemniser d'autant du préjudice qu'il aura souffert; le surplus de son indemnité, ou l'entière indemnité, s'il n'y a eu ni vente d'objet confisqué ni saisie de recettes, sera réglé par les voies ordinaires."

[2] "privileges of authors," *i.e.*, the copyright.

[3] "restricted" lit. "confined."

[4] "privilege"; the word used in the Turkish text is "imtiaz" which generally means a "privilege," or "concession" and would include a "patent," "copyright," or exclusive right to the use of a "Trade Mark."

[5] "etcetera" lit. "and others," *i.e.*, and other things.

[6] "holder" lit. "owner."

[7] "import" or "introduce."

[8] "Ottoman Empire" lit. "divinely protected dominions."

[9] "such," *i.e.*, such books, etc.

[10] "abroad" lit. "outside."

PART XI.

PUNISHMENT FOR GAMBLING AND LOTTERIES.

ART. 242.[1]—The persons who, making gambling a business[2] or profession,[3] invite the people to some special place and attract[4] and receive them in order to gamble there, or give money there as bankers,[5] are put in prison for from one month to six months and a fine of from one Mejidieh gold piece to fifty Mejidieh gold pieces is taken and all the cash and articles[6] found at the gambling place are seized by[7] the State.

ART. 242 NOTES.—[1] Compare Art. 410 of the French Code Pénal :—" Ceux qui auront tenu une maison de jeux de hasard, et y auront admis le public, soit librement, soit sur la présentation des intéressés ou affiliés, les banquiers de cette maison, tous ceux qui auront établi ou tenu des loteries non autorisées par la loi, tous administrateurs, préposés ou agents de ces établissements, seront punis d'un emprisonnement de deux mois au moins et de six mois au plus, et d'une amende de cent francs à six mille francs. Les coupables pourront être de plus à compter du jour où ils auront subi leur peine, interdits, pendant cinq ans au moins et dix ans au plus, des droits mentionnés en l'Art. 42 du présent Code. Dans tous les cas, seront confisqués tous les fonds ou effets qui seront trouvés exposés au jeu ou mis à la loterie, les meubles, instruments, ustensiles, appareils employés ou destinés au service des jeux ou des loteries, les meubles et les effets mobiliers dont les lieux seront garnis ou décorés."

By a Vizierial Order dated 25 October, 1289 (6 November, 1873), it was provided that one-half of the moneys seized while gambling is taking place shall be given to the State and the other half to the (police) officer effecting the seizure. The Order explains that this measure is adopted in order to encourage greater vigilance and activity on the part of the police officers in the detection and prevention of gambling, and to enable then to recoup themselves for any expenses incurred by them for remunerating informers or otherwise. The text of this Order may be found in Destur, Vol. IV, p 617 : *vide* also Young, Corps de Droit Ott., VII, p. 49, note.

[2] " business " or " work," " occupation."

[3] " profession " or " art," " craft," " trade."

[4] " attract " or " collect," " gather."

[5] " give money there by way of banking " or " give money there by acting as bankers." It means simply providing funds for the gamblers.

[6] " articles " ; as in note 18 to Art. 239.

[7] " by " lit. " on the part of "

ART. 243.[1]—Those who set up[2] lotteries are likewise imprisoned for from one month to six months and a fine of from one Mejidieh gold piece to fifty Mejidieh gold pieces is taken and the cash[3] and articles[4] which have been put to lottery are seized by[5] the State.

ART. 243 NOTES.—[1] Compare part of Art. 410 of the French Code Pénal (*vide* note 1 to Art. 242).

Nicolaides gives in full, Ott Cod., pp. 2502-2504, the text of a long Circular of the Ministry of Justice dated 29 Jemazi'ul-Akhir, 1300 (5 June, 1883), from which it appears that the executive had decided to allow lotteries to take place upon a license being granted and a payment being made to the Government of a ten per cent. royalty but that this decision upon remonstrances from certain Embassies was rescinded and foreign lotteries entirely prohibited in the Ottoman Empire

A letter of the Minister of Justice dated 29 Rebi'ul-Evvel, 1298 (18 February, 1882), laid down that Art. 243 does not apply to lotteries arranged with the permission of Government by communities for charitable purposes. This letter was published in the Jeridé-i-Mehakim (Law Courts' Journal) No. 86, p. 684. A further letter dated 23 February, 1298 (7 March, 1882), of the Minister of Justice further laid down that lotteries of a sum of 50,000 piastres, arranged for promoting purposes of public requirement and utility, may be permitted locally after suitable enquiries have been made by the local authority representing the Government ; but for the promotion of lotteries involving larger sums than 50,000 piastres the permission of the Ministry of Commerce is necessary.

[2] " set up " lit. " open."

[3] " cash " lit. " ready moneys."

[4] " articles " ; as in note 18 to Art. 239.

[5] " by " lit. " on the part of."

PART XII.

DESTRUCTION OF PROPERTY AND CAUSING LOSS[1] TO PEOPLE.

PART XII NOTE.—[1] " loss " or " injury," " harm."

ART. 244.[1]—Whoever breaks or destroys[2] one's[3] tools or implements for agriculture, folds[4] for animals, or watch-huts[5] is punished with imprisonment for from one week to six months after the right[6] of the injured person has been caused[7] to be paid.[8]

ART. 244 NOTES.—[1] Compare Art. 451 of the French Code Pénal :—" Toute rupture, toute destruction d'instruments d'agriculture, de parcs de bestiaux, de cabanes de gardiens, sera punie d'un emprisonnement d'un mois au moins, et d'un an au plus."

[2] " destroys " or " spoils," " deranges," " demolishes."

[3] " one's," *i.e.*, a man's.

[4] " folds " or " pens."

[5] " watch-huts " or " watch-boxes," *e.g.*, " the huts used by field watchmen or watchmen at vineyards."

[6] " the right of," *i.e.*, what is due to.

[7] " caused " or " made."

[8] " paid " or " satisfied."

ART. 245.[1]—Whoever, without necessity, purposely kills the saddle[2] or draught[3] horse or other animals or likewise beasts of burden or saddle[4] or cattle of any[5] kind belonging to any one[6] is punished according to the following scale[7] that is to say ; if this offence has occurred in the stable, fold or other appurtenances or on the lands of the emlak[8] of which the person who is the owner of the animals which have been killed[9] or destroyed is the proprietor, contractor,[10] tenant or cultivator in partnership,[11] the person who is guilty is put in prison for from one month to six months ; and if it has occurred upon a place of which the guilty person is the proprietor, contractor,[10] tenant or cultivator in partnership[11] he is imprisoned for from one week to one month ;

and if it has occurred in another place he is punished with imprisonment for from fifteen days to one and a half months; and the person who kills the said animals by poisoning is in every case imprisoned for from three months to two years; and in all the cases mentioned the loss of the owner of the animals is caused to be made good and a fine of from one white[12] Mejidieh of twenty[13] to two Mejidieh gold pieces is taken.

ART. 245 NOTES.—[1] Compare Arts. 452 to 455 of the French Code Pénal:—

Art. 452. "Quiconque aura *empoisonné* des chevaux ou autres bêtes de voiture de monture ou de charge, des bestiaux à cornes, des moutons, chèvres ou porcs, ou des poissons dans les étangs, viviers en réservoirs sera puni d'un emprisonnement d'un an à cinq ans, et d'une amende de seize francs à trois cents francs. Les coupables pourront être mis, par l'arrêt ou le jugement, sous la surveillance de la haute police pendant deux ans au moins et cinq ans au plus."

Art. 453. "Ceux qui, sans nécessité, auront tué l'un des animaux mentionnés au précédent article, seront punis ainsi qu'il suit: Si le délit a été commis dans les bâtiments, enclos et dépendances ou sur les terres dont le maître de l'animal tué était propriétaire, locataire, colon ou fermier, la peine sera un emprisonnement de deux mois à six mois; S'il a été commis dans les lieux dont le coupable était propriétaire, locataire, colon ou fermier, l'emprisonnement sera de six jours à un mois; S'il a été commis dans tout autre lieu, l'emprisonnement sera de quinze jours à six semaines. Le *maximum* de la peine sera toujours prononcé en cas de violation de clôture."

Art. 454. "Quiconque aura, sans nécessité, tué un animal domestique dans un lieu dont celui à qui cet animal appartient est propriétaire, locataire, colon ou fermier, sera puni d'un emprisonnement de six jours au moins et de six mois au plus. S'il y a eu violation de clôture, le *maximum* de la peine sera prononcé."

Art. 455. "Dans les cas prévus par les Arts. 444 et suivants jusqu'au précédent Article inclusivement, il sera prononcée une amende qui ne pourra excéder le quart des restitution et dommages-intérêts, ni être au-dessous de seize francs."

[2] "saddle" lit "riding."

[3] "draught" lit. "carriage" or "cart."

[4] "beasts of burden or saddle" lit. "animals for burden or for riding."

[5] "any" lit. "every."

[6] "belonging to any one" lit. "of one."

[7] "scale" lit. "degrees."

[8] "emlak," *i.e.*, landed property (*vide* note 6 to Art. 27).

[9] "killed" lit. "annihilated."

[10] "contractor": *the word in the Turkish text is* "multezim." Nicolaides translates as "ἐνοικιαστὴς δημοσίων προσόδων": the French rendering is "fermier" (*vide* note 12 to Art. 108).

[11] "cultivator in partnership," *i.e.*, one who hires or lets out land for a share in the harvest. Nicolaides translate as "συνέταιρος"; the French rendering is "au métayer."

[12] "white," *i.e.*, silver

[13] "of twenty," *i.e.*, of twenty piastres (*vide* note 8 to Art. 215).

ART. 246.[1]—Whoever fills up the ditches which are the delimitation marks of the emlak[2] or lands owned by someone or destroys[3] enclosures[4] made of live or dead trees[5] or in any[6] other way, is punished with imprisonment for from one week to three months and in addition to[7] the loss and damage being caused to be made good[8] a fine to the amount of one-fourth of the compensation[9] is also taken.

ART. 246 NOTES.—[1] Compare Art. 456 of the French Code Pénal :—" Quiconque aura, en tout ou en partie, comblé des fossés, détruit des clôtures, de quelques matériaux qu'elles soient faites, coupé ou arraché des haies vives ou sèches ; quiconque aura déplacé ou supprimé des bornes ou pieds corniers, ou autres arbres plantés ou reconnus pour établir les limites entre différents héritages, sera puni d'un emprisonnement qui ne pourra être au-dessous d'un mois ni excéder une année, et d'une amende égale au quart des restitutions et des dommages-intérêts, qui, dans aucun cas, ne pourra être au-dessous de cinquante francs."

[2] " emlak " (*vide* note 6 to Art. 27).

[3] " destroys " (*vide* note 2 to Art. 244).

[4] " enclosures " lit. " court-yards."

[5] " of live or dead trees " lit. " with wet or dry trees." " Trees " may also be translated " wood."

[6] " any " : the word is inserted in the translation for clarity.

[7] " in addition to " lit. " after."

[8] " made good " or " compensated."

[9] " to the amount of one-fourth of the compensation " lit. " of as much as one-fourth of the equivalent of the compensation."

ART. 247.[1]—If the owners or tenants of water-mills or other factories[2] worked[3] by water or of reservoirs[4] or artificial lakes[5] cause the roads or other peoples' fields[6] to be inundated,[7] by constructing the channel[8] of their water in a fashion different from the manner prescribed by the rules or regulations thereof,[9] after the loss which has taken place has been caused to be made good,[10] a fine to the amount of one-fourth of the amount of compensation is also taken.

ART. 247 NOTES.—[1] Compare Art. 457 of the French Code Pénal :—" Seront punis d'une amende qui ne pourra excéder le quart des restitutions et des dommages-intérêts, ni être au-dessous de cinquante francs, les propriétaires ou fermiers, ou toute personne jouissant de moulins, usines ou étangs, qui, par l'élévation du déversoir de leurs eaux au-dessus de la hauteur déterminée par l'autorité compétente, auront inondé les chemins ou les propriétés d'autrui. S'il est résulté du fait quelques dégradations, la peine sera, outre l'amende, un emprisonnement de six jours à un mois."

[2] " factories " or " machines."

[3] " worked " lit. " revolved," " rotated."

[4] " reservoirs " or " ponds," " tanks."

[5] " lakes " or " pools."

[6] " other peoples' fields " lit. " the field of others."

[7] " inundated " lit. " run over by water."

[8] " channel " or " bed."

[9] " thereof," *i.e.*, in that behalf.

[10] " made good " or " compensated."

ART. 248.[1]—Whoever, by making default in the cleaning or repairing of ovens,[2] furnaces[3] or other places operated[4] by fire or by lighting fire in the plains[5] in the vicinity[6] of houses or other buildings or forests or vineyards or gardens or heaps of chopped straw or hay or other combustible things[7] or by igniting[8] fireworks about the quarters[9] or by doing something[10] similar to this, becomes the cause of the breaking

out of a conflagration, is imprisoned for from three days to one week and a fine of from one Mejidieh gold piece to twenty-five Mejidieh gold pieces is taken.

ART. 248 NOTES.—[1] Compare Art. 458 of the French Code Pénal :—" L'incendie des proprietés mobilières ou immobilières d'autrui, qui aura été causé par la vétusté ou le défaut soit de réparation, soit de nettoyage des fours, cheminées, forges, maisons ou usines prochaines, ou par des foux allumés dans les champs à moins de cent mètres, des maisons, édifices, forêts, bruyères, bois, vergers, plantations, haies, meules, tas de grains, pailles. foins, fourrages, ou tout autre dépot de matières combustibles, ou par des feux ou lumières portés ou laissés sans précaution suffisante, ou par des pièces d'artifices allumées ou tirées par négligence ou imprudence, sera puni d'une amende de cinquante francs au moins et de cinq cents francs au plus."

[2] " ovens " or " bake-houses."

[3] " furnaces " or " hearths," " fire-places," also " chimneys."

[4] " operated " lit. " worked."

[5] " plains " or " open country."

[6] " vicinity " or " neighbourhood."

[7] " things " ; as in note 18 to Art. 239.

[8] " igniting " lit. " throwing," " letting go."

[9] " about the quarters," *i.e.*, about the quarters of towns or villages : the " quarters " are the regular " divisions " : lit. the phraso is " in the interstices in the quarters " (*vide* note 6 to original Art. 255).

[10] " something " lit. " a thing."

ART. 249.[1]—If a person wilfully[2] demolishes or ruins in whatsoever way it may be an inn,[3] house or any[4] kind of building which is not his own property, or roads, bridges, fountains, aqueducts, etcetera,[5] generally is imprisoned for from three months to two years and in addition to[6] the causing to be made good[7] the damage which has taken place a fine equal to one-fourth of the amount[8] of the compensation to be paid by him[9] is also taken ; and if destruction of life[10] or wounding takes place the punishment for destroying life or wounding is carried out separately.[11]

ART. 249 NOTES.—[1] Compare Art. 437 of the French Code Pénal :—" Quiconque aura volontairement détruit ou renversé par quelque moyen que ce soit, en tout ou en partie, des édifices, des ponts, digues ou chaussées ou autres constructions qu'il savait appartenir à autrui, sera puni de la réclusion et d'une amende qui ne pourra excéder le quart des restitutions et indemnités, ni être au dessous de cent francs. S'il y a eu homicide ou blessures, le coupable sera, dans le premier cas, puni de mort, et dans le second, puni de la peine des travaux forcés à temps."

[2] " wilfully " lit. " of his own choice."

[3] " inn " ; the Turkish word is " khan."

[4] " any " lit. " every."

[5] " etcetera " or " other things."

[6] " in addition to " lit. " after."

[7] " made good " lit. " indemnified " or " compensated."

[8] " amount " lit. " value," " equivalent."

[9] " to be paid by him " lit. " he has to pay," " he will pay."

[10] " life " lit. " person."

[11] " separately," *i.e.*, " as well," " in addition."

ART. 250.[1]—The person who by act[2] obstructs without cause the laying[3] or erection of a building for the construction of which permission has been given by the Imperial Ottoman Government is imprisoned for from one month to one year and the loss and damage which has taken place in consequence of this obstruction is caused to be made good and a fine equal to[4] one-fourth of the compensation[5] is taken.

ART. 250 NOTES.—[1] Compare Art. 438 of the French Code Pénal :—" Quiconque, par des voies de fait, se sera opposé à la confection des travàux autorisés par le Gouvernement, sera puni d'une emprisonnement de trois mois à deux ans, et d'une amende qui ne pourra excéder le quart des dommages-intérêts ni être au-dessous de seize francs. Les moteurs subiront le *maximum* de la peine."

[2] " by act," *i.e.*, actually.

[3] " laying " or " placing," *i.e.*, " laying the foundation."

[4] " equal to " lit. " as much as."

[5] " of the compensation " lit. " of the value of the compensation."

ART. 251.[1]—He who wilfully[2] burns or in whatsoever manner it may be destroys books,[3] deeds, archives or other official papers appertaining to the Government, or bills of exchange, promissory notes or deeds belonging to[4] men of commerce or bankers,[5] or in short[6] any[7] sort of papers in consequence of the destruction of which injury will result[8] is imprisoned for from one year to three years and a fine of from one Mejidieh gold piece to fifteen Mejidieh gold pieces is also taken from him.

ART. 251 NOTES.—[1] Compare Art. 439 of the French Code Pénal :—" Quiconque aura volontairement brûlè ou détruit, d'une manière quelconque, des registres, minutes ou actes originaux de l'autorité publique, des titres, billets, lettre de change, effets de commerce ou de banque, contenant ou opérant obligation, disposition ou décharge, sera puni ainsi qu'il suit : Si les pièces détruites sont des actes de l'autorité publique, ou des effets de commerce ou de banque, la peine sera la réclusion ; S'il s'agit de toute autre pièce, le coupable sera puni d'un emprisonnement de deux à cinq ans, et d'une amende de cent francs à trois cents francs."

[2] " wilfully " ; as in note 2 to Art. 249.

[3] " books," *i.e.*, " account-books," " record-books," " registers " and the like.

[4] " belonging to " or " concerning."

[5] " bankers " ; the word also means " money-changers."

[6] " in short " or " in one word."

[7] " any " lit. " every."

[8] " in consequence of the destruction of which injury will result " lit. " which in consequence of their destruction will give rise to injury."

ART. 252.[1]—If a gang of persons, by coming together, openly[2] pillage, despoil or ruin by force and compulsion[3] the emval[4] or goods[5] or crops of others they are punished with the punishment of pranga[6] temporarily and in addition to the restitution[7] of or making good to the owners the losses sustained by them[8] a fine of from one Mejidieh gold piece to fifty Mejidieh gold pieces is taken from each of them.

Those who commit[9] such plunder[10] or spoliation if they prove that their being participators[11] in this infamy has taken place through[12] the instigations or insistence[13] of another party are punished with the punishment of imprisonment for from one year to three years.

ART. 252 NOTES.—[1] Compare Arts. 440 and 441 of the French Code Penal :—

Art. 440 "Tout pillage, tout dégât de denrées ou marchandises, effets, propriétés mobilières, commis en réunion ou bande et à force ouvert, sera puni des travaux forcés à temps ; chacun des coupables sera de plus condamné à une amende de deux cents francs à cinq mille francs."

Art. 441. "Néanmoins ceux qui prouveront avoir été entraînés par les provocations ou sollicitations à prendre part à ces violences, pourront n'être punis que de la peine de la réclusion."

[2] "openly" or "publicly."
[3] "compulsion," *i.e.*, constraint.
[4] "emval" (*vide* note 5 to Art. 27).
[5] "goods" or "effects" ; as in note 7 to Art. 196.
[6] "pranga," *i.e.*, "hard labour in chains" (*vide* note 3 to Art. 27).
[7] "in addition to the restitution" lit. "after the restoration."
[8] "the losses sustained by them" lit. "their losses which have taken place."
[9] "commit" lit. "are found in."
[10] "plunder" or "sack," "pillage."
[11] "participators" lit. "partakers."
[12] "through" lit. "by."
[13] "insistence" ; it is plural in the Turkish text.

Art. 252 was amended by an addendum dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows :—

The person who seizes the immovable properties found in the possession of another by interfering with or encroaching upon them without authority[1] without being the holder of[2] an Imperial title-deed setting forth[3] his ownership[4] thereof, or with the object of deriving profit[5] from the said properties varies or alters the boundaries thereof is imprisoned for from one month to six months ; and if in either case[6] these acts of seizure or altering boundaries have taken place by the use of coercion or violence or by the making[7] of threat the perpetrator thereof is imprisoned for from two months to one year ; and if these acts are committed by several persons, even though one[8] from among them being armed, the punishment of imprisonment extends to from six months to three years.

To the above addendum may be added the following notes :—

[1] "without authority" lit. "of his own accord" or "of his own motion."
[2] "without being the holder of" lit. "without having in his hand."
[3] "setting forth" lit. "speaking of."
[4] "ownership" lit. "possession."
[5] "of deriving profit" lit. "of profiting."
[6] "in either case" lit. "in both such cases."
[7] "making" lit. "occasioning."
[8] "one," *i.e.*, *only* one.

ART. 253.[1]—The persons who cut or destroy crops,[2] which have not yet been mowed, or naturally grown or planted trees or other plants, or spoil grafted trees, or ruin the vine-yard or garden of a person are punished with the punishment of imprisonment for from one week to fifteen days and the loss and damage of the owners thereof are caused to be made good.

ART. 253 NOTES.—[1] Compare Art. 444 of the French Code Pénal :—" Quiconque aura dévasté des récoltes sur pied ou des plants venus naturellement ou faits de main d'homme, sera puni d'un emprisonnement de deux ans au moins et de cinq ans au plus. Les coupables pourront de plus être mis, par l'arrêt ou le jugement, sous la surveillance de la haute police pendant cinq ans au moins et dix ans au plus."

[2] " crops " or " produce."

Art. 253 was repealed and a new Article issued dated 6 Jemazi'ul-Akhir, 1329 (4 June, 1911), of which the text is as follows :—

The person who cuts or destroys crops, which have not yet been mowed, or naturally grown or planted trees or other plants or lets animals go free with the mere purpose of ruining them[1] is imprisoned for from one week to three months.

If this cutting or destruction takes place upon planted vine-cuttings[2] or trees having a value in the light of[3] commerce, industry or agriculture, or fruit-bearing trees or young plants the perpetrator is imprisoned for from one month to two years and a fine of from one Lira[4] to fifty Liras is taken from him.

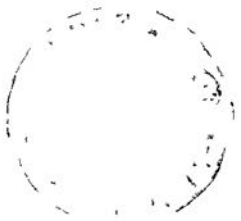
To the new Article the following notes may be added :—

[1] " them " lit. " these," *i.e.*, such crops, etc.

[2] " vine cuttings " lit. " twigs " or " shoots " or " saplings " of vine.

[3] " in the light of " lit. " having regard to," " in view of."

[4] " Lira," *i.e.*, the Turkish pound=18s.



CHAPTER THIRD

SETS FORTH THE PUNISHMENTS FOR PERSONS GUILTY OF QABAHATS AGAINST MATTERS OF SANITATION, CLEANLINESS AND POLICE.

ART. 254.[1]—Persons from amongst innkeepers or hotel-keepers who, although enjoined by the Police to light lanterns during the nights, neglect to do so; and persons[2] who without necessity place or leave upon the roads things which will affect the easiness of the passage of the people; and persons[2] who, when such things are placed[3] in the streets or squares[4] of necessity or when a water channel[5] or drain[6] is dug[7] in places which are public thoroughfares, do not place a lamp or lantern upon the things[8] which have been heaped up or at the place which has been dug, in order that if the same are left open at night[9] there may be no injury of any sort to passers by; and persons[10] who act contrary to the regulations of roads or to the orders[11] issued on the part of the Government for the repairing or pulling down[12] of buildings which are on the verge of[13] ruin; and persons[10] who throw into the streets refuse[14] or other things causing offensive smells or through carelessness pour refuse[14] or dirt upon a person or who throw into the street things which in their falling down may cause injury[15] to passers by on the road; and persons who do not conform whether with the administrative[16] regulations or with the regulations published[17] by the Municipal Authorities[18] are punished by the taking[19] of a fine of from one silver beshlik[20] to five silver beshliks.

ART. 254 NOTES.—[1] For comparison with this Article *vide* parts of Art. 471 of the French Code Pénal :—

Art. 471. "Seront punis d'amende, depuis un franc jusqu'à cinq francs inclusivement . . .

3. Les aubergistes et autres, qui, obligés à l'éclairage, l'auront negligé;

4. "Ceux qui auront embarrassé la voie publique, en y déposant ou y laissant sans nécessité, des matériaux ou des choses quelconques qui empêchent, ou diminuent la liberté ou la sureté du passage; ceux qui, en contravention aux lois et réglements, auront négligé d'éclairer les matériaux par eux entreposés ou les excavations par eux faites dans les rues et places;

5. Ceux qui auront négligé ou refusé d'exécuter les réglements ou arrêtes concernant la petite voirie, ou d'obéir à la sommation émanée de l'autorité administrative, de réparer ou démolir les édifices menaçant ruine.

6. Ceux qui auront jété ou exposé au-devant de leurs édifices des choses, de nature à nuire par leur chute ou par des exhalaisons insalubres.

12. Ceux qui imprudemment auront jété des immondices sur quelque personne.

15. Ceux qui auront contrevenu aux réglements légalement faits par l'autorité administrative, et ceux qui ne se seront pas conformés aux réglements ou arrêtés publiés par l'autorité municipale, en vertu des Arts. 3 et 4 titre IX de la loi du 16-24 Août, 1790, et de l'Art. 46 titre 1er de la loi du 19-22 Juillet, 1791." (Loi, 28 Avril, 1832.)

[2] " persons " ; this word is not in the Turkish text but is inserted here to make the sense of the passage clear and to mark the commencement of a fresh paragraph.

[3] " placed," *i.e.*, " by such persons."

[4] " squares " ; also " open spaces."

[5] " water-channel " or " aqueduct."

[6] " drain " or " sewer."

[7] " dug," *i.e.*, " by such persons."

[8] " things " ; as in note 18 to Art. 239.

[9] " at night ' lit. " during the nights "

[10] " persons " ; in the Turkish text the word is here " those " simply

[11] " orders " or " injunctions."

[12] " for the repairing or pulling down of " lit. " in order to repair or to pull down."

[13] " on the verge of " lit. " verging towards."

[14] " refuse " *lit.* " *sweepings.*"

[15] " injury " or " harm."

[16] " administrative " lit. " civil."

[17] " published " or " promulgated."

[18] " Municipal Authorities " lit. " Municipal Administration."

[19] " taking," *i.e.*, " from the offenders "

[20] " silver beshlik " lit " white beshlik." A silver beshlik is a silver coin of five silver piastres (=½ silver Mejidieh) and is worth 10*d.* in English money.

ART. 255.[1]—Those from amongst tradesmen[2] using fire who do not at intervals clean or repair the furnaces[3] and chimneys of their shops, bakehouses or factories, and persons[4] who ignite[5] fireworks in the quarters[6] or in places where they[7] would cause injury,[8] and also those who discharge[9] pistols or guns inside the cities, towns or villages, are[10] in addition to[11] being punished by the taking of a fine of from one beshlik[12] to five beshliks imprisoned as well for from twenty-four hours to three days.

ART. 255 NOTES.—[1] Compare part of Art. 471 of the French Code Pénal :—" Seront punis d'amende, depuis un franc jusqu'à cinq francs inclusivement " . . .

1. " Ceux qui ont négligé d'entretenir, réparer ou nettoyer les fours, cheminées ou usines où l'on fait usage du feu.

2. " Ceux qui auront violé la défense de tirer, en certains lieux, des pièces d'artifices.

In addition, under Art. 472 of the French Code, fireworks ignited in contravention of clause 2 quoted above are confiscated and, under Art 473 of the same, offenders in this respect may besides be imprisoned " selon les circonstances pendant trois jours au plus."

[2] " tradesmen " or " artificers " lit. " guilds."

[3] " furnaces " or " hearths."

[4] " persons " ; the word is not in the Turkish text but is inserted to mark the new paragraph.

[5] " ignite " lit. " throw " or " let go."

[6] " quarters," *i.e.*, the " quarters " of a town or village : towns and villages of any size in the Ottoman Empire (and, as is, of course, well known, elsewhere) are usually divided into a number of areas called " quarters " (Turkish " mahallat ").

[7] "they," *i.e.*, the fireworks.
[8] "injury": also "damage."
[9] "discharge": "fire" lit. "throw" or "let go."
[10] "are"; in the Turkish text the words "such sort of people" appear but are here omitted as superfluous.
[11] "in addition to" lit. "besides."
[12] "beshlik." The Turkish text does not here state as it does in the preceding section that the beshlik is a "silver value" beshlik but it is presumably intended to be the same

Art. 255 was repealed and a new Article substituted therefor on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911). The text of the new Article is as follows:—

Those from amongst tradesmen[2] using fire who do not at intervals clean or repair the furnaces[3] or chimneys of their shops, bakehouses or factories are punished by the taking of a fine of from one beshlik to five beshliks; and those who ignite[5] fireworks in the cities, villages or towns in places where they[7] may cause injury[8] are punished with imprisonment for from twenty-four hours to three days and by taking a fine of from five beshliks[12] to ten beshliks. Those who discharge[9] arms[13] in the cities, villages or towns without necessity are punished with imprisonment for from twenty-four hours to one month and with a fine of from one Ottoman gold piece[14] to three Ottoman gold pieces.

To the new Article the following notes may be added:—
2, 3, 5, 7, 8, 9, 12 as in the same notes to the original Article.
[13] "arms," *i.e.*, firearms.
[14] "Ottoman gold piece," *i.e.*, a Turkish pound or "Lira."

ART. 256.[1]—Those from amongst innkeepers or hotel-keepers or other lodging-house keepers who neglect or make default in the registering of the arrivals[2] or the producing to the proper authority[3] in due time of the book necessary to be kept by them according to the system[4] in that behalf[5]; and those who let[6] a horse run in places of public resort or let the lunatics or the harmful or predacious animals found under their care[7] go free; or who refuse to take or accept the coin of the State at its fixed[8] price; or who on the occurrence of a great disaster,[9] accident with a boat or ship,[10] inundation, conflagration or other calamities, brigandage,[11] despoliation and pillage, any open Jinayet,[12] general outcry[13] or complaint,[14] decline or neglect[15] to render the service or assistance asked for although they are able to afford[16] it are punished by the taking of a fine of from six beshliks to ten beshliks.[17]

ART. 256 NOTES.—[1] Compare part of Art. 475 of the French Code Pénal :—" Seront punis d'amende, depuis six francs jusqu'à dix francs inclusivement. . . .

2. " Les aubergistes, hôteliers, logeurs ou loueurs de maisons garnies, qui auront négligé d'instruire de suite et sans aucun blanc, sur registre tenu régulièrement, les noms, qualités, domicile habituel, dates d'entrée et de sortie de toute personne qui aurait couché ou passé une nuit dans leurs maisons ; ceux d'entre eux qui auraient manqué à représenter ce registre aux époques déterminés par les réglements, ou lorsqu'ils en auraient été requis, aux maires, adjoints, officiers ou commissaires de police, ou aux citoyens commis à cet effet, le tout sans préjudice des cas de responsabilité mentionnés en l'Art. 73 du présent Code, relativement aux crimes ou aux délits de ceux qui, ayant logé ou séjourné chez eux, n'auraient pas été régulièrement inscrits.

4. " Ceux qui auront fait ou laissé courrir les chevaux, bêtes de trait, de charge ou de monture, dans l'intérieur d'un lieu habité, ou violé les règlements contre le chargement, la rapidité ou la mauvaise direction des voitures.

7. " Ceux qui auraient laissé divaguer des fous ou des furieux étant sous leur garde, ou des animaux malfaisants ou féroces ;

11. " Ceux qui auraient refusé de recevoir les espèces de monnaies nationales, non fausses ni altérées, selon la valeur pour laquelle elles ont cours.

12. " Ceux qui, le pouvant, auront refusé ou négligé de faire les travaux, le service, ou de prêter le secours dont ils auront été requis dans les circonstances d'accidents, tumulte, naufrage, inondation, incendie ou autres calamités, ainsi que dans les cas de brigandages, pillages, flagrant délit, clameur publique ou d'execution judiciaire."

[2] " arrivals " lit. " comers."
[3] " to the proper authority " lit. " to the officer of it."
[4] " system " or " rule."
[5] " in that behalf " lit. " thereof."
[6] " let " or " make."
[7] " care " or " keeping," " custody."
[8] " fixed " or " prescribed."
[9] " disaster " lit. " event," *i.e.*, an unfortunate event.
[10] " accident with a boat or ship " lit. " a boat or ship accident."
[11] " brigandage " or " freebooting."
[12] " open Jinayet," *i.e.*, " Jinayet in public."
[13] " general outcry," *i.e.*, " general cry for succour."
[14] " complaint " : the word is not qualified by " general."
[15] " neglect " ; in the sense of watching with indifference.
[16] " able to afford it " lit. " able for it " ; " it," *i.e.*, the service or assistance.
[17] " beshliks " ; as in note 12 to Art. 255.

ART. 257.[1]—Besides[2] causing to be thrown away and cast out into the sea or river or to the outside of the town fruits etcetera[3] the consumption[4] of which is injurious to health or body or which have become fetid by remaining and rotting[5] in the shops, likewise a fine of from six beshliks[6] to ten beshliks is taken from those who sell the same.[7]

ART. 257 NOTES.—[1] Compare parts of Arts. 475 and 477 of the French Code Pénal :—

Art. 475. " Seront punis d'amende, depuis six francs jusqu'à dix francs inclusivement . . .

12. " Ceux qui exposent en vente des comestibles gâtés, corrompu ou nuisibles." (Loi, 28 Avril, 1832.)

Art. 477. " Seront saisis et confisqués :—

4. " Les comestibles gâtés, corrompus ou nuisibles ; ces comestibles seront détruits." (Loi, 28 Avril, 1832.)

[2] " besides," *i.e.*, in addition to.

[2] "etcetera" or "and other things" or "and so forth."
[4] "consumption" lit. "the taking"; in the sense of taking food or drink.
[5] "rotting" or "decaying."
[6] "beshliks"; as in note 12 to Art. 255.
[7] "the same" lit. "these."

ART. 258.[1]—Those who wilfully[2] throw stones or other hard[3] substances or dirt upon a man or into[4] his house or other building or courtyard or garden and those who enter a place where they have no right of entry or pass through a place through which they have no right of passage are, in addition to[5] taking from them a fine of likewise from six beshliks[6] to ten beshliks, also imprisoned for from twenty-four hours to five days.

ART. 258 NOTES.—[1] For the first part of the above Article *vide* part 8 of Art. 475 of the French Code Pénal :—

Art. 475. "Seront punis d'amende. depuis six francs jusqu'à dix francs inclusivement . . .

8. "Ceux qui auraient jeté des pierres ou d'autres corps durs ou des immondices contre les maisons, édifices et clôtures d'autrui, ou dans les jardins ou enclos, et ceux aussi qui auraient volontairement jéte des corps durs ou les immondices sur quelqu'un."

By Art. 476 (Loi, 28 Avril, 1832) imprisonment for a maximum of three days may also be awarded in addition to the pecuniary penalty.

The latter part of Art. 258 had no exactly corresponding counterpart in the French Code though there are sections (Art. 471, §§ 13 and 14 and Art. 475, §§ 9 and 10) dealing with various forms of trespass which however limit offences to cases in which the trespass is committed upon sown or crop-bearing lands.

[2] "wilfully" lit. "of their own choice"
[3] "hard": also "solid."
[4] "into" or "to": and no doubt also it is here intended to mean "at."
[5] "in addition to": lit. "besides."
[6] "beshliks" (*vide* note 12 to Art. 255).

ART. 259.[1]—Those who wilfully[2] cause injury to the movable properties of others and those who become the cause of the perishing or wounding[3] of the animals or cattle of a person by letting go free lunatics[4] or injurious or predacious animals or by over-riding[5] or overloading or by throwing stones or other hard[6] substances or by excavating a place, are, after[7] reparation,[8] punished by taking[9] a fine of from ten beshliks[10] to fifteen beshliks.

ART. 259 NOTES.—[1] Compare parts of Art. 475 of the French Code Pénal :—

"Seront punis d'amende, de onze à quinze francs inclusivement :—

1. "Ceux qui, hors les cas prévus depuis l'Art. 434 (Arson) jusques et compris l'Art. 462 (special punishments when offences are committed by Government servants) auront volontairement causé du dommage aux propriétés mobilières d'autrui :

2. "Ceux qui auront occasioné la mort ou la blessure des animaux ou bestiaux appartenant à autrui, par l'effet de la divagation des fous ou furieux ou d'animaux malfaisants ou féroces, ou par la rapidité ou la mauvaise direction ou le chargement excessif des voitures, chevaux, bêtes de traits, de chasse ou de monture.

3. "Ceux qui auront occasioné les mêmes dommages . . . par jet de pierres ou d'autres corps durs.

4. " Ceux qui auront causé les mêmes accidents par . . . l'excavation . . dans ou près des rues, chemins, places ou voies publiques, sans les précautions ou signaux ordonnés ou d'usage."

Nicolaides Ott. Cod., p. 2508 quotes in full as a note to this Article a Circular letter of the Ministry of Justice dated 29 May, 1299 (10 June, 1883), by which it was laid down that, in the case of the non-discovery of incendiaries of stores or stacks of straw or hay, the inhabitants of a village shall jointly be liable to pay an aggregate sum by way of compensation to the owners of the articles burnt not exceeding one thousand piastres.

[2] " wilfully " lit. " of their own choice."

[3] " wounding " lit. " woundedness " ; it might be translated " the becoming wounded."

[4] " lunatics " ; the meaning in the Turkish text is somewhat obscure here. Literally and grammatically translated the word " lunatics " should be rendered " mad " and as an adjective qualifying " animals " ; but reading the Article in the light of Art. 256 and in view of the language of the French Code it must be assumed, it is thought, that the intention of the text is to refer to " lunatics."

[5] " over-riding " or " overdriving " lit. " making run overmuch "

[6] " hard " also " solid."

[7] " after," *i.e.*, " in addition to."

[8] " reparation " also " compensation," " making good."

[9] " taking," *i.e.*, from the offender, of course.

[10] " beshliks," (*vide* note 12 to Art. 255).

ART. 260.[1]—Those who make a noise or uproar in a manner to[2] take away the comfort[3] of the people without cause, or wilfully remove[4] or tear advertisements[5] posted up by Government order are punished by taking a fine of likewise from ten beshliks to fifteen beshliks and with imprisonment of for from three days to one week.

ART. 260 NOTES.—[1] Compare parts of Art. 479 of the French Code Pénal :—

" Seront punis d'une amende de onze à quinze francs inclusivement :—

8. " Les auteurs ou complices de bruit ou tapages injurieux ou nocturnes, troublant la tranquillité des habitants.

9. " Ceux qui auront méchamment enlevé ou déchiré les affiches apposés par ordres de l'administration."

[2] " in a manner to," *i.e.*, " so as to."

[3] " take away the comfort," *i.e.*, " disturb the peace."

[4] " remove " lit. " pluck off " or " pull off."

[5] " advertisements " lit. " papers of advertisements."

ART. 261.[1]—The person who lets animals go free into the land which is enclosed or sown or in which there is produce or crops or into the vineyard or garden of a person is punished by taking a fine of likewise from ten beshliks to fifteen beshliks and the loss and damage is caused to be made good.[2]

ART. 261 NOTES.—[1] Compare § 10 of Art. 479 of the French Code Pénal :—" Ceux qui mèneront sur le terrain d'autrui des bestiaux, de quelque nature qu'ils soient, et notamment dans les prairies artificielles, dans les vignes oseraies, dans les plans de câpriers, dans ceux d'oliviers, de mûriers, de grenadiers, d'orangers et d'arbres du même genre, dans tous les plans ou pépinières d'arbres fruitiers ou autres fait de main d'homme." For the penalty *vide* note 1 to Art. 260, *suprâ*.

[2] " made good " or " compensated."

ART. 262.[1]—From persons who keep deficient weights[2] or bad cantars[3] or balances or deficient measures or kilés[4] or use weights or measures, other than those which are prescribed or are in use by law,[5] in their shops or warehouses or in the markets or bazaars or at fairs a fine of from ten beshliks to fifteen beshliks is taken in addition to[6] taking and seizing such[7] weights or measures.

ART. 262 NOTES.—[1] Compare parts of Art. 479 of the French Code Pénal :—

5. " Ceux qui auront de faux poids ou de fausses mesures dans leurs magasins, boutiques, ateliers, ou maisons de commerce ou dans les halles, foires ou marchés, sans préjudice des peines qui seront prononcées par les tribunaux de police correctionelle contre ceux qui auraient fait usage de ces faux poids ou de ces fausses mesures."

6. " Ceux qui emploieront des poids ou des mesures differents de ceux qui sont établis par les lois en vigueur." For the penalty *vide* note 1 to Art. 260, *suprà*.

By Art. 480 a further penalty of imprisonment for a period not exceeding five days *may* be awarded " selon les circonstances " in case of contravention of the above sub-sections : whilst under Art. 481 " seront, de plus, saisis et confisqués : " Les faux poids, et les mésures différents de ceux que la loi a établis."

[2] " weights " lit. " drams."

[3] " cantars " *i.e.*, steel-yards.

[4] " kilés " : a measure of capacity. It is about equal to the English bushel.

[5] " law " or " regulation." The word in the Turkish text is " nizam " (*vide* note 2 to Art. 15).

[6] " in addition to " lit. " after."

[7] " such " lit. " that sort of."

ART. 263.[1]—Those who sell goods[2] at a higher price[3] than the market price[4] set[5] and published by law[6] are punished by taking a fine of likewise from ten beshliks to fifteen beshliks and with imprisonment for from twenty-four hours to three days ; and if the goods[2] sold by them in this way for more than the market price[4] are among the indispensable necessaries of the people such as bread, meat, firewood or charcoal they are imprisoned for from three days to one week and a fine of from fifteen beshliks to twenty beshliks is taken.

ART. 263 NOTES.—[1] Compare part of Art. 479 of the French Code Pénal :—

" Seront punis d'une amende de onze à quinze francs inclusivement . . .

" Les boulangers et bouchers qui vendront le pain ou la viande au-delà du prix fixé par la taxe légalement faite et publiée." (Loi, 28 Avril, 1832.)

It should be observed that by Art. 480 (part of § 3) a further penalty of imprisonment for a period not exceeding five days *may* be awarded in cases of contravention of the above Article " selon les circonstances."

[2] " goods " or " things " (*vide* note 7 to Art. 196).

[3] " at a higher price " lit. " for more."

[4] " market price " ; it means " officially fixed price " as in note 5.

[5] " set " lit. " fixed," " designated " It means " fixed by the proper authorities," *e.g.*, by a Municipality.

[6] " law " or " regulation " ; as in note 5 to Art. 262.

ART. 264.[1]—The person who spoils the public roads or places such as squares or promenades left and assigned for public utility[2] or steals space[3] from[4] the length or breadth thereof is punished with imprisonment for from three days to one month and by taking[5] a fine of from fifteen to twenty beshliks in addition to[6] taking and receiving[7] from him payment of the expenses of repairing the place spoilt by him or obtaining restoration[8] of the place[9] taken by him.

ART. 264 NOTES.—[1] Compare Art. 479. § 11 of the French Code Pénal :—" Seront punis d'une amende de onze à quinze francs inclusivement . .

11. " Ceux qui auront dégradé ou déterioré, de quelque manière que ce soit, les chemins publics, ou usurpé sur leur largeur."

[2] " for public utility " lit. " for general benefits."

[3] " space " lit. " place."

[4] " from," *i.e.*, " out of."

[5] " taking," *i.e.*, " from the offender."

[6] " in addition to " lit. " after."

[7] " taking and receiving," *i.e.*, " *taking* from the offender and *receiving* by the authority undertaking the repair."

[8] " obtaining restoration." *i.e* " surrender " The sense of this last passage is that if the offender has done injury he must pay to make it good; if he has encroached he must give back the property so encroached upon.

[9] " place " ; this is literal.

Art. 264 was amended by an addendum dated 7 Muharrem, 1286 (19 April, 1869), the text of which is as follows :—

Those[1] who bury or cause to be buried or authorize[2] the burial of corpses[3] in a place forbidden by law[4] are punished with imprisonment for from one month to one year and with a fine of from one Ottoman gold piece of one hundred[5] to ten Ottoman gold pieces of one hundred.

To this addendum may be added the following notes :—

[1] The text of this addendum may be found in Djiz-i-Kav, p. 1009 ; Nicolaides, Ott. Cod., p. 2510 ; Aristarchi, Vol. III, p. 273 ; Young, Vol. VII, p. 54 : Walpole, p. 119.

One may compare the first part of Art. 358 of the French Code Pénal :—" Ceux qui, sans l'autorisation préalable de l'officier public dans le cas où elle est prescrite, auront fait inhumer un individu décédé, seront punis de six jours à deux ans d'emprisonnement. et d'une amende de seize francs à cinquante francs ; sans préjudice de la poursuite de crimes dont les auteurs de ce délit pourraient être prévenus dans cette circonstance."

[2] " authorize " lit. " give permission for."

[3] " corpses " : the word in the Turkish text is indefinite. " Any corpse " is what is meant.

[4] " law " or " regulation " ; as in note 5 to Art. 262.

[5] " Ottoman gold piece *of one hundred*," *i.e.*, " *of one hundred piastres.*" The *coin* referred to is the Turkish gold piece known as the gold Mejidieh or " Lira " (*vide* note 2 to Art. 5).

ART. 265.[1]—If a person becomes drunk, in places which are public thoroughfare or in places[2] where it is lawful for

people to enter, in a very conspicuous[3] manner—that is to say to such a degree as not to be possible to hide or conceal the signs[4] and symptoms[5] of it—and[6] is caught,[7] he is punished with a fine of up to one Lira.

With regard to recidivists[8] this punishment is imprisonment up to one week or a fine up to five Liras.

If the repetition[9] has reached the degree of habit, the punishment is a fine of from five Liras to twenty-five Liras or imprisonment for from one week to one month. If the person sentenced as an habitual offender[10] is a Government official he can also be dismissed temporarily from his office.

If the habit of[11] drunkenness as mentioned[12] above is of the degree of addictedness, sentence is given for his detention in an hospital with the condition that it[13] shall not be less than six months, and the expenses thereof shall be borne by[14] him until his reform is medically proved.[15]

The person who makes, even though it be undesignedly,[16] young persons, from whose outward appearance it is evident that they have not completed the age of eighteen years as yet, drink, or encourages them by way of treat, even though it be likewise undesignedly,[16] to drink any beverage[17] or any substance, excepting spirituous[18] liquors for the treatment[19] or strengthening of their bodies, which[20] will make them[21] drunk, is punished with a fine of from twenty-five piastres[22] to one gold piece,[23] or, if this action takes place by way of deceiving, with a fine up to ten gold pieces.[23]

If the offender[24] is the proprietor of the drinking shop[25] or his[26] employé he[27] is punished with a fine of from one gold piece[23] to twenty gold pieces[23] and with imprisonment of from twenty-four hours to six months. When repetition[28] takes place in the course of one year the closing, for a suitable period, of such place can be also ordered.[29]

If the proprietor of a drinking shop[25] or his employé gives a beverage[17] or any substance to a customer who is drunk as stated above, then,[30] together with taking of a fine of from twenty-five piastres[22] to five gold pieces, or of from two gold pieces[23] to ten gold pieces[23] when repetition takes place, sentence[31] can be also given for the closing of that place[32] for a suitable period.

If he[27] does not take measures for the protection of the customer who is found in such a condition as not to be able to take care[33] of himself but turns him out[34] into the street he is punished with imprisonment for from twenty-four hours to one month besides the punishment mentioned[35]

above ; and if the drunken person sustains illness by reason of this,[36] he[27] is also sentenced to make good the expenses relating to his[37] medical treatment.[38]

ART. 265 NOTES.—[1] This Article is new and was added to the Code on 6 Jemazi'ul-Akhir, 1329 (4 June, 1911)

[2] "places" ; more literally "localities."

[3] "conspicuous" or "apparent."

[4] "signs," more literally "traces."

[5] "symptons" or "signs," "indications."

[6] "and," *i.e.*, and if he."

[7] "caught" lit. "collared."

[8] "recidivists" lit. "repeaters" ; as in note 2 to Art. 8.

[9] "repetition" lit "repeatership"

[10] "as an habitual offender" ; the nearest literal translation of the Turkish phrase would read "the person sentenced by way of habitude."

[11] "of" lit. "in."

[12] "mentioned" lit. "written."

[13] "it," *i.e.*, the detention.

[14] "borne by" lit. "shall appertain to."

[15] "is medically proved" lit. "becomes medically manifest."

[16] "undesignedly" or "unintentionally."

[17] "beverage" ; in the sense of intoxicating liquor.

[18] "spirituous" or "intoxicating."

[19] "treatment" or "cure."

[20] "which," *i.e.*, the beverages or substances.

[21] "them" : this word is inserted in the translation for clarity.

[22] "twenty-five piastres," *i.e.*, a quarter of a Lira.

[23] "gold piece," *i.e.*, a Turkish Lira.

[24] "offender" lit. "perpetrator."

[25] "drinking shop" lit. "place of jollity and drinking."

[26] "his," *i.e.*, of the proprietor.

[27] "he," *i.e.*, the offender.

[28] "repetition," *i e.*, repetition of the offence when the proprietor or his employé are concerned.

[29] "the closing . . . of such place can be also ordered" lit. "sentence for the closing of this place . . . can also be given."

[30] "then" ; this word is inserted for clarity.

[31] "sentence" or "judgment."

[32] "that place," *i.e.*, the drinking shop.

[33] "take care" lit. "manage."

[34] "turns him out" lit. "lets him."

[35] "mentioned" lit. "inserted" or "contained.'

[36] "this," *i.e.*, being turned out.

[37] "his" : *i.e.*, of the drunken person.

[38] "medical treatment" or "cure."

CYPRUS APPENDIX.

In Cyprus the Ottoman Penal Code with any amendments made prior to July 13th, 1878, (the date of the assumption by Great Britain of the administration of the Island) is the Law to which Ottoman subjects there are amenable. But by local legislation, and in some measure by locally effective British Imperial legislation through Orders in Council some of the articles of the Ottoman Penal Code which are applicable in Cyprus have been materially altered.

The proper construction, too, of some of the articles of the Ottoman Penal Code has been much elucidated by decisions of the Cyprus Supreme and Assize Courts, the former wholly, the latter partially constituted of British Judges.

The object of this Appendix is to draw attention to the more important of these legislative alterations and judicial decisions.

Art. 1.—The Courts in Cyprus are endowed with very large powers with regard to awarding compensation. Clause 159 of the Cyprus Courts of Justice Order, 1882 (30th Nov., 1882) reads: "Any Court by which any person is convicted of any offence may, if it thinks fit, upon the application of any person aggrieved, and immediately after such conviction, award any sum of money not exceeding £100 by way of satisfaction or compensation for any loss caused by the offence of which the accused has been convicted, to the aggrieved person for which such aggrieved person might recover damages in an action.

"The amount so awarded shall be a judgment debt due from the person so convicted to the person to whom it is awarded."

The Supreme Court in Rex *v.* Antoni, Ex parte Panagi, (C.L.R., IX, p. 107) held that the right of a Criminal Court to make orders for compensation incidental to a conviction is not now governed by the Ottoman Penal Code but by Clause 159 of the Cyprus Courts of Justice Order in Council, 1882, and the Fines and Penalties Recovery Law, 1883, (Statute Laws of Cyprus, 1878-1906, p. 144) and as to the practice in Cyprus of applying to the Sher' Courts for Diyet *vide* notes to Art. 171, *infrâ*.

ART. 8.—In Rex *v.* Suleyman, the Assize Court of Nicosia held that the meaning of Art. 8 is that where a person convicted of an offence afterwards repeats it the Court is entitled to impose a sentence up to double the maximum prescribed by the law creating the offence; that it does not mean that in every such case the Court *must* impose a sentence double that imposed on the occasion of the previous conviction; and that the Article applies not only to offences created by the Ottoman Penal Code but also to all offences created by subsequent legislation whether of the Ottoman Empire or of Cyprus (C.L.R., IX, Prelim. Issue, 6, pp. 1, 2).

ART. 19.—Law 1 of 1886 § 7 (1) abolishes the wearing of leg-irons as part of any punishment under any sentence of any Cyprus Court of Justice though in § 7 (2) it conserves the right to impose the wearing of leg-irons as a punishment for any breach of prison discipline or when necessary for the better securing of prisoners.

ART. 20.—*Vide* note to Art. 19 explanatory of the abolition of the wearing of leg-irons.

ART. 21.—*Vide* note to Art. 19 explanatory of the abolition of the wearing of leg-irons.

ART. 23.—Law 1 of 1886 § 2 abolishes the penalty of perpetual confinement in a fortress and by § 3 substitutes therefor the penalty of hard labour for a term not exceeding the maximum term of confinement in a fortress to which a guilty person might have been sentenced prior to the Law (1 of 1886).

ART. 24.—Law 1 of 1886 § 2 abolishes the penalty of temporary confinement in a fortress and by § 3 substitutes therefor the penalty of hard labour for a term not exceeding the maximum term of confinement in a fortress to which a guilty person might have been sentenced prior to the Law (1 of 1886).

ART. 28.—Law 1 of 1886 § 2 abolishes the penalty of perpetual exile and by § 4 substitutes the penalty of hard labour for any term not exceeding twenty years or imprisonment for any term as the Court by which the person is convicted may direct.

ART. 35.—Law 1 of 1886 § 2 abolishes the penalty of temporary exile and by § 5 substitutes therefor the penalty of imprisonment for any term not exceeding three years.

ART. 40.—Law 4 of 1909 provides in § 3 that sentence of death shall not be pronounced on or recorded against

a child or young person but that 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.

By § 2 a "Child" is defined as a person under the age of 14 years and a "Young person" as a person who is 14 years of age or upwards and under the age of 16 years. *Vide* also Law IV of 1911.

ART. 45.—Law 1 of 1886 § 18 repeals this Article which is replaced by §§ 8-20 of the above quoted law which provides a much more elaborate and well defined system for dealing with accomplices and receivers (*q.v.* Cyprus Revised Statutes, pp. 210-213).

ART. 59.—By Law 2 of 1908 the penalty of death was abolished and imprisonment with hard labour for life or for any shorter period was substituted.

ART. 60.—By Law 2 of 1908 the penalty of death was abolished and imprisonment with hard labour for life or for any shorter term was substituted.

ART. 61.—By Law 2 of 1908 the penalty of death was abolished and imprisonment with hard labour for life or for any shorter term was substituted.

ART. 81.—Law 1 of 1886 § 18 repeals this Article which is replaced by the provisions of that law dealing with accomplices and receivers (*q.v.*, Cyprus Revised Statutes, Law 1 of 1886, §§ 8-20, pp. 210-213).

ART. 82.—The minimum punishment of five years is abolished by the Criminal Law and Procedure Law, 1886, § 3 (Rex *v.* Ali, Nicosia Assize Court C.L.R., IX, p. 46).

ART. 83.—As to the minimum punishment and its abolition see note to Art. 82.

ART. 84.—As to the minimum punishment and its abolition see note to Art. 82.

ART. 113.—As to the abolition of the minimum punishment in cases of assault on or resistance to the Police and in cases of aiding or inciting other persons so to do *vide* note to Art. 114. It is possible that in some conceivable cases this Art. 113 might be affected by § 40 of Law 2 of 1878 in this respect.

ART. 114.—By § 40 of Law 2 of 1878 (the Police Law, 1878) Art. 114 of the Penal Code is to be read as if it contained no provision as to the minimum penalty to be imposed in cases of assault on or resistance to or aiding or inciting any other person to assault or resist any member of the police force in the execution of his duty (Cyprus Revised Statutes, p. 9).

ART. 115.—As to the abolition of the minimum punishment in cases of assault on or resistance to the police and in cases of aiding or inciting other persons so to do *vide* note to Art. 114.

ART. 121.—Law 1 of 1886 § 18 repeals this Article which is replaced by §§ 8-20 of that Law which deals with accomplices and receivers (*q.v.*, Cyprus Revised Statutes, pp. 210-213).

ART. 155.—In Rex *v.* Christodoulou the Supreme Court held that A who altered a certificate of ownership of animals, properly given to him by a Mukhtar, by inserting therein a description of other animals which he had honestly acquired but of which he had lost the certificate is guilty of an offence under this Article (C.L.R., V, p. 27).

In Rex *v.* Salih the Assize Court of Famagusta held that A who had fabricated a receipt from B for payment of horse hire which was due to B (and which A intended to and did subsequently pay to B) for the purpose of obtaining the money from Government such sum being in fact payable by Government to A only on receipt by Government of a proper receipt given to A by B was guilty of forgery (C.L.R., IX, p. 33.)

ART. 163.—By Law 2 of 1908 the penalty of death was abolished and imprisonment with hard labour for life or for any shorter term was substituted.

ART. 169.—In Rex *v.* Agathocles the Limassol Assize Court held that if a person carries a lethal weapon to a wedding or other place of assembly and stabs a person there present the carrying of the knife is evidence from which the Court may infer that he had formed the design to use the lethal weapon against any person with whom he might come into conflict (C.L.R., VIII, p. 97).

In Rex *v.* Shaban the Assize Court at Larnaca discussed very fully the question of premeditation. The Court held that the question of premeditation is a question of fact in each case; that a test often applicable in such cases is whether in all the circumstances of a case the accused has

a sufficient opportunity, after forming his intention, to reflect upon it and relinquish it. In that case A a mounted zaptieh riding on the road saw B a man near a river carrying a gun; A rode, apparently rather fast, towards B either to ask him for his gun license or possibly to seize his gun; B shot A in the body while A was mounted; there was no evidence which showed clearly exactly under what circumstances A was shot, *i.e.*, whether chasing B or standing still or trying to cut off B from retreat over the river, but A was not shot at more than two or three paces distance; it was held that there was not sufficient evidence of premeditation (C.L.R., VIII, p. 82).

In Rex *v.* Chakoli the Assize Court of Papho held that in order to justify a verdict of homicide with premeditation it is not necessary to show that the premeditated design was directed against a particular individual. A stabbed B, not fatally, and fled to get a gun and hide in the mountains; on his way to get the gun he met C who upbraided him for stabbing B; A thereupon stabbed C fatally; on arrival at the house where the gun was he threatened to disembowel D who tried to hold him; on obtaining the gun he threatened to shoot E who called out after him and finally shot and killed F a woman who remonstrated with him; he was found guilty of killing F with premeditation (C.L.R., VIII, p. 93).

In Rex *v.* Agathocles the Assize Court of Limassol held that a person who has formed a previous design to take life and takes life in consequence is subject to the death penalty although he had no previous design against the life of the person whom he killed (C.L.R., VIII, p. 97.); but in Rex v. Christophi the Larnaca Assize Court held that A who, inflamed with drink, rushed down a street brandishing a knife being resolved to kill B his rival there present and being obstructed by C killed C was guilty under Art. 174 of homicide without premeditation (C.L.R., IX, p. 111.)

ART. 170.—On the question of what is meant by premeditation *vide* note to Art. 169, *supra*.

ART. 171.—In Ioannou *v.* Triantaphyllides the Supreme Court held that if A a chemist leaves his shop in the charge of B an unqualified person having given tacit authority to B to make up prescriptions if any should be presented in A's absence and if during A's absence B is presented with a prescription by C and, in dispensing it, adds by mistake a poison which kills D the patient, A is not liable

in damages under this Article, Art. 182, the Sher' Law or the Mejellé (C.L.R., V, p. 58).

In Cyprus the practice of claims for Qisas or Diyet being made in cases of homicide to the Sher' Courts by the heirs of the victim has been obsolete since the British assumption of the administration of the Island. Cases of homicide are tried by the Assize Courts which deal with them finally once and for all subject to the prerogatives of pardon, commutation and remission of penalties vested in the person of the High Commissioner as representing His Majesty the King.

ART. 174.—On the question of what is meant by premeditation *vide* note to Art. 169, *suprâ*.

In Rex *v.* Agathocles the Assize Court of Limassol held that A who having quarrelled with B at a wedding stabbed him intending to kill but not killing him and then turning with his knife on the crowd stabbed and killed C was guilty under Art. 174 of homicide committed after committing another Jinayet and was liable to the penalty of death (C.L.R., VIII, p. 97).

In Rex *v.* Mevloud the Limassol Assize Court held that A who while in the act of ravishing B but before completing the act stopped and killed B by cutting her throat was guilty under the latter part of Art. 174 of committing homicide while he was committing another Jinayet, to wit, rape (under Art. 198), and that the fact that A had not completed the rape is not to be regarded as bringing that offence within the category of "Junhas" as an *attempt* under the Addendum to Art. 198. If the uncompleted rape was to be regarded as an attempt the latter part of Art. 174 would not apply in this case (C.L.R., IX, p. 113).

In Rex *v.* Ahmed the Limassol Assize Court held that A who by giving drugs and manual acts brought about the miscarriage of B who died as the result was guilty under Art. 174 (C.L.R., IX, p. 93).

ART. 175.—Law 1 of 1886 § 18 repeals this Article which is replaced by §§ 8-20 of that Law which deal with accomplices and receivers (Cyprus Revised Statutes, pp. 210-213).

ART. 176.—In Cyprus inquests and the circumstances under which they must be held are dealt with by the Coroners Law, No. XIII of 1894, (Cyprus Revised Statutes, pp. 379-385); *vide* also the Births and Deaths Registration Law, No. XVI of 1895, (*ib.*, pp. 390-395) and as to burial the Burials Law, No. II of 1896, (*ib.*, pp. 423-427.)

ART. 177.—In Rex *v.* Michail the Supreme Court held that a conviction for assault by a Magisterial Court and punishment therefor are not a bar to an information for homicide under Art. 177 should the person assaulted die subsequently from the effects of such assault (C.L.R., p. 29).

In Rex *v.* Frankou the Famagusta Assize Court laid down that the Courts in Cyprus in awarding compensation in criminal cases act not under the Ottoman Penal Code but under the special powers granted under Clause 159 of the Cyprus Courts of Justice Order, 1882, and that the Courts are in no way bound by the scale of compensation provided by the Sher' Law (C.L.R., VIII, p. 105).

In Rex *v.* Lambi the Supreme Court held that A having thrown a stone at B who was retiring from a quarrel and striking with it B, who happened to turn round, in the eye destroying its sight, was rightly convicted under the above Article and not under Art. 183 (C.L.R., VIII, p. 72). *Vide* also notes to Art. 1.

Addendum to Art. 177.—A struck B on the head causing a trifling wound: B went to hospital to have the wound dressed and there contracted erisypelas in the wound from which he died. It was held that A could not be convicted under the Addendum to Art. 177, but could be under Art. 179. (Limassol Assize Court, Rex *v.* Nikola, C.L.R., VIII, p. 77).

Where a person struck another without any intention of causing death or without any evidence of a serious assault, and the person struck suffered from a highly enlarged spleen which burst as a result of the blow and caused death, the offender should not be convicted under the Addition to Art. 177 but under Art. 183. (Nicosia Assize Court; Rex *v.* Christodoulo C.L.R., VIII, p. 73 and Limassol Assize Court, Rex *v.* Ioannou, *ib.*)

ART. 179.—In Rex *v.* Nikola the Limassol Assize Court held that A who struck B on the head inflicting a trifling wound which however became infected with erisypelas at the hospital to which B went to be treated, and as a result of which infection B died, should be convicted under Art. 179 and not under the Addendum to Art. 177 (C.L.R., VIII, p. 77).

ART. 180.—As to awards of compensation for injuries in Cyprus in criminal cases *vide* note to Art. 177 above.

ART. 182.—*Vide* Ioannou *v.* Triantaphyllides (C.L.R., V, p. 28) and note to Art. 171 thereon in connection with

the liability of a chemist to pay damages to the heirs of a person whose death occurred through the accidental addition of a poison to a medicine dispensed by the chemist's unqualified assistant left in charge of his shop.

In Rex *v.* Ahmed the Limassol Assize Court held that A who by giving drugs and manual acts brought about the miscarriage of B who died as the result was guilty under Art. 177, as such homicide could not be regarded as unintentional under Art. 182 but as the result of an unlawful act intentionally committed, namely, the procuring of an abortion under Art. 193 (C.L.R., IX, p. 93).

ART. 183.—As to awards of compensation in Cyprus for injuries in criminal cases *vide* note to Art. 177 above.

In Rex *v.* Lambi it was held by the Supreme Court that the throwing of a stone by A at B who was retiring from a quarrel but who happening to turn round received the stone in his eye which was destroyed thereby was not an accidental wounding under the above Article but an offence under Art. 177 (C.L.R., VIII, p. 72).

In Rex *v.* Christodoulo the Nicosia Assize Court held that A who kicked B, a girl, who was lying down, in order to make her get up and work and thereby ruptured her spleen which was enlarged no doubt from malaria and caused her death within a few hours was rightly convicted under Art. 183 (C.L.R., VIII, p. 73); and in a similar case, Rex *v.* Ioannou in which a man struck or pushed another with the result that the latter's spleen, greatly enlarged, broke and caused his death a similar sentence was passed by the Assize Court of Limassol (C.L.R., VIII, p. 73).

In Rex *v.* Georghi it was held by the Supreme Court that A who, not having a gun licence, accidentally shot and wounded B could not be convicted of a breach of the latter part of Art. 183 inasmuch as the act of wounding was not *caused* by a breach of the regulation requiring A to possess a gun licence (C.L.R., IV, p. 97).

ART. 184.—Law 1 of 1886 § 18 repeals this Article which is replaced by those sections of the Law (§§ 8-20) which deal with accomplices and receivers (Cyprus Revised Statutes, pp. 210-213).

ART. 185.—Law 1 of 1886 § 18 repeals this Article which is replaced by the sections of that Law (§§ 8-20) which deal with accomplices and receivers (Cyprus Revised Statutes, pp. 210-213).

ART. 186.—In Rex *v.* Sava the Nicosia Assize Court held that a man is not justified in voluntarily killing another in self defence unless in good faith he reasonably believes such killing to be necessary for the purpose of saving himself from death or most serious bodily harm; nor is he justified, if in self defence, without the intention to cause death, he uses such violence as to kill his assailant, unless in good faith he reasonably believes that such violence is necessary for the purpose of defending himself. In determining whether in any case a man is justified in killing his assailant in self defence, the Court will take into consideration—

(*a*) The nature of the violence threatened by the assailant.

(*b*) The nature of the weapon used in self defence.

In this case the general principles governing—

(1) The justification of homicide on the ground of defence of self or others under Art. 186.

(2) Its excusability on the ground of retaliation under Arts. 189 and 190

were considered and explained.

In this case A, after having earlier in the evening had some words with B, returned home late and found B in his (A's) court-yard shouting insults at his (A's) wife. B turned to flee but, A being between him and the door of the yard, B's escape was thus cut off by A; B drew a knife and stabbed A twice; A who had a heavy stick beat B very severely, took away the knife and turned B into the street in a dying condition; B expired the same night; B's body was a mass of wounds. The Court held that A could not take refuge under Art. 186 but was partly excused under Art. 189 (C.L.R., VIII, p. 102). In Rex *v.* Ramadan and others the principles governing homicide in self defence or in defence of others, as laid down in the case of Rex *v.* Sava, were further explained and illustrated.

One of the accused being suddenly assaulted by another man with a knife and stabbed and having closed with his assailant drew a knife and stabbed him. While they were so engaged, his companion, the other accused, who was in no immediate danger, also drew a knife and stabbed the assailant, who succumbed to his wounds. The Assize Court of Nicosia held that both accused were entitled to be acquitted, the one on the ground that he was acting in self defence; the other on the ground that he was acting in defence of the life of another (C.L.R., IX, Prelim. Issue, 6, p. 1.)

ART. 187.—In Rex *v.* Haji Omer the Nicosia Assize Court held that Art. 187 does not apply to the case where a man kills a thief whom he finds by night on his premises and who has already effected an entry.

In this case A in bed in his house, roused by his wife, got up and through the window saw B, whom he (A) did not then recognise, in his (A's) yard stealing his (A's) sheep; A called to B but received no answer; A then shot B killing him; A then ran and reported to the authorities and it was *then* found that B was a notorious thief, was barefooted and carrying a dagger. Accused was sentenced under Art. 174; the sentence was, on the recommendation of the Court, commuted by His Excellency the High Commissioner to one of six months (C.L.R., VIII, p. 103).

ART. 189.—For views on partial excuse *vide* note to Art. 186, *suprâ*.

ART. 190.—For views on partial excuse *vide* note to Art. 186, *suprâ*.

ART. 193.—In Rex *v.* Ahmed the Limassol Assize Court held that A who, by giving drugs and manual acts brought about the miscarriage of B who died as the result was guilty under Art. 174 (C.L.R., IX, p. 93).

Addendum to Art. 198.—In Rex *v.* Yeorghi the Supreme Court held that a man who attempted to have carnal knowledge of a married woman by inducing her to believe that he was her husband was guilty under the Addendum to Art. 198 (C.L.R., VI, p. 126).

Addendum to Art. 200.—In Rex *v.* Kouloumbrides the Supreme Court held that A who seduced a young woman of the age of twenty-one under promise of marriage and afterwards refused to marry her could be rightly convicted under the Addendum to Art. 200 (C.L.R., VIII, p. 68).

Addendum to Art. 201.—In Rex *v.* Osman the Supreme Court held that a man after divorcing his wife for adultery cannot subsequently institute criminal proceedings against her under the above Addendum to Art. 201 (C.L.R., II, p. 2). In Rex *v.* Christodoulou and Mehmed it was further held that a Christian man whose wife, also a Christian, embraced the Moslem religion cannot prosecute her or her paramour for adultery because she by becoming a Moslem is *ipso facto* under Ottoman Law divorced from her husband (C.L.R., II, p. 127).

In Rex *v.* George and Kyprianou the Supreme Court held that it was not necessary for supporting a conviction

that the accused should be actually observed in the act of adultery but that adultery could be inferred from attendant circumstances (C.L.R., VI, p. 6).

In Rex *v.* Theori and Solomou the Supreme Court held that a man could not withdraw a prosecution against his wife and her paramour after an information had been filed against them but before judgment had been given (C.L.R., VI, p. 14).

In Rex *v.* Kypri and Hieromonachos the Supreme Court held that evidence to justify a conviction for adultery must be evidence of a particular criminal act committed under particular circumstances; that evidence of an alleged act of adultery, which is not believed by the Court, does not justify such a conviction, even though it is supported by ample evidence of a general description tending to show immoral relations between the parties (C.L.R., IX, Prelim. Issue, 7, p. 2.)

Addendum to Art. 206.—Law 1 of 1886 § 18 repeals so much of Art. 206 and the Addendum thereto as relates to a person assisting another in the forceable abduction of a woman or female child; but the repealed matter is replaced by §§ 8-20 of that Law which deal with accomplices and receivers (Cyprus Revised Statutes, pp. 210-213).

ART. 213.—*Vide* the decision In *re* Hassan referred to in note to Art. 214, *infrâ*.

In Rex *v.* Mahmud it was held by the Supreme Court that a gathering of four persons is capable of being regarded as "in public" (C.L.R., VIII, p. 109).

In Rex *v.* Ianni the Supreme Court held that it is open to any person charged under Art. 213 to plead justification and to prove the truth of the words complained of (C.L.R., VIII, p. 117).

ART. 214.—In *re* Hassan the Supreme Court held that a person using slanderous or insulting words of another person even though the slandered person be not present is liable to conviction under Art. 214. (C.L.R., II, p. 180.) In the same case the Court held that Art. 213 must be read with Art. 214 the former governing the latter with regard to the slander being spoken publicly (*v.s.*).

ART. 221.—In Rex *v.* Omer the Supreme Court held that a person may be convicted under Art. 221 of larceny with violence even though such violence actually leaves traces of wounds (C.L.R., VIII, p. 8).

ART. 222.—In Rex *v.* Kokinofta the Supreme Court held that it was not necessary to constitute the crime of theft in Ottoman Law that the thing taken should have been taken for the sake of gain (*lucri causâ*) but that it is sufficient if it was taken with the intention of depriving the owner of the property; in the case in question A and others broke into B's stable at night and took away three mules which were ridden a short distance and then slaughtered (C.L.R., VIII, p. 6).

Addendum to Art. 230.—Law 1 of 1886 § 18 repeals such part of Art. 230 and the Addenda thereto as provides for a punishment for persons who knowingly assist or conceal thieves, who knowingly conceal any stolen property, or who receive any of the proceeds of a robbery knowing the same to have been stolen, but not that portion which relates to persons who having knowingly assisted or concealed thieves, or having knowingly concealed any stolen property spontaneously give information against the actual thieves; the repealed portion is replaced by that part of Law I of 1886 which deals with accomplices and receivers (*q.v.*, §§ 8-20, Law 1 of 1886; Cyprus Revised Statutes, pp. 210-213).

ART. 231.—This Article is repealed and replaced in Cyprus by the Bankruptcy Law, 1911 (Law No. XIV).

ART. 232.—This Article is repealed and replaced in Cyprus by the Bankruptcy Law, 1911 (Law No. XIV).

ART. 233.—In Rex *v.* Hafiz the Supreme Court held that A, who by a fraudulent and false pretence induced B to sign a bond as security for the payment by A of moneys to third parties, could not be prosecuted under the above Article even though B had been sued by the third parties and compelled to pay them the amount of the security bond (C.L.R., III, p. 84).

ART. 249.—In Rex *v.* Nicola the Supreme Court held that the malicious breaking or damaging of the shutters or doors of a house constitutes an offence under Art. 249 (C.L.R., VIII, p. 30).

ART. 260.—Law 8 of 1899 (the Protection of Public Notices Law, 1899) repeals such part of Art. 260 as relates to the removal and tearing down of notices and replaces it by somewhat more elaborate provisions (*q.v.*, Cyprus Revised Statutes, p. 497).

In Rex *v.* Yossifi the Supreme Court held that the Court might inflict upon a conviction under Art. 260 a fine or imprisonment or both (C.L.R., VI, p. 31).

In Rex *v.* Kokkini the Supreme Court held that in a prosecution for disturbing the peace under Art. 260 it is not necessary for a conviction that it should be proved that the peace of the inhabitants was actually disturbed, but that it is sufficient if the disorder complained of was of such a nature as to be calculated to produce such a disturbance of the peace.

Explanatory Note to reference numbers of Articles in the Index.

Art.	
1	would refer to the Article as it appeared in the original Code.
1a	would refer to the 1st addendum to the original Article.
1a²	would refer to the 2nd addendum to the original Article.
1*	would refer to the Article as re-issued after repeal.
1**	would refer to the Article as re-issued after the repeal of its first re-issue.
1*a	would refer to the 1st addendum to the 1st re-issue of the Article.
1**a	would refer to the 1st addendum to the 2nd re-issue of the Article.
1*a²	would refer to the 2nd addendum to the 1st re-issue of the Article.
1**a²	would refer to the 2nd addendum to the 2nd re-issue of the Article.
1*a²**	would refer to the 2nd addendum as re-issued, after repeal, to the re-issued Article.

And similarly.

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