

Foot Notes

1. Constitution of India, art.48(a)
2. Id. art.51(a)(g).
3. For regulation as a precise legislative technique, see, Summers, "The technique Element in Law", 59 California Law Review 733(1971).
4. Sanction is that part of a Law which inflicts a penalty for its violation or bestows a reward for its observance. Sanctions are of two kinds - those which redress civil injuries, called civil sanctions and those which redress crimes are called penal sanctions. See John Bouvier, Law Dictionary, vol.II at 3005 (1914).
5. Geneva Richardson, et al., Policing Pollution - a study of regulation and enforcement 145(1982).
6. John Austin, The Provinces of Jurisprudence (1954).
7. A detailed account of these issues may be found in the papers of another members of the group. In this paper, however, these issues are confined to the extent they are reflected in sanction provisions.
8. M.C.Mehta v. Union of India, AIR 1987 SC 965
9. Hughes, "Criminal Omissions", 67 Yale L.J. 590 (1958); Kirchheimer, "Criminal Omissions", 55 Harvard L.Rev. 615 (1942).

10. Glanville Williams, 8 Current Legal Problems
123 (1955).
11. Wood v. Currey 57 Cal 209.
12. Harding v. Prince (1948) 1 K.B.700.
13. T.W.C. Turner, Modern Approach to Criminal Law
277
14. Id. at 206.
15. Gotlieb, 19 Md.L.Rev.271(1956).
16. Sinnasamy Selvanayagan v.R. (1951) AC 87.
17. T.W.C.Turner(ed.) Outline of Criminal law
19th ed.
18. And specially in the sections concerned with
water.
- 19.I.P.C., S.24.
20. Id. S.25.
21. Id. S.26.
22. Id. S. 282, 284, 285
23. Id. S. 284, 285.
24. Id. S. 279, 280, 284, 285.
25. Id. S.281.
26. Ibid.
27. Id. S.280
28. Id. S.378.

29. Id. 425, 430, 431, 432, 433.
30. (1875) L.R.2CCR 154.
31. (1899) 1 Q.B.20.
32. (1963) 1 All E.R. 223.
33. Id. at 228.
34. Sayre, 33 Col.L.Rev. 68 ()
35. These grounds will be tested in the context of water resources in the same section.
36. 2 MLJ 312 (1958)
37. ibid.
38. He who does a thing by the instrumentality of another is considered as if he had acted in his own person.
39. Let the master answer.
40. A personal action ends with the death of a person.
41. Glanville Williams, Criminal Law, 2nd ed., 285-286 (1961); JLIJ Edwards, Mens Rea in statutory offences 217 (1955)
42. 172 E.R. 1246.
43. Id. at 1250.
44. (1886) L.R. 1 Q.B. 702.
45. Jyoti Prasad Gupta v. Emperor (1931) 53 All 648.
46. Setalwad, The Common Law in India 139

47. Mayne, Criminal Law of India, 4th ed, at 9;
Ratanlal Dhirajlal, Law of Crimes 19th ed.
at 148; SPS Gour Penal Law of India, 6th ed. at
297(1955).
48. See I.P.C. section 40, para 2.
49. 269/290- Public nuisance
291- continuance of public nuisance
277- Fouling of water
378- Theft
425- mischief
430- mischief to works of irrigation
431- mischief to public road, bridge, canal or
river
432- mischief of public drainage
280- rash navigation of vessel
281- exhibition of false light mark
282- conveying persons by water
283 obstruction in public way
433- mischief by destroying a sea mark
437- mischief to a docket vessel
439- Intentionally running vessel aground
50. Noma Rema (1904) 6 Bom. L.R. 52.
51. Vitti Chokhan (1881) 4 Mad.229.
52. Hari (1885) Un-rep. Cr.Cas.215
53. Nilappa Dayappa (1898) Un-rep. Cr.Cas.963.
54. Mahadeo Prasad 45A 680.
55. Sheikh Arif. 35 C 437.

56. Syton Chinna Margaiya (1885) 1 Weir 510
57. Athinerayana Swamy Pillai v. Subbier (1885) 1 weir 505.
58. Indra Talvar v. Narasiha 291 C 670.
59. Budda Reddi 44 MLJ 234.
60. Nafarchand Bhattacharji v. Halaluddin Mondel 8 CWN 370.
61. Mohur Singh v. Lalloo, 3ALJ 142.
62. Fateh Din 4 I.C 363.
63. Conclusion drawn from a study done by P.K.Chaudhary, Rema Devi & Furquan Ahamad of I.L.I.
64. Kaloo Khan v. Adya Nath Haldar 130 IC (c) 503; Changel v. Basermal 13 I.C. 214; Madhas Hari 15 C 388; Charu-Nuyaib 2 C354.
65. Mandu Paidu , 22 I.C.429.
66. Reva Pothadu , 5 M 390.
67. Ibid.
68. Kaloo Khan v. Adyar Nath Haldar 130 I.C.(c)503.
69. The other S. being 279, 283, 284, 285, 286, 287, 288, 289, 304A, 336, 337and 338.
70. You must so use your own so that you cause no injury to another.
71. For example Bengal Irrigation Act, 1876; Northern India Canal and Drainage Act, 1873; Maharashtra Irrigation Act, 1976.

72. Report of the Departmental Committee on the Probation Services (The Morrison Report) (Her Majesty's Stationary Office, London, 1962).
73. O.Chinappa Reddi, "Place of Probation in Criminal Justice System", 7 Social Defence No.25, 26-32(1971).
74. S.K.Bhattacharya, Probation Services in India 15 (1986)
75. S.562
76. Rattan Lal v. State of Punjab, AIR 1965 S.C.444
77. S.2
78. Probation of Offenders Act, 1958, section 3.
79. Id. S.4.
80. The corresponding provision regarding bond is contained in section 441 of the Cr.P.C.1973.
81. Supra note 79, proviso to section 4(1). The corresponding provision is found in Cr.P.C.1973, S.360.
82. This type of provision exists in some fisheries and irrigation Acts, enacted in pre-independence India. Similarly the Cr.P.C., 1973 contains identical provisions under S.357(1) and 357(5).

83. Supra note 78, section 6.
84. Iqbal Singh v. Inspector General of Police
(1970) 72 PIR (D) 220.
85. Feather v. Queen (1865) 122 E.R.1191.
86. A.G. v. Keyzers Royal Hotel (1920)AC 530-531.
87. Banibridge v. Post Master General(1906)
1 K.B.178.
88. Supra note 1.
89. Wade, Administrative Law 663 ().
90. (1954) 1 All E.R. 550-54.
91. Article 300(1) provides that "The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the and may, subject to any provisions which may be made by Act of Parliament or of the or of the legislature of such state enacted by virtue of powers conferred by this Constitution, she or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Provinces or the corresponding Indian states might have sued or been sued if this Constitution had not been enacted".

92. (1861) 5 Bom.H.C.R. (App.A.1).
93. State of Rajasthan v. Vidyavati
AIR 1962 S,C. 935.
94. Kasturi Lal v. State of U.P. AIR 1965 SC
1048.
95. Province of Bombay v. Khusaldas (1950)
S.C.J.696 (per Mukherjea J.).
96. M.C.Mehta v. Union of India, AIR 1987
S.C.965.
97. Upendra Baxi, Environment Protection Act:
An Agenda for Implementation 42(1986)
98. State of Rajasthan v. Vidyavati
AIR 1962 S.C. 940.
99. Emphasis added.
100. Vidyavati v. Lokumal AIR 1957 Raj 307.
101. A.I.R. 1962 All.233.
102. (1882) 5 Mad. 273.
103. Kasturi Lal v. State of U.P.
A.I.R. 1965 S.C. 1048.
104. Public Prosecution v. Poola Joci
AIR 1966 A.P. 99.
105. See State of Bombay v. Pandurang Vinayak
AIR 1953 SC 244.
106. v. State of Bihar AIR

para

107. 1966 Punjab LR 146.
108. Municipal Corporation of Delhi v. Bhadradas(1972) 2 Cr.L.J. 1436.
109. Public Prosecutor v. Kellor Rayaram Cooperative Mill Supply Society Ltd.,
AIR 1964 Mad.302; Public Prosecutor v. Neelam Subramanyam AIR 1960 AP 584.
110. Supra note 3, para 13.
111. Id., para 15A.
112. Id., para 10.
113. AIR 1983 SC 67.
114. AIR 1987 SC 987.
115. Id. at 984
116. Ibid.
117. Ajay v. Khalid AIR 1981 SC 487; Minhas v. Indian Statistical Institute
AIR 1984 SC 363; Manohar v. Commissioner
AIR 1985 SC 364.
118. Sitaram v. Shanta Prasad AIR 1966 SC 1697
119. Ramanna v. I.A.A. AIR 1979 SC 1628
Kalra v. P.E. Corporation AIR 1984 SC 1361.
120. Minhas v. Indian Statistical Institute
AIR 1984 SC 487; Rammanna v. I.A.A. AIR 1979
S.C. 1628.
121. APRTC v. ITO AIR 1966 SC 521
122. M.C.Mehta v. Union of India
AIR 1987 S.C. 1097.

123. Ibid.
124. Id. at 1098
125. Id. at 1121
126. Ibid.
127. U. Baxi, Environment Protection Act : An Agenda for Implementation 48 (1986).
128. Scale 1989 Supplement.