

THE



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## PART VI.

### BILLS OF THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill, and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Governor General, under the 22nd of the Rules for the Conduct of the Legislative Business of the Council of the Governor General:—

#### THE CODE OF CRIMINAL PROCEDURE, 1879.

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537. Power of Government of India to transfer criminal cases and appeals.
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(a) the Commissioner of Police or the Police in the towns of Calcutta, Madras and Bombay;

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Act X. 1872, ss. 1, 2, 111, 529, 535, 540, 541.  
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Act X. 1872, ss. 1, 2, 111, 529, 535, 540, 541.  
Act X. 1875, s. 143.  
Act IV, 1877, s. 3.  
c. g., Act V of 1869.

(a) the Commissioner of Police or the Police in the towns of Calcutta, Madras and Bombay;

(b) heads of villages in the Presidency of Fort Saint George;



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(c) village Police-officers in the Presidency of Bombay;

(d) any officer duly authorized to try petty offences in military bázárs at cantonments and stations occupied by the troops of the said Presidencies respectively.

Act X, 1875, s. 2.  
Act X, 1872, s. 2, para. 1.  
2. On and from the first day of January 1880, the enactments mentioned in the first schedule shall be repealed to the extent specified in the third column of the said schedule, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

Act X, 1872, s. 2, last para., s. 10.  
All notifications published, proclamations issued, powers conferred, courts established, local limits defined, sentences passed and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the first day of January 1880, shall be deemed to have been respectively published, issued, conferred, established, defined, passed and made under the corresponding section of this Code.

Act X, 1872, s. 2, paras. 3, 4.  
3. In every enactment passed before this Code comes into force, in which reference is made to, or to any chapter or section of the Code of Criminal Procedure, Act No. XXV. of 1861, or Act No. X. of 1872, such reference shall be taken to be made to this Code or to its corresponding chapter or section.

In every such enactment the expressions "Officer exercising (or 'having') the powers (or the 'full powers') of a Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class," and "Magistrate of the third class;" the expression "Magistrate of a division of a district" shall be deemed to mean Sub-divisional Magistrate, and the expression "Magistrate of Police" shall be deemed to mean Presidency Magistrate.

Act IV, 1877, s. 10.  
Act X, 1872, s. 4.  
Act IV, 1877, s. 6.  
4. In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

(a) "Complaint" means the allegation made to a proper officer that some person, whether known or unknown, has been guilty of an act which amounts to an offence:

(b) "Investigation" includes all the proceedings by the Police authorized by this Code for the collection of evidence.

"Inquired into" omitted.  
(c) "Inquiry" includes every inquiry conducted under this Code by a Magistrate or Court:

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(d) "Judicial proceeding" means any proceeding in the course of which evidence is or may be taken: Penal Code, 193.  
I. L. R., I All., 6.  
I Mad. H. C. Rep. 46.

(e) "Writing" includes "printing," "lithography," "photography" and "engraving":

(f) "To sign" means to affix a name or mark to an instrument or record in writing or by means of a stamp:

"Sub-division." (g) "Sub-division" means a sub-division of a District: New.

(h) "Province" means the territories for the time being under the administration of any Local Government:

(i) "Presidency-town" means the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William, Madras or Bombay:

(j) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces and the Chief Court of the Pánjab: Act X, 1875, s. 3, altered  
Another definition  
infra, s. 269.

In other cases "High Court" means the highest Court of criminal appeal or revision for any local area:

(k) "Chief Justice" includes also the senior Judge of a Chief Court:

(l) "Advocate General" includes also a Government Advocate, or where there is no Advocate General or Government Advocate, such officer as the Local Government may from time to time appoint in this behalf: Act X 1875, s. 3.  
Act X, 1877, s. 539.

(m) "Clerk of the Crown" includes any officer especially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown:

(n) "Public prosecutor" means any person appointed under section 502, and includes any person acting under the directions of a public prosecutor; and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction: Sec 11 Bom-103.  
Act X, 1872, s. 57.  
Act X, 1875, s. 3.

(o) "Pleader" used with reference to any proceeding in any Court means a pleader authorized to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (2) any other person appointed with the permission of the Court to act in such proceeding.

(p) "Officer in charge of a Police-station" includes, when the officer in charge of the station is absent or ill, the Police- Act X, 1872, s. 130.



officer next in rank present at the Police-station above the rank of Constable:

Bom. 98.

(q) "Sessions case" means a case triable exclusively by the Court of Session, or which the Magistrate commits to the Court of Session, though he might have tried it himself:

"Sessions case."

(r) "Offence" means anything made punishable by any law for the time being in force:

"Offence."

(s) "Cognizable offence" means an offence for and "cognizable case" means a case in, which a Police officer

"Cognizable offence."  
"Cognizable case."

may under any law for the time being in force, arrest without warrant:

"Non-cognizable offence" means an offence for, and "Non-cognizable case" means a case in, which a Police officer may not arrest without warrant:

"Non-cognizable offence."  
"Non-cognizable case."

(t) "Bailable offence" means an offence shown as bailable in the second schedule or which is made bailable by any other law for the time

"Bailable offence."

"Non-bailable offence."

being in force: and "non-bailable offence" means any other offence:

(u) "Warrant case" means a case relating to an offence punishable with death, transportation, whipping, or imprisonment for a term exceeding six months:

"Warrant case."

(v) "Summons case" means a case relating to an offence not punishable:

"Summons case."

(w) "European British subject" means—

Act X, 1872,

s. 71.

Act X, 1875,

s. 2,

extended

to persons

naturalized

in British

India.

(1) any subject of Her Majesty naturalized in British India, or born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand, or in the Colony of the Cape of Good Hope or Natal;

(2) any child or grand-child of any such person by legitimate descent:

(x) "Chapter" means a chapter of this Code: "Chapter." "Schedule." "schedule" means a schedule hereto annexed:

(y) "Place" includes also a house, building and vessel: "Place."

Act XI, 1874,

s. 2.

Words which refer to acts done extend also to illegal omissions, and

s. 7,

"special

law," "local

law."

all words and expressions used herein and defined in the Indian Penal Code, and not herein before defined, shall be deemed to have the meanings attached to them respectively by that Code.

Act X, 1872,

ss. 6, 7, 11.

5. All offences under the Indian Penal Code shall, and all offences under any other law shall, in the absence of any enact-

ment for the time being in force regulating the mode of inquiry or trial, be enquired into and tried according to the provisions hereinafter contained.

Trial of offences against other laws.

Act X, 1872,

ss. 6, 8,

para. 1.

Act X, 1875,

s. 6.

Act IV, 1877,

s. 14.

## PART II.

### CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

#### CHAPTER II.

##### OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

###### A.—Classes of Criminal Courts.

6. Besides the High Courts and the Courts of Criminal Sessions, there shall be five classes of Criminal Courts in British India, namely:—

I.—Courts of Session:

II.—Courts of Presidency Magistrates:

III.—Courts of Magistrates of the first class:

IV.—Courts of Magistrates of the second class:

V.—Courts of Magistrates of the third class.

###### B.—Territorial Divisions.

7. Every Province (excluding the Presidency-towns) shall be a Sessions Division, or shall consist of Sessions Divisions;

Act X, 1872,

ss. 12, 39.

and every Sessions Division shall, for the purposes of this Code, be a District or consist of Districts.

The Local Government may from time to time alter the limits or, with the previous sanction of the Governor General in Council, the number of such Divisions and Districts.

Power to alter Divisions and Districts.

Act X, 1872,

ss. 13, 38.

The existing Sessions Divisions and Districts shall be Sessions Divisions and Districts respectively, unless and until they are so altered.

Existing Divisions and Districts maintained till altered.

Act XI, 1874,

s. 4.

Act X, 1872,

s. 14.

Every Presidency-town shall, for the purposes of this Code, be deemed to be a District.

Presidency-towns to be deemed Districts.

8. The Local Government may divide any District outside the Presidency Towns into sub-divisions, or constitute any portion of any such District a Sub-division, and may from time to time alter the limits of such Sub-divisions.

Power to divide Districts into sub-divisions.

Act X, 1872,

s. 39.

Act X, 1872,

s. 40.

All existing Sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

Existing Sub-divisions maintained.



C.—*Courts and offices outside the Presidency-towns.*

Act X, 1872, ss. 15, 16, and 17. 9. The Local Government shall establish a Court of Session for every Sessions Division, and appoint a Judge of such Court.

It may also appoint Additional Sessions Judges, Joint Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

Act X, 1872, s. 35. 10. In every District outside the Presidency-towns, the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

Act X, 1872, s. 55. 11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the District in criminal matters, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Act X, 1872, ss. 37, 49. 12. The Local Government may appoint as Subordinate Magistrates many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any District outside the Presidency-towns; and the Local Government, or the District Magistrate subject to the control of the Local Government, may define local areas within which such persons may exercise the powers with which they may respectively be invested under this Code.

In the absence of any such definition, such persons may exercise such powers throughout such District.

Act X, 1872, s. 40. 13. The Local Government may place any Magistrate of the first or second class in charge of a Sub-division.

Such Magistrates shall be called Sub-divisional Magistrates.

The Local Government may, if it thinks fit, delegate its powers under this section to the District Magistrate.

Act X, 1872, s. 42. Act XI, 1874, s. 17. 14. The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the Presidency-towns.

Such Magistrates shall be called Special Magistrates.

Act No. XI of 1874, s. 5. With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by the first paragraph of this section.

Act X, 1872, s. 50. 15. The Local Government may direct any two or more Magistrates in any place outside of the Presidency-towns to sit together as a Bench, and may invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases or such classes of cases, only, and within such local limits, as the Local Government thinks fit.

*Sufferudin v Ibrahim*  
I. L. R. 3.  
Calc. 754.

Except as otherwise provided by any order of the Local Government under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members belongs, and who is present taking part in the proceedings as a member of the Bench, and as far as possible shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Act X, 1872, ss. 52, 53. 16. The District Magistrate may from time to time, subject to the control of the Local Government, make rules consistent with this Code for the guidance of Magistrates' Benches in his District respecting the following subjects:—

- Power to frame rules for guidance of Benches.
- the classes of cases to be tried;
  - the times and places of sitting;
  - the constitution of the Bench for conducting trials;
  - the mode of settling differences of opinion which may arise between the Magistrates in session.

Act X, 1872, s. 37, cl. 2. 17. All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and

every Magistrate (other than a sub-divisional Magistrate) and Bench exercising powers in a sub-division shall be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

Act X, 1872, s. 37, cl. 2. Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—*Courts of Presidency Magistrates.*

Act IV, 1877, ss. 8, 9. 18. The Local Government shall from time to time appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the Presidency-towns, and shall appoint one of such persons to be Chief Magistrate for each such town.

Any two or more of such persons may (subject to the rules made by the Chief Magistrate



under the power hereinafter conferred) sit together as a Bench.

Act IV, 1877, s. 8, para. 5. 19. Every Presidency Magistrate shall exercise jurisdiction in all places within the Presidency town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port dues.

Act IV, 1877, s. 8, last para., s. 9, last para. 20. Every Presidency Magistrate in the town of Bombay shall exercise all jurisdiction which under any law in force immediately before the first day of April 1877, was exercised in that town by the Court of Petty Sessions;

Provided that appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

Act IV, 1877, s. 9. 21. Every Chief Magistrate shall exercise in the Presidency town for which he is appointed all the powers which by any law or rule in force at the time this Act comes into force are required to be exercised by any Senior or Chief Magistrate, and may from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

(a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;

(b) the times and places at which Benches of Magistrates shall sit;

(c) the constitution of such Benches; and

(d) the mode of settling differences of opinion which may arise between Magistrates in session.

*E.—Justices of the Peace.*

Act II, 1869, s. 3. 22. The Governor General in Council, so far as regards the whole or any part of British India outside the Presidency-towns,

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

Act II, 1869, s. 4. 23. The Governor General in Council or the Local Government, so far as regards the town of Calcutta.

and the Local Government, so far as regards the towns of Madras and Bombay,

may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom such Governor General in Council or Local Government (as the case may be) thinks fit.

24. Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, shall be deemed to have been appointed under section 22 by the Governor General in Council to act as a Justice of the Peace for the whole of British India other than the same towns.

Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

25. In virtue of their respective offices, the Governor General, the Ordinary Members of the Council of the Governor General and the Judges of the High Courts are Justices of the Peace within and for the whole of British India, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

*Suspension and Removal.*

26. All Judges of criminal Courts other than the High Courts, and all Magistrates, may be suspended or removed by the Local Government: Provided that such Judges and Magistrates as now are liable to be suspended or removed by the Governor General in Council shall continue to be so liable.

27. The Governor General in Council may suspend any Justice of the Peace appointed by him, and the Local Government may suspend or dismiss any Justice of the Peace appointed by it.

CHAPTER III.

POWERS OF COURTS.

*A.—Description of offences cognizable by each Court.*

28. Any offence under the Indian Penal Code may be tried by the High Court or Court of Session or by any other Court by which such offence is shown in the seventh column of the second Schedule to be triable.

29. Any offence under any other law shall, where any Court is mentioned in this behalf in such law, be tried by such Court; and when no Court is so mentioned, may be tried by the High Court or by any Court constituted under this Code:

Provided that no Magistrate of the second class shall try any such offence which is punishable with imprisonment for a term which may extend to three years, and no Magistrate of the third class shall try any such offence which is punishable with imprisonment for a term which may extend to one year.



Act X, 1872, s. 36. 30. In the territories respectively administered by the Lieutenant-Governor of the Panjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, and Assam, and in those parts of the other Provinces in which there are Deputy Commissioners or Assistant Commissioners, the local Government may invest the District Magistrate with power to try as a Magistrate all offences not punishable with death.

*B.—Sentences which may be passed by Courts of various Classes.*

Act X, 1872, s. 15, paras. 2 and 17. Sentence which High Court or Sessions Judge may pass. 31. A High Court may pass any sentence authorized by law.

A Sessions Judge, Additional Sessions Judge or Joint Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by such Judge shall be subject to confirmation by the High Court.

Act X, 1872, s. 18. An Assistant Sessions Judge may pass any sentence authorized by law except a sentence of death, transportation or imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding three years passed by any Assistant Sessions Judge shall be subject to confirmation by the Sessions Judge.

Act X, 1872, s. 20. 32. The Courts of Magistrates may pass the following sentences, namely:—

Act IV, 1877, s. 11. (a.) Courts of Presidency Magistrates and of Magistrates of the first class : Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law ; Fine not exceeding one thousand rupees ; Whipping.

(b.) Courts of Magistrates of the second class : Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law ; Fine not exceeding two hundred rupees ; Whipping.

(c.) Courts of Magistrates of the third class : Imprisonment for a term not exceeding one month ; Fine not exceeding fifty rupees.

The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

Act X, 1872, s. 20, Expl. s. 309, para. 3. See I. L. R. 1, Mad. 77. 33. The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law: Provided that the term is not in excess of the Magistrate's powers under this Code :

Act X, 1872, s. 309, para. 2. As to para. 1 of that section see. Provided also that in no case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence shall the period of imprison-

ment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence, otherwise than as imprisonment in default of payment of the fine. Act I. of 1868. Act IV, 1877, s. 12, omitting paras. 1 & 3.

34. The Court of a District Magistrate specially empowered under section 30 may pass any sentence of imprisonment for a term not exceeding seven years, including such solitary confinement as is authorized by law, or of fine, or of whipping, or of any combination of these punishments authorized by law. Act X, 1872, s. 36. Higher powers of certain District Magistrates.

But any sentence of imprisonment for a term exceeding three years passed by any such Court shall be subject to the confirmation of the Sessions Judge.

35. When a person is convicted, at one trial of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict: such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct. Act X, 1872, s. 314. Act X, 1875, s. 109. Act IV, 1877, s. 13. Sentence in cases of simultaneous conviction of several offences.

It shall not be necessary for the Court, by reason only of the aggregate punishments for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court :

Provided that in no case shall such person be sentenced to punishment for a longer period than four years : Maximum term of imprisonment.

Provided also that, if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishments shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

For the purpose of confirmation or appeal, a combined sentence passed under this section in case of simultaneous convictions for several offences shall be deemed to be a single sentence. I. L. R. 1 Bom. 223.

*C.—Ordinary and Additional Powers.*

36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third class have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers." Act X, 1872, ss. 22, 24, 27, 30. Ordinary powers of Magistrates.

37. In addition to his ordinary powers, any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which a Magistrate of such class may be invested by the Local Government or District Magistrate. Act X, 1872, ss. 23, 25, 27. Additional powers conferrable on Magistrates.



D.—Conferral, Continuance and Cancellation of Powers.

- Act X, 1872, s. 43. 38. In conferring powers under this Code, the Local Government may empower persons specially by name, or classes of officials generally by their official titles.
- Act X, 1872, s. 56. 39. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area, is transferred to an equal or higher office of the same nature within a like local area, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.
- I. L. R., 2 Cal., 117. 40. The Local Government may vary or cancel any powers conferred on any person under this Code.

PART III.  
GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES AND POLICE.

- Act X, 1872, s. 91. Act IV, 1877, s. 247. 41. Every person is bound to assist a Magistrate or Police-officer demanding his aid, whether within or without the Presidency-towns,
  - (a) in the prevention of a breach of the peace, or of any injury attempted to be committed to any public property;
  - (b) in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest, or
  - (c) in the suppression of a riot or affray.
- Act X, 1872, s. 89. Act IV, 1877, s. 246. 42. Every person, whether within or without the Presidency-towns, aware of the commission of any offence punishable under the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information of the same to the nearest Magistrate or to the officer in charge of the nearest Police-station.
- Act X, 1872, s. 90. 43. Every village-headman, village-watchman Village-headmen, land-holders and others bound to report certain matters. owner or occupier of land, or the agent of any such owner or occupier, and every Native officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest Police-station, any information which he may obtain respecting—
  - (a) the residence of any notorious receiver or vendor of stolen property in the village of which

he is headman or watchman, or in which he owns or occupies land, or is agent, or collects revenue or rent, as the case may be;

- (b) the resort to any place within the limits of such village of any person whom he knows, or reasonably suspects, to be a thug or robber;
- (c) the commission of or intention to commit any non-bailable offence in or near such village;
- (d) the occurrence therein of any sudden or unnatural death.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

- 44. In making an arrest, the Police-officer or other person making the arrest how made. same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.
  - If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such Police officer or other person may use all means necessary to effect the arrest.
- 45. If any person acting under a warrant of arrest, or any Police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or in charge of, such place shall, on demand of such person acting as aforesaid or such Police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.
  - Search of place entered by person sought to be arrested.
- 46. If ingress to such place cannot be obtained under section 45, it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant cannot be obtained without affording the person to be arrested an opportunity of escape, for a Police-officer, to enter such place and search therein, and
  - Procedure where ingress not obtainable.
- in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.
  - Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to the custom of her caste, does not appear in public, such person or police officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.
- 47. Any Police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house in order to liberate
  - Power to break open doors for purposes of liberation.



himself or any other person who having lawfully entered for the purpose of making an arrest, is detained therein.

Act X, 1872, s. 182.

No unnecessary restraint.

48. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Act X, 1872, s. 387.

49. Whenever a person is arrested by a Police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail, but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the Police-officer to whom such private person makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing apparel, found upon him.

A list of such articles shall be forwarded with the daily diary or with the final report in the case.

New, L., p. 50.

50. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the person making the arrest is required by this Code to produce the person arrested.

Power to seize offensive weapons.

*B.—Arrest without Warrant.*

Act X, 1872, s. 92, omitting Clauses 1 and 3.

When Police may arrest without warrant.

51. Any police-officer may, without order from a Magistrate and without a warrant, arrest—

*firstly*—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or a reasonable suspicion exists of his having been so concerned ;

*secondly*—any person who has been proclaimed either under this Code or in a notification published in any official Gazette or otherwise duly promulgated by order of an officer of Government ;

*thirdly*—any person found with property in his possession which may reasonably be suspected to be stolen property ;

*fourthly*—any person who obstructs a Police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ; and

*fifthly*—any person reasonably suspected of being a deserter from her Majesty's Army or Navy.

52. Any officer in charge of a Police-station may, in like manner, arrest or cause to be arrested—

Arrest of vagabonds.

(a) any person found taking precautions to conceal his presence within the limits of such station under circumstances which afford reason to believe that he is taking such precautions with a view to committing an offence ; or

(b) any person within the limits of such station who has no ostensible means of subsistence, or who

cannot give a satisfactory account of himself ; or

(c) any person who is by repute an habitual robber, house-breaker, thief, or an habitual receiver of stolen property knowing it to be stolen, or who is of a dangerous character.

53. When any officer in charge of a Police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested by such subordinate officer without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

Procedure when Police-officer deputed subordinate to arrest without warrant.

54. Any person who in the presence of a Police-officer commits or is accused of committing a non-cognizable offence, and refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, may be arrested or detained by such officer in order that his name or residence may be ascertained ; and shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless, before the expiration of that time, his true name and residence are ascertained, in which case he shall be forthwith released.

Refusal to give name and residence.

55. For the purpose of arresting without warrant any person whom he is authorised to arrest under this chapter, a Police-officer may pursue such person into any place in British India.

Pursuit of offenders into other jurisdictions.

56. Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence ;

and shall, without unnecessary delay, make over any person so arrested to a Police-officer ; or in the absence of a Police-officer, take such person to the nearest Police-station.

The Police shall deal with such person according to the provisions of section 51, or 54, as the case may be, and shall not detain him in custody unless he appears to be liable to arrest or detention under the section applicable.

57. A Police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before the Magistrate having jurisdiction in the case, or before the officer in charge of a Police-station.

Person arrested to be taken before Magistrate or officer in charge of Police-station.

58. No Police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Person arrested not to be detained more than 24 hours.

"Or Navy" added. Act X, 1872, s. 94.

Cf. Livingstone, 503.

Act X, 1872, s. 103.

Act X, 1872, s. 105.

Act X, 1872, s. 107. N. Y. Crim. Pr. Code, s. 184.

Act X, 1872, s. 101.

Act X, 1872, s. 124.



Pr. III, Ch. VI.—Processes to compel appearance.

- Act X, 1872, s. 132. 59. Officers in charge of Police-station shall Police to report apprehensions. report for orders to the District or Sub-divisional Magistrate the cases of all persons arrested without warrant within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.
- Act IV, 1877, s. 70, para. 1. 60. No person who has been so arrested by a Police-officer shall be discharged except on his recognition, with or without sureties, or under the special order of a Magistrate.
- Act X, 1872, s. 133. 61. When any offence is committed in the presence of a Magistrate, he may order any person to arrest the offender and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.
- Act X, 1872, s. 166, clause 2. 62. Any Magistrate may at any time direct the Arrest in presence of Magistrate. arrest, in his presence of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

C.—Escape and Retaking.

- Act XXV, 1861, s. 112. N. Y. Cr. Proc. Code, s. 186. 63. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and retake him at any time and in any place in British India.
- Act XXV, 1861, s. 112. N. Y. Cr. Proc. Code, s. 186. 64. To retake the person so escaping or rescued, the person so pursuing may, after notice of his intention and refusal of admittance, and subject to the provisions of section 46, break open any outer or inner door or window of any house or place.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

- Act X, 1872, s. 152, omitting 'and sealed.' 65. Every summons issued by a Court under this Code shall be in writing signed by the presiding officer of such Court, or by such other officer as the High Court may from time to time by rule direct. It shall ordinarily be served by an officer of the Court; but the Court issuing the summons may, if it thinks fit, direct it to be served by a Police-officer.
- Act X, 1872, s. 154. 66. If the person summoned is found, the summons shall be served on him personally by delivering or tendering the summons to him.
- Act IV, 1877, s. 48. Every person to whom a summons is so delivered or tendered shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof.
- Act X, 1872, s. 154, 'or servant added.' 67. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving it for him with some adult male member or servant of his family residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof.

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68. If the signature or countersignature mentioned in sections 66 and 67 cannot by the exercise of due diligence be obtained, the serving officer shall fix a copy of the summons on some conspicuous part of the house in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.
- Act X, 1872, s. 155. Procedure when receipt cannot be obtained.
- Act X, 1872, s. 158, proviso. 69. Where the person summoned is in the active service of Government or of a Railway company, the Court issuing the summons shall send it to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 66.
- Act XXIII, 1840, s. 1. Act IV, 1877, s. 50. 70. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.
- Act IV, 1877, s. 51. 71. When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, the service may be proved—  
(a) by a solemn declaration, purporting to be made before a Magistrate, that such summons has been served; or  
(b) by a copy of the summons purporting to be countersigned by the person to whom it is delivered or tendered or with whom it is left; or  
(c) by a receipt under section 66 or 67.
- The declaration mentioned in clause (a) may be endorsed on the copy of the summons and returned to the Court.
- B.—Warrant of Arrest.
- Act X, 1872, s. 159, amended. Act IV, 1877, s. 56, which does not require the seal. 72. Every warrant for the arrest of an accused person issued by a Court shall be in writing under the hand and seal of the presiding officer.
- But see 9 Bom. 157. Every such warrant remains in force until it is cancelled by the Court which issued it, or until it is executed.
- Act X, 1872, s. 160. Act IV, 1877, s. 58. 73. Any Court issuing a warrant for the arrest of any person may, in its discretion direct by endorsement on the warrant that, if such person execute a bond with sufficient sureties for his appearance before the Court on a specified day, the officer to whom the warrant is directed shall take such security and shall release such person from custody.
- The endorsement shall state (a) the number of sureties, (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (c) the day on which he is to appear before the Court.



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Whenever security is taken under this section, the officer to whom this warrant is directed shall forward the bond to the Court.

Recognizance to be forwarded.

Act X, 1872, s. 161.  
Act IV, 1877, s. 56.

74. A warrant of arrest shall ordinarily be directed to one or more Police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no Police-officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same:

Act X, 1872, s. 1164.  
Act IV, 1877, s. 59.

Provided that when a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

Act X, 1872, s. 162.

75. A District Magistrate may direct a warrant to any landholder, farmer or manager of land within his district for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued is in, or enters on, his land or farm, or the land under his charge.

When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest Police-officer, who shall cause him to be taken before the Magistrate having jurisdiction, unless security is taken under section 73.

Act X, 1872, s. 163.

76. When a warrant is directed to a person other than a Police-officer, any other person may aid in executing such warrant, if the person to whom it is directed is near at hand and acting in execution thereof.

Act X, 1872, s. 165.  
Act IV, 1877, s. 60.

77. A warrant directed to any Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Act X, 1872, s. 76.

78. The Police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested and, if so required, shall show him the warrant.

Act X, 1872, s. 183.

79. The Police-officer or other person executing a warrant of arrest shall bring the person arrested before the Court (subject to the provisions of section 73 as to security) without unnecessary delay before the Court before which he is required by this Code to produce him.

Act X, 1872, s. 167.  
Act IV, 1877, s. 63.

80. A warrant of arrest may be executed at any place in British India.

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81. When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a Police-officer, forward the same by post or otherwise to any Magistrate or Commissioner of Police within the local limits of whose jurisdiction it is to be executed.

Warrant forwarded to Magistrate for execution outside jurisdiction.

Act X, 1872, s. 168.  
Act IV, 1877, s. 64.

The Magistrate or Commissioner to whom such warrant is so forwarded shall endorse his name thereon, and cause it to be executed within the local limits of his jurisdiction.

82. When a warrant directed to a Police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he may take it for endorsement either to a Magistrate or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Warrant directed to Police-officer for execution outside jurisdiction.

Act IV, 1877, s. 64, paras. 5, 6, 7.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local Police shall if so required assist such officer in executing such warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

83. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles, or is nearer than the Magistrate or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 73, be taken before such Magistrate or Commissioner.

84. Such Magistrate or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court, unless the offence is bailable, and such person is then ready and willing to give the security (if any) required under section 73, in which case the Magistrate or Commissioner shall take such security and forward the bond to the Court which issued the warrant.

Act X, 1872, s. 169.  
Act IV, 1877, s. 65, para. 1.

Act X, 1872, s. 170.  
Act IV, 1877, s. 65, para. 2.

C.—Proclamation and Attachment.

85. If a Court has reason to believe that any person against whom a warrant has been issued by it is absconding or concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of such proclamation,

Act X, 1872, ss. 171 and 172.  
Act X, 1875, s. 82.  
Act IV, 1877, ss. 67 and 137.  
10 Beng. App. 18.



The proclamation shall be published as follows :—

(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(b) it shall be affixed on some conspicuous part of his ordinary place of abode, or on some conspicuous place of such town or village ; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

A statement by the Court to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

New as to day of publication.

Act X, 1872, ss. 172 and 3.  
Act IV, 1877, ss. 68, 137.

86. The Court may order the attachment of any property, moveable or immoveable, or both, belonging to any such person.

Such order shall authorize the attachment of any property belonging to such person within the district in which it is made ; and it shall authorize the attachment of any property belonging to such person without such district ; when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is situate.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the District in which the land is situate; and in all other cases—

- (a) by seizure ; or
- (b) by the appointment of a receiver ; or
- (c) by an order prohibiting the payment of rent to the absent person ; or
- (d) by all or any two of such methods, as the Court thinks fit.

If the person so believed to be absconding or concealing himself does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government ; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is of a perishable nature, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

Act X, 1872, ss. 173, 354.  
Act X, 1875, s. 83.  
Act IV, 1877, ss. 69, 138.

87. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government under the last paragraph of section 86 appears voluntarily or is apprehended and brought before the Magistrate having jurisdiction, and proves to the satisfaction of the Court by whose order the property was attached, that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs

incurred in consequence of the attachment, be delivered to him.

D.—Miscellaneous.

88. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person, issue a warrant for his arrest—

(a) if either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons ; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

89. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant is present in such Court, such officer may require such person to execute a bond with or without sureties for his appearance in such Court.

90. When any person who is bound by any bond taken under this Code to appear before a Court does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested or produced before him.

91. The provisions contained in this chapter relating to a summons and warrant and their issue, service and execution shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY.

A.—Summons to produce.

92. Whenever any Court or any officer in charge of a Police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court or officer may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it at the time and place stated in the summons.

Nothing in this section applies to a letter or telegram in the custody of the Postal or Telegraph Department.

93. If any letter or telegram in the custody of the Postal or Telegraph Department is, in the opinion of any District Magistrate, High Court or Court

Act X, 1872, ss. 150, 352, 355.  
Act X, 1875, ss. 81, 84.  
Act IV, 1877, ss. 34, 36, 53, 135, 136, 217.

Act X of 1872, s. 476.  
Act IV, 1877, s. 140.

Act X, 1872, s. 203.  
Act IV, 1877, s. 124, para. 2.

Act X, 1872, ss. 158, 185.  
Act IV, 1877, s. 52.

Act X, 1872, s. 365.  
Act X, 1875, s. 86.  
Act IV, 1877, s. 144.

New.  
Act X, 1872, s. 369, last sentence.  
Act IV, 1877, s. 146.



of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require such Department to deliver such letter or telegram to such person as such Magistrate or Court directs.

If any such letter is, in the opinion of any other Magistrate or of any Commissioner of Police, or District Superintendent of Police, wanted for any such purpose, he may require the Postal Department to cause search to be made for and to detain such letter, pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

*B.—Search-warrants.*

Act X, 1872, s. 366. 94. Where there is reason to believe that a person to whom a summons under section 92 or a requisition under section 93, paragraph one, has been or might be addressed will not or would not produce the document or other thing as directed in such summons,

or where such document or other thing is not known to be in the possession of any person,

Act X, 1872, s. 368. Act IV, 1877, s. 159. or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code, will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed may search or inspect any place within the local limits of the jurisdiction of such Court.

Act X, 1872, s. 369, para. 1. Nothing herein contained shall authorize any Magistrate, other than a District Magistrate, to grant a warrant to search for a letter or telegram in the custody of the Postal or Telegraph authorities.

General warrant should not be the rule. 95. The Court may, if it thinks fit, specify in the warrant the particular place, building or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place, building or part so specified.

Act X, 1872, ss. 370, 371, 372, 373, 375, 376, para. 1. Act IV, 1877, s. 161. 96. The provisions of sections 72, paragraph two, 74, 76, 77, 80, 81 and 82 shall, so far as may be, apply to all search-warrants issued under section 94.

Act X, 1877, s. 377. Act IV, 1877, s. 160. 97. If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or a Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

or for the deposit or sale or manufacture of forged documents, false seals, or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, false seal or counterfeit Government stamps, or coin, or instru-

ments or materials used for counterfeiting coin or for forging are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable—

(a) to enter, with such assistance as may be required, such place, and

(b) to search the same as specified in the warrant, and

(c) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also any such instruments and materials as aforesaid, and

(d) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials, knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

98. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search. Act X, 1872, ss. 382, 384. Act IV, 1877, s. 162.

If ingress into such place cannot be so obtained the officer or other person executing the warrant may proceed in manner provided by section 46.

99. Before making a search under this chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

The search shall be made in their presence, but they shall not be required to attend the Court as witnesses unless specially summoned by it.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

100. Whenever it is necessary to cause a woman to be searched, the search shall be made with strict regard to the customs of the country.

101. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction, Disposal of things found in search beyond jurisdiction, Act X, 1872, s. 386. Act IV, 1877, s. 166. Act X, 1872, s. 373, para. 2, 374.



issued the same, the thing for which search is made is found, it shall, when such place is nearer to the Magistrate having jurisdiction therein than to such Court, be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing it to be taken to such Court.

*C.—Miscellaneous.*

- Act X, 1872, s. 367. 102. Any Court may, if it thinks fit, impound any document or other thing produced before it under this Code.
- Act X, 1875, s. 88. Power to impound document produced.
- Act IV, 1877, s. 147.
- Act X, 1872, s. 378, para. 2. 103. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

**PART IV.**

**PREVENTION OF OFFENCES.**

**CHAPTER VIII.**

**LAWFUL RESISTANCE.**

- New. 104. Lawful resistance to the commission of an offence may be made by any person in the cases and to the extent in and to which he may exercise the right of private defence.
- Lawful resistance to offences.

**CHAPTER IX.**

**OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.**

*A.—Security for keeping the Peace on Conviction.*

- Act X, 1872, ss. 489, 490. Security for keeping the peace on conviction.
- Act X, 1875, s. 140.
- Act IV, 1877, s. 208.
- Bond becomes void when conviction set aside. N. W. P., 1875. p. 376.
105. Whenever a person accused of rioting, assault or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class, and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period not exceeding three years as it thinks fit to fix.

*B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.*

- Act X, 1872, s. 491, omitting the "explanation."
- Act IV, 1877, ss. 215, 231.
106. Whenever a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace within the local limits of such Magistrate's jurisdiction, or that there is within such limits a per-

son who is likely to commit a breach of the peace or do any act as aforesaid in any place beyond such limits, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding three years as the Magistrate thinks fit to fix.

One year in Act X, 1872, s. 498. Act X, 1872, s. 494.

107. When any Magistrate not empowered to proceed under section 106, or a Court of Session or High Court, has reason to believe that any person is likely to commit a breach of the peace or to do any act that may probably occasion a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by detaining such person in custody, such Magistrate or Court may issue a warrant for his arrest (if he is not already in custody), and may send him before a Magistrate empowered to deal with the case under section 106.

A Magistrate before whom a person is sent under this section may in his discretion detain such person in custody until the completion of the enquiry hereinafter prescribed.

108. Whenever a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class receives information—

Act X, 1872, s. 504. Act IV, 1877, ss. 212, 231.

(a) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing an offence, or

(b) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding six months as the Magistrate thinks fit to fix.

109. Whenever any such Magistrate receives information that any person within the local limits of his jurisdiction is by repute an habitual robber, housebreaker or thief, or an habitual receiver of stolen property knowing the same to have been stolen, or of a dangerous character, such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the Magistrate thinks fit to fix.

Act X, 1872, ss. 505, 506. Act IV, 1877, ss. 213, 214, 231.

110. The provisions of sections 108 and 109 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

Act X, 1872, s. 517. Act IV, 1877, s. 232.

111. When a Magistrate acting under section 106, section 108 or section 109 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting

Act X, 1877, ss. 492, 509, 515. Act IV, 1877, s. 216, para. 2.



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forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number of sureties (if any) required.

Act X, 1872, s. 492, Expl. Act IV, 1877, s. 216, para. 2. 112. If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him in a language which he understands.

Act X, 1872, ss. 494, 515. 113. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him, before the Court:

Act IV, 1877, s. 217, proviso. In bad livelihood cases. Police can arrest without warrant. Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other information, that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

114. Every summons or warrant issued under section 113 shall be accompanied by a copy of the order made under section 111, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

Act X, 1872, s. 495. Act IV, 1877, s. 218. 115. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

New. 1 O'Kin. 130. 116. When an order under section 111 has been read or explained to a person present in Court under section 112, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 113, the Magistrate shall proceed to enquire into the truth of the information upon which he has acted.

Such enquiry shall be made, as nearly as may be, where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials in summons cases; and where the order requires security for good behaviour, in the manner hereinafter prescribed for conducting trials in warrant-cases, except that no charge need be framed.

Act X, 1872, s. 497. Act IV, 1877, s. 220. 117. If, upon such enquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the enquiry is made should execute a bond with or without sureties, the Magistrate shall make an order accordingly:

Provided that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 111:

1 O'Kin. 95. Provided also that the amount of every bond shall be fixed with due regard to the circumstances of the case and the means of the person required to execute the same.

118. If, on an enquiry under section 116, the Magistrate is not satisfied that there is occasion to bind over the person in respect of whom such enquiry is made to keep the peace, or to be of good behaviour, as the case may be, the Magistrate shall make an entry on the record to that effect, and, if such person is in custody only for the purposes of the enquiry, shall release him.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

119. If any person in respect of whom an order requiring security is made under section 105 or section 117 is, at the time such order is made, sentenced to, or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

In other cases such period shall commence on the date of such order.

120. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour to Her Majesty the Queen, Empress of India, and to all Her subjects, as the case may be, and in the latter case the commission or attempt to commit, or abetment of, any offence whatever, and wherever it may be committed, is a breach of the bond.

121. A Magistrate may refuse to accept any surety for good behaviour offered under this chapter, on the ground that such surety is an unfit person.

122. If any person ordered to give security under section 105 or section 117 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such period he gives the security required.

When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained pending the orders of the Court of Session, or, if



such Magistrate be a Presidency Magistrate, pending the orders of the High Court, and the proceedings shall be laid, as soon as conveniently may be, before such Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit: Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

Act X, 1872, s. 499, para. 3. Imprisonment for failure to give security for keeping the peace shall be simple.

Act X, 1872, s. 510, para. 3. Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

Act X, 1872, ss. 500, 511. Act IV, 1877, s. 225. 123. Whenever the District Magistrate or a Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter,

whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged.

Act X, 1872, s. 512. Whenever the District Magistrate or a Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter as ordered by the Court of Session or High Court may be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the Court of Session, or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.

Act X, 1872, ss. 500, 511. Act IV, 1877, s. 226. 124. Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class to cancel the bond.

On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 120, 121, 122 and 123, be deemed to be an order made under section 105 or section 117, as the case may be.

CHAPTER X.

UNLAWFUL ASSEMBLIES.

Act X, 1872, s. 430. Act XI, 1874, s. 43. Indian Penal Code, ss. 145, 151. 125. Any Magistrate or officer in charge of a Police-station, whether within or without the Presidency-towns, may command any unlawful assembly, or any assembly of five or more persons

likely to cause a disturbance of the public peace to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

126. If, upon being so commanded, any such assembly does not disperse, any Magistrate or officer in charge of a Police-station, whether within or without the Presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a Volunteer enrolled under the Indian Volunteers Act, 1869, and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it in order to disperse such assembly or that they may be punished according to law.

Act X, 1872, s. 481. Volunteers added.

127. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

Act X, 1872, s. 482. Use of military force.

128. When a Magistrate determines to disperse any such assembly by military force, he may require any officer in command of any soldiers in Her Majesty's Army or of any Volunteers enrolled under the Indian Volunteers Act, 1869, to disperse such assembly by such force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly, or that they may be punished according to law.

Act X, 1872, s. 484, adding volunteers. Duty of officer commanding troops required by Magistrate to disperse assembly.

Every such officer shall obey such requisition in such manner as he thinks fit; but in so doing he shall use as little force, and do as little injury to person and property, as is consistent with dispersing the assembly and arresting and detaining such persons.

129. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it in order to disperse such assembly, or that they may be punished according to law; but as soon as he can communicate the facts of the case to a Magistrate, he shall do so.

Act X, 1872, s. 487. Power of commissioned military officers to disperse assembly.

130. No prosecution against any Magistrate, Military officer, Police-officer or soldier for any act purporting to be done under this chapter shall be instituted in any criminal Court, except with the sanction of the Governor General in Council or of the Local Government; and

Act X, 1872, s. 488. Protection against prosecution for acts done under this chapter.

(a) no Magistrate or Police-officer acting under this chapter in good faith;

Act X, 1872, ss. 483, 485, 486.



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(b) no officer acting under section 129 in good faith;

(c) no person doing any act in good faith in compliance with a requisition under section 126 or section 128, and

(d) no inferior officer or private soldier doing any act in obedience to any order which under military law he was bound to obey,

shall be deemed to have thereby committed an offence.

## CHAPTER XI.

## PUBLIC NUISANCES.

Act X, 1872,  
s. 521, sub-  
stituting  
"highway"

131. Whenever a District Magistrate, or Sub-divisional Magistrate or, when empowered by the Local Government in

Conditional order for removal of nuisance.  
for "through-fare." this behalf, a Magistrate of the first class, considers,

on receiving a report or other information and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any highway, navigable river or public place, or

that any trade or occupation, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed, or

"Combustible" omitted.

That the construction of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

That any building is in such a state of weakness that it is likely to fall and thereby cause injury to persons passing by, and that its removal in consequence is necessary, or

that any tank or well adjacent to any highway should be fenced in such a manner as to prevent danger arising to the public,—

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or owning, possessing or controlling such building substance, tank or well, as aforesaid, within a time to be fixed in the order,

to remove such obstruction or nuisance; or  
to suppress or remove such trade or occupation; or

to prevent or stop the construction of such building; or

to remove it; or

to alter the disposal of such substance; or

to fence such tank or well, as the case may be, or

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner herein-after provided.

No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

EXPLANATION.—A "public place" includes property belonging to the State, camping grounds, and grounds left unoccupied for sanitary and recreative purposes.

132. The order shall, if practicable be served on the person against whom it is made in manner herein provided for

Service or notification of order.

service of a summons.

If such order cannot be so served, it shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

133. The person against whom such order is made shall (a) perform, within the time specified in the order, the act

Person to whom order is addressed to obey.

directed thereby; or  
(b) appear in accordance with such order and either show cause against the same, or apply to such Magistrate to appoint a

jury to try whether the same is reasonable and proper.

134. If such person does not perform such act or appear and shew cause

Consequence of his failing to do so.

or apply for the appointment of a jury as required by section 133, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code; and the order shall be made absolute.

135. If he appears and shews cause against the order, the Magistrate shall take evidence in the matter.

If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

If the Magistrate is not so satisfied, the order shall be made absolute.

136. On receiving an application under section 133 to appoint a jury, the Magistrate shall—

(a) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(b) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(c) fix a time within which they are to return their verdict.

137. If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

Procedure where jury finds Magistrate's order to be reasonable.

Act X, 1872, ss. 525, 527, Act XI, 1874, s. 45. I O'Kin, 486. Act X, 1872, s. 524.

In other cases, no further proceedings shall be taken.



Pr. IV, Ch. XI.—Public Nuisances.

Act X, 1872, s. 525. 138. When an order has been made absolute under section 134, section 135, or section 137, the Magistrate shall give notice of the same to the person against whom the order was made and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

Procedure on order being made absolute. fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of the Magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

Act X, 1872, s. 522, para. 4. No suit shall lie in respect of anything reasonably done under this section.

Act X, 1872, s. 523, para. 4. 139. If the applicant by neglect or otherwise prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order he as thinks fit, and such order shall be executed in the manner provided by section 138.

Act X, 1872, s. 526. 140. If a Magistrate making an order under section 131 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury.

In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything reasonably done by a Magistrate under this section.

Act X, 1872, s. 518, Expl. 1 O'Kin. 58. 141. In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the District Magistrate to act under this section, a speedy remedy is desirable and the delay which would be occasioned by a resort to the procedure contained in section 131 and the next following sections would occasion a greater evil than that suffered by the person against whom the order was made, or would defeat the intention of this chapter,

Consequences of disobedience to order.

Procedure on failure to appoint jury or omission to return verdict.

Injunction pending inquiry.

Power to issue order absolute at once in urgent cases.

Pr. IV, Ch. XII.—Disputes as to immoveable property.

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 132, direct any person to abstain from a certain act or to take certain order with certain property in his possession, or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed be passed *ex parte*, and may in all cases be made upon such information as satisfies the Magistrate.

An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

Any Magistrate may rescind or alter any order made under this section by himself or by his predecessor in office.

142. A Sub-divisional Magistrate or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf may order any person not to repeat or continue a public nuisance.

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

143. Whenever a District Magistrate, Sub-divisional Magistrate, or a Magistrate of the first class, is satisfied from a Police report or other information that a dispute likely to cause a breach of the peace exists concerning any tangible immoveable property, or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court, in person or by agent, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, here the parties and their respective witnesses, consider the effect of the evidence and, if possible, decide whether any and which of the parties is in possession of the said subject.

If he decides that one of the parties is in possession of the said subject, he shall issue an order declaring such party to be entitled to

Act X, 1872, s. 518. 1 Beng. Ap. Cr. 20.

Act X, 1872, s. 518, Expl. II.

Act X, 1872, s. 518, Expl. III.

As to disobedience to such orders, see Penal Code, s. 188. Act X, 1872, s. 318, Expl. IV.

Act X, 1872, s. 519. Penal Code, s. 291.

Act X, 1872, s. 530. 3 Cal. 552.

I. L. R. 3 Cal. 320.

1 O'Kin 136 2 O'Kin. 67 264.



Pr. IV. Ch. XIII.—Preventive action of the Police.

retain possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction.

Act X, 1872, s. 531.  
1 O'Kin. 86. 144. If such Magistrate decides that none of the parties is in possession, or is unable to satisfy himself as to which of them is in possession, of the subject of the dispute, he may attach subject of dispute.

Power to attach subject of dispute. sion, or is unable to satisfy himself as to which of them is in possession, of the subject of the dispute, he may attach it, until a competent Civil Court has determined the rights of the parties thereto, or the person entitled to possession thereof.

Act X, 1872, s. 532. 145. Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any tangible immovable property situate within the local limits of his jurisdiction, he may inquire into the matter; and may, if it appears to him that such right exists, make an order permitting such thing to be done, or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done or claiming that such thing may be done, obtains the decision of a competent Civil Court, adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be:

Disputes concerning easements, &c. dispute likely to cause a breach of the peace

the right to do or prevent the doing of anything in or upon any tangible immovable property situate within the local limits of his jurisdiction, he may inquire into the matter; and may, if it appears to him that such right exists, make an order permitting such thing to be done, or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done or claiming that such thing may be done, obtains the decision of a competent Civil Court, adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be:

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exercisable at all times of the year, unless such right has been ordinarily exercised within three months next before the institution of the inquiry; or, where the right is exercisable only at particular seasons, unless such right has been so exercised during the season next before the dispute.

Act X, 1872, s. 533. 146. Whenever a local inquiry is necessary for the purposes of this chapter, any District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such instructions consistent with the law for the time being in force as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

Local inquiry.

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

Act X, 1872, s. 95. 147. Every Police-officer may interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of any cognizable offence.

Police to prevent cognizable offences.

Act X, 1872, s. 96. 148. Every Police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the Police-officer to whom he is subordinate, and to any other officer whom it may concern, to prevent or take cognizance of the commission of any such offence.

Information of design to commit such offences.

information to the Police-officer to whom he is subordinate, and to any other officer whom it may concern, to prevent or take cognizance of the commission of any such offence.

149. A Police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

Arrest to prevent such offences.

trate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

150. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immovable, or the removal or injury of any public land-mark, or buoy or other mark used for navigation.

Prevention of injury to public property.

any injury attempted to be committed in his view to any public property, moveable or immovable, or the removal or injury of any public land-mark, or buoy or other mark used for navigation.

151. Any officer in charge of a Police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures, or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

Inspection of weights and measures.

enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures, or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND OF THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

152. Every information to an officer in charge of a Police-station shall be reduced into writing by or under his direction, and shall be signed by the person giving it; and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

Information to be reduced to writing.

by or under his direction, and shall be signed by the person giving it; and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

153. When a complaint is made to an officer in charge of a Police-station of the commission within the limits of such station of a non-cognizable offence, he shall refer the complainant to the Magistrate.

Complaint in non-cognizable cases.

in charge of a Police-station of the commission within the limits of such station of a non-cognizable offence, he shall refer the complainant to the Magistrate.

No Police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial.

Investigation into non-cognizable cases.

investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial.

Any Police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as in a cognizable case.

154. Any officer in charge of a Police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have

Investigation into cognizable cases.

may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have



power to enquire into or try under the provisions of chapter XV. relating to the place of inquiry or trial.

Act X, 1872, s. 114, last para. No proceeding of a Police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

Act X, 1872, s. 114. 155. If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 154 to investigate, he shall send a report of the same to the nearest Magistrate having jurisdiction to receive Police-reports, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender:

Procedure where cognizable offence suspected.

Where local investigation dispensed with. Provided that when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a Police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot:

Act X, 1872, s. 116. Where local investigation dispensed with.

Provided also that, if it appear to the officer in charge of a Police-station that there is no sufficient ground for entering on an investigation, he shall not proceed to investigate the case.

Act X, 1872, s. 117, para. 1. Where Police-officer in charge sees no sufficient ground for investigation.

156. Every report under section 155 shall, if the Local Government so directs, be submitted through such superior officer of Police as the Local Government, by general or special order, appoints in that behalf.

Such superior officer may give such instructions to the officer in charge of the Police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate having jurisdiction to receive Police-reports.

Act X, 1872, s. 115. 157. Such Magistrate, on receiving such report, may, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Power to make preliminary inquiry. Such superior officer may give such instructions to the officer in charge of the Police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate having jurisdiction to receive Police-reports.

Act X, 1872, s. 118. 158. Any Police-officer making an investigation under this chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

Police-officer's power to require attendance of witnesses.

159. Any Police-officer making an investigation under this chapter may examine orally any person supposed to be ac-

Act X, 1872, ss. 119, 121. Examination of witnesses by Police.

quainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer all questions relating to such case put him by such officer other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

160. No statement made by any person under section 159 or by an accused person to the Police shall, if reduced into writing, be signed by the person making it, nor shall it be treated as part of the record or used as evidence against the accused person.

161. No Police-officer or other person in authority shall offer or make to an accused person any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

But no Police-officer or other person shall prevent, by any caution or otherwise, an accused person from making any statement which he may be disposed to make of his own free will.

162. Any Magistrate may record any statement made to him by any person, or any confession made to him by any accused person, in the course of an investigation under this chapter.

Such statements shall be recorded in the manner hereinafter prescribed for recording evidence. Such confessions shall be recorded, signed and certified in the manner provided in section 366, and shall then be forwarded to the Magistrate by whom the case is inquired into or tried.

No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and he shall make a memorandum at the foot thereof to the following effect:—

“ I believe that this confession was voluntarily made. It was read over to the person making it, and was admitted by him to be correct.

(Signed) A. B.,  
“ Magistrate.”

163. Whenever an officer in charge of a Police-station, or a Police-officer making an investigation, considers that the production of any thing is necessary to the conduct of an investigation into any offence which he is authorised to investigate, he may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

Such officer shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the thing

Search by officer in charge of Police-station. Police-officer making an investigation, considers that the production of any thing is necessary to the conduct of an investigation into any offence which he is authorised to investigate, he may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

Such officer shall, if practicable, conduct the search in person. If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the thing

Such officer shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the thing

Act X, 1872, ss. 119, para. 3, 121.

Act X, 1872, ss. 120, 154, Cf. Act I, 1872, s. 24.

Nelson, 113.

Act X, 1872, s. 122, Act IV, 1877, s. 16.

I. L. R. 1 Bom. 219.



Pr. V, Ch. XIV.

for which search is to be made, and the place to be searched; and such subordinate officer may thereupon search for such thing in such place.

The provisions of this Code as to search-warrants shall, so far as may be, apply to a search made under this section.

Act X, 1872, s. 380. 164. An officer in charge of a Police-station

may require an officer in charge of another Police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

Such officer, on being so required, shall proceed according to the provisions of section 163, and shall forward the thing found, if any, to the officer at whose request the search was made.

Act X, 1872, s. 124. 165. When any investigation under this chapter has not been completed within the period of twenty-four hours fixed by section

58 and no special order has been passed under that section, and there are grounds for believing that the accusation is well founded, the officer in charge of the Police-station shall forward the accused to the nearest Magistrate, with a statement of the offence for which he has been arrested, and such Magistrate, whether he has or has not jurisdiction to try the case, may authorise the detention of the accused. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may forward the accused to a Magistrate having such jurisdiction.

A Magistrate authorizing detention under this section shall record in writing his reasons for so doing.

If such order be given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is subordinate.

Act X, 1872, s. 123, clause 2. 166. When any subordinate Police-officer has made any investigation under this chapter, he shall report the result of such investigation to the officer in charge of the Police-station.

Report of investigation by subordinate Police-officer. He shall report the result of such investigation to the officer in charge of the Police-station.

Act X, 1872, s. 125. 167. If, upon an investigation under this chapter, it appears to the officer in charge of the Police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear before the District Magistrate or Sub-divisional Magistrate, if and when so required.

Act X, 1872, ss. 123, 127, 130. 168. If upon an investigation under this chapter it appears to the officer in charge of the Police-station that there is sufficient evidence or

reasonable ground as aforesaid, such officer shall forward the accused under custody to the District Magistrate, or Sub-divisional Magistrate, or some Magistrate empowered to take cognizance of offences upon a police-report, or if the offence charged is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

When the officer in charge of a Police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall at the same time send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant, if any, and so many of the persons who appear to be acquainted with the circumstances of the case as may be necessary to execute a bond to appear before the Magistrate and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

If the Court of the District Magistrate or Sub-divisional Magistrate be mentioned in the bond, it shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided notice of such reference be given to such complainant or witness.

The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the bond is executed shall deliver a copy thereof to each of the persons who executed it, and shall then send the original with his report to the Magistrate having jurisdiction.

Act X, 1872, ss. 130, last para. 131, para. 1. 169. No Police-officer shall accompany the complainant or witnesses on his or their way to the Court of the Magistrate,

and no complainant or witness shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Act X, 1872, s. 131, para. 2. Provided that, if any complainant or witness refuses to attend or to execute the bond directed in section 168, the officer in charge of the

Police-station may forward him under custody to the Magistrate, who may detain him in custody until he executes such recognizance, or until the hearing of the case is completed.

Act X, 1872, s. 126. 170. Every Police-officer making an investigation under this chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation,



the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

Any Criminal Court may send for the Police-diaries of a case under inquiry or trial in such Court, and may use such diaries to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for them, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the Police-officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such Police-officer, the provisions of the Indian Evidence Act, 1872, sections 145 and 161, shall apply.

Act X, 1872, ss. 125, 127.

171. Every investigation under this chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the Police-station shall forward to the Magistrate having jurisdiction a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

Where a superior officer of Police has been appointed under section 156, the report shall be submitted through him, and he may, pending the orders of the Magistrate, give instructions as to the conduct of the investigation.

Act X, 1872, s. 133.

172. The officer in charge of a Police-station, on receiving information report on unnatural and sudden deaths.

- (a) has been killed by another, or
- (b) has suddenly died, or
- (c) has committed suicide,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks as may be found on the body and as may appear to have been caused by a cut or blow, and stating in what manner, or by what weapon or instrument, such marks appear to have been inflicted.

The report shall be signed by such Police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

When there is any doubt regarding the cause of death, the Police-officer shall forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other medical officer appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

In the territories respectively administered by the Governors of Fort St. George and Bombay in Council, investigations under this section may be made by the Head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate. Act X, 1872, s. 134.

173. An officer in charge of a Police-station may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Any person so summoned shall be bound to attend and to answer all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture. Penal Code, ss. 174, 179.

If the facts do not disclose a cognizable offence to which section 168 applies, such persons shall not be required by the Police-officer to attend a Magistrate's Court.

174. The nearest Magistrate empowered to hold inquests may, and, where necessary, shall, hold an inquiry into the cause of any such death, either instead of, or in addition to, the investigation held by the Police-officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed, according to the circumstances of the case.

Act X, 1872, s. 135.

Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

New Act IV, 1871, s. 11.

## PART VI.

### PROCEEDINGS IN PROSECUTIONS.

#### CHAPTER XV.

#### OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

##### A.—Place of Inquiry or Trial.

175. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed. Act X, 1872, s. 63. Act IV, 1877, s. 18.

176. Notwithstanding anything contained in section 175, the Local Government may direct that any cases or class of cases committed for trial be tried in different Sessions divisions. Act X, 1872, s. 63.



in any district may be tried in any Sessions Division :

Act XI, 1874, s. 9. Provided that such direction be not repugnant to any direction previously issued under the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, or under this Code, section 536.

Act X, 1872, s. 65.  
Act IV, 1877, s. 19. 177. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

*Illustrations.*

(a) A is wounded in district X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(b) A is wounded in district X, and is, during ten days in district Y and during ten days more in district Z, unable in either Y or Z, to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into and tried in X, Y or Z.

(c) A is put in fear of injury in district X, and is thereby induced, in district Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in X or Y.

Act X, 1872, s. 66.  
Act IV, 1877, s. 20. 178. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be inquired into and tried by a Court within the local limits of whose jurisdiction either act was done.

*Illustrations.*

(a) A charge of abetment may be inquired into and tried either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into and tried either in the district in which the goods were stolen, or in any district in which any of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping, took place.

Act X, 1872, s. 67, illustration (c), s. 68.  
Act IV, 1877, s. 22. 179. The offence of being a thug, of murder as a thug, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of

having escaped from custody, may be inquired into and tried by a Court within the local limits of whose jurisdiction the person charged is.

Act X, 1872, s. 67, illustration (e). Criminal misappropriation and criminal breach of trust.

jurisdiction the property which is the subject of the offence was received by the accused person, or the offence was committed.

The offence of stealing an animal may be inquired into or tried by a Court within the local limits of whose jurisdiction such animal was stolen or was possessed by the thief or by any person who receives or detains the same knowing or having reason to believe it to be stolen.

Place of inquiry or trial where scene of offence is uncertain ;

or not in one district only ;

or offence is continuing ;

or consists of several acts.

180. When it is uncertain in which of several local areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is a continuing one, and continues to be committed in more local areas than one, or where it consists of several acts done in different local areas,

it may be inquired into and tried by a Court having jurisdiction over any such local area.

181. An offence committed whilst the offender is actually in the course of performing a journey or voyage may be inquired into and tried by a Court though or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

182. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post-office or Arms and

Ammunition may be inquired into and tried in a Presidency-town, whether the offence is stated to have been committed within such town or not: provided that the offender and the witnesses necessary for his prosecution are to be found within such town.

183. Whenever any doubt arises as to the Court by which any offence should be inquired into or tried, the High Court within the local limits of whose appellate criminal jurisdiction the offender actually is, may decide by which Court the offence shall be inquired into or tried.

184. When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits

Act X, 1872, s. 67, illustration (f). I. L. R., 1 Mad. 17.

Act XVIII, 1862, ss. 20-35.  
Act X, 1872, s. 67.  
Act IV, 1877, s. 21.

Act X, 1872, s. 67, illustration (a) I. Mad. H. C. Rep. 193.

Act IV, 1877, s. 238.  
Act LII, 1860, repealed.

Act IV, 1877, s. 239.

Act X, 1872, s. 69.  
Act IV, 1877, s. 22.

Act X, 1872, s. 157.  
Act IV, 1877, s. 54.



an offence which cannot, under the provisions of sections 175 to 182 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and Magistrate's procedure send him to the Magistrate having jurisdiction to enquire into or try such offence, or, if such offence is bailable, take bail for his appearance before such Magistrate.

Act X, 1872, s. 174.  
Act IV, 1877, s. 55.

Act XXIII, 1840, s. 7.

When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent, or bound to appear, the case shall be reported for the orders of the High Court.

Act X, 1872, s. 175.

185. If the person has been arrested under a warrant issued under section 184 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District Magistrate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police-officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 184, such Magistrate shall send such person to the District Magistrate or Sub-divisional Magistrate to whom such Court is immediately subordinate.

*B.—Time of commencing Prosecutions.*

186. There is no limitation of the time within which prosecutions for the offences mentioned in this section must be commenced:—

- (a) offences against the State;
- (b) offences relating to the Army and Navy;
- (c) false evidence and offences against public justice;
- (d) offences relating to coin and Government stamps;
- (e) offences under the Indian Penal Code, sections 299 to 311 (both inclusive);
- (f) offences under the same Code, sections 359 to 373 (both inclusive);
- (g) offences under the same Code, sections 390 to 414 (both inclusive);
- (h) offences under the same Code relating to documents and to trade-marks and property-marks; and
- (i) offences under the same Code relating to marriage.

187. A prosecution for any of the offences mentioned in this section must be commenced within three years after the offence is committed:—

- (a) offences against the public tranquillity;
- (b) offences by or relating to public servants;
- (c) contempts of the lawful authority of public servants;
- (d) offences against property, except those referred to in section 186, clause (h).

188. A prosecution for any other offence not expressly provided for by this chapter or by any special or local law must be commenced within six months after the offence is committed.

189. The provisions contained in sections 186, 187 and 188 as to the offences therein mentioned or referred to, apply also to abetments of, and attempts to commit, those offences respectively.

190. In computing the period of limitation prescribed for any prosecution, the time during which the accused person has been absent from the jurisdiction of the Court having power under this Code to try him shall be excluded.

Any person not surrendering himself pursuant to a proclamation duly made under this Code shall be deemed to be absent within the meaning of this section.

191. For the purpose of this chapter, a prosecution shall be deemed to commence when the summons or warrant is applied for, or when no such application is made, when the summons or warrant is issued; or when the person prosecuted is arrested without a warrant, when the arrest is made.

*C.—Conditions requisite for Initiation of Proceedings.*

192. Except as hereinafter provided, any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

- (a) upon receiving a complaint of facts which constitute such offence;
- (b) upon a Police-report of such facts;
- (c) upon information received from any person other than a Police-officer, or upon his own knowledge or suspicion that such offence has been committed.

The Local Government, or the District Magistrate under the general or special orders of the Local Government, may specially empower any Magistrate to take cognizance under clause (a) of offences, and any Magistrate of the first or second class to take cognizance under clause (b) of offences.



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Act X, 1872, ss. 23, 25, 27. The Local Government may empower any Magistrate of the first or second class to take cognizance under clause (c) of offences.

193. Any District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him.

Act X, 1872, s. 44. Any Magistrate subordinate to a District Magistrate or Sub-divisional Magistrate may, to the full extent of the powers with which he has been invested under this Code, deal with any case of which such District Magistrate or Sub-divisional Magistrate has taken cognizance and which he has transferred to such Subordinate Magistrate.

Act XI, 1874, s. 6. Cognizance of cases transferred to Subordinate Magistrate.

Act X, 1872, s. 231. 194. Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction, unless the accused person has been committed by a Magistrate duly empowered in that behalf.

Act X, 1872, s. 17. Additional Session Judges and Joint Sessions Judges shall try such cases only as the Local Government by general or special order directs them to try, or as the Sessions Judge of the Division makes over to them for trial.

Act X, 1872, s. 15. Assistant Session Judges shall try such cases only as the Sessions Judge of the Division makes over to them by general or special order.

Act X, 1875, s. 145. 195. The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the twenty-fourth and twenty-fifth of Victoria, chapter 104.

Act X, 1872, s. 467. 196. No Court shall take cognizance—

Act X, 1875, s. 133. (a) of any offence described in sections 172 to 188 (both inclusive) of the Indian Penal Code, except with the sanction, or on the complaint, of the public servant concerned, or of his official superior;

Act X, 1872, s. 468. (b) of any offence described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228 of the same Code, when such offence is committed before or against any Court, except with the sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate;

Court of Subordinate Judge is subordinate to that of District Judge, I.L.R., 2 Bom-481.

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(c) of any offence described in section 463, 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document given in evidence in such proceeding, except with the sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

Prosecution for certain offences relating to documents given in evidence. The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed.

Act X, 1872, s. 470, omitting the explanation. Act X, 1875, s. 134. Act IV, 1877, s. 43. 11 Bom. 36, per West.J. No appeal from order accordin g sanction, I. L. R. 1 All. 17.

Such sanction may be given at any time; and a sanction in respect of any offence referred to in this section shall authorise the Court taking cognizance of the case to amend the charge to one of any other such offence disclosed by the facts.

197. No Court shall take cognizance of any offence punishable under chapter VI. of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

Act X, 1872, s. 465. Act X, 1875, s. 131. Act IV, 1877, s. 38. 198. No Court shall take cognizance of any offence of which any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power to give such sanction has not been limited by such Government.

Prosecution of Judges and public servants. Such Government may determine the person by whom, and the manner in which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held.

199. No Court shall take cognizance of an offence falling under chapter XIX. or XXI. or under sections 493 to 496 (both inclusive) of the Indian Penal Code, except upon a complaint made.

Act X, 1872, s. 142. Act IV, 1877, s. 29. 200. No Court shall take cognizance of any offence under section 497 or 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of the woman on his behalf at the time when such offence was committed.

Prosecution for breach of contract, defamation and offences against marriage. Prosecution for adultery. Act X, 1872, ss. 478, 479. Act IV, 1877, s. 45. See I. O'Kin, 524.



CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

Act X, 1872, s. 144. 201. A Magistrate taking cognizance of a case on complaint shall at once examine the complainant upon oath or affirmation, and the examination, shall be reduced into writing and shall be signed by the complainant, and also by the Magistrate:

Examination of complainant. Provided that, when the case has been transferred under section 193 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant:

Act IV, 1877, s. 30. 202. If the Magistrate is not competent to entertain the complaint, he shall refer the complainant to a Magistrate having jurisdiction, and if the complaint has been made in writing, shall return it for presentation to the proper tribunal.

Act X, 1872, s. 145. Procedure by Magistrate not empowered to entertain complaint. 203. If any Magistrate other than a Presidency Magistrate sees reason to distrust the truth of a complaint which he is authorized to entertain, he may postpone the issuing of process for compelling the attendance of the person complained against, and may direct a previous inquiry or investigation to be made by means of any officer immediately subordinate to such Magistrate or of a Police-officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

Act X, 1872, s. 146. Postponement of issue of process. 204. The Magistrate before whom a complaint is made may, if after examining the complainant there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

Act X, 1872, s. 147, para. 1, Act IV, 1877, s. 32. 205. The Magistrate before whom a complaint is made may, if after examining the complainant there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

Act X, 1872, s. 147, para. 3, 148, 149, Act IV, 1877, ss. 27, 33, 34, 35. 206. Whenever a Magistrate issues a summons, he may, if he sees reason so to do dispense with the personal attendance of the accused, and permit him to appear by his pleader.

of the second schedule a summons should issue in the first instance, issue his summons, or, if the case appear to be one in which according to that column a warrant should issue in the first instance, his warrant, for causing such person to appear or be brought at a certain time and place before such Magistrate or some other Magistrate having jurisdiction :

Provided that in any case in which a summons should be issued under the foregoing part of this section, if the Magistrate sees reasons to believe that the accused is about to abscond or will not obey the summons, he may, after recording his reasons in writing, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

206. Whenever a Magistrate issues a summons, he may, if he sees reason so to do dispense with the personal attendance of the accused, and permit him to appear by his pleader.

But such Magistrate may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

207. Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, Magistrate of the first class or any Magistrate empowered in this behalf by the Local Government may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

208. The following procedure shall be adopted in inquiries before Magistrates where the cases are triable exclusively by a Court of Session or High Court or, in the opinion of the Magistrate, ought to be tried by such Court.

209. The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused.

If the complainant or accused applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing, the Magistrate shall issue such process unless, for reasons to be recorded in writing, he deems it unnecessary to do so.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.



Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons in writing.

Act X, 1872, s. 195, omitting the explanations. Act IV, 1877, s. 57, omitting the explanations. 210. When the evidence referred to in section 209 and such other evidence (if any) as the Magistrate may of his own motion cause to be produced has been taken, and the Magistrate has examined the accused in regard to such matters connected with the accusation as the Magistrate thinks fit, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

Act X, 1872, ss. 196, 198. Act IV, 1877, s. 58. Act IV, 1877, s. 59, omitting paras. 3 and 4. 211. When, upon such evidence being taken and such examination (if any) being made, the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Act X, 1872, s. 199. Act X, 1875, s. 13. Act IV, 1877, s. 90. As soon as the charge has been framed, it shall be read and explained to the accused and a copy thereof shall, if he so require, be given to him free of cost.

Act X, 1872, s. 200. Act IV, 1877, s. 91. 212. The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

The Magistrate may in his discretion allow the accused to give in any further list of witnesses at a subsequent time, and nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial before the High Court, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Act X, 1872, s. 200. Act IV, 1877, s. 91. 213. The Magistrate may in his discretion summon and examine any witness named in any list given in to him under section 212.

Act X, 1872, ss. 198, 200. Act IV, 1877, ss. 59, para. 1, 91. 214. When the accused on being required to give in a list under section 212 has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 213, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) recording the reasons for such commitment.

Act X, 1872, s. 197. 215. If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence con-

jointly with a European British subject who is about to be committed for trial, or to be tried, before the High Court on a similar charge, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him to take his trial before the High Court and not before the Court of Session.

Act X, 1872, s. 197, explanation. 216. A commitment once made under section 214 or 215 by a competent Magistrate can be quashed by the High Court only, and only on a point of law.

Act X, 1872, s. 358. Act IV, 1877, s. 92. 217. When the accused has given in any list of witnesses under section 212 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list as have not been compelled to appear before himself under section 213 to appear before the Court to which the accused has been committed:

Act X, 1872, s. 359. Provided that where such person has been committed to the High Court, the Magistrate may in his discretion leave such witnesses to be summoned by the Clerk of the Crown:

Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that such witness is material, and if he is not so satisfied, may refuse to summon the witness, or before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness.

Act X, 1872, s. 360. Act IV, 1877, s. 93. 218. Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary, and who appear before the Magistrate, shall execute before him bonds binding themselves, to be in attendance when called upon at the Court of Session or High Court, to prosecute or to give evidence, as the case may be.

If any complainant or witness refuses to attend before the Court of Session or High Court, or to execute the recognizance above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Act X, 1872, s. 201. Act X, 1875, s. 13. 219. When the enquiry is concluded, the accused shall, if he demands them a reasonable time before the trial, be furnished with copies of the depositions. Such copies shall be made at his expense unless the Magistrate sees fit to give them free of cost.



Act X., 1872, s. 202. 220. When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge,

Act XI., 1874, s. 15. Commitment when to be notified. the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge,

Act X., 1872, s. 198. Charge, &c., to be forwarded to High Court. and shall send the charge, the record of the enquiry and any weapon or other moveable thing which is to be produced in evidence to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Act X., 1872, s. 357, para. 2. Act IV., 1877, s. 91, para. 4. 221. The Magistrate may summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

Such examination shall, if possible, be taken in the presence of the accused, and where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused, so require, be given to him free of cost.

Act X., 1875, s. 26. Act IV., 1877, s. 89, para. 3. 222. Pending the trial, the Magistrate may, subject to the provisions of this Code regarding the taking of bail, commit the accused, by warrant, to custody in such jail as may from time to time be appointed by the Local Government in this behalf.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

Act X., 1872, s. 439. Act IV., 1877, s. 94. 223. Every charge under this Code shall state the offence with which the accused is charged.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

In the Presidency-towns the charge shall be written in English; elsewhere it shall be written

either in English or in the language of the Court. If the language of the charge is not understood by the accused, the charge shall be interpreted to him in a language which he understands.

If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of effecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If such statement is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(a.) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300; or that, if it did fall within exception 1, one or other of the three provisos to that exception applied to it.

(b.) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(c.) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is unishable must, in each instance, be referred to in the charge.

(d.) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

224. The charge shall contain such particulars as to the time and place of the alleged offence, and the person (naming him) against whom, or the thing in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

225. When the nature of the case is such that the particulars mentioned in sections 223 and 224 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(a.) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b.) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c.) A is accused of giving false evidence at a given time and place. The charge must set out that



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portion of the evidence given by A which is alleged to be false.

(d.) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e.) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f.) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

(g.) A is accused of dacoity. The charge should state that A conjointly with four or more others committed robbery and thereby committed dacoity.

Act XVIII, 1862, s. 82. 226. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the Indian Penal Code.

Act X., 1872, s. 443. Act X., 1875, s. 24. Act IV., 1877, s. 98. 227. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission.

Illustrations.

(a.) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d.) A is charged with the murder of Khoda Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e.) A was charged with murdering Haidar Baksh on the 20th January and Khoda Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Act X., 1875, s. 7. 228. When any person is committed for trial before a High Court, the Clerk of the Crown, or, if there be not a Clerk of

the Crown, a Judge of the High Court, shall, on receipt of the charge, peruse and consider it, and may, if it appears necessary or expedient so to do, alter, or re-draw the same, having regard to the rules as to the form of charges contained in this Code.

229. If a prisoner is committed to the Court of Session or High Court without any charge at all the Court or (in the case of a High Court) the Clerk of the Crown or a Judge of the High Court may draw up a charge, having regard to the rules last aforesaid.

If a prisoner is committed upon a charge which the Court, upon reference to the proceedings before the committing Magistrate, considers improper, the Court may draw up a charge for any offence which it considers to be proved by the evidence taken before the committing Magistrate.

230. Any Court may, upon the application of the accused, or of the Magistrate may alter prosecution, or upon its own motion, alter any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

Every such alteration shall be read and explained to the accused.

231. If the alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence the Court may in its discretion, after making such alteration, proceed with the trial as if the altered charge had been the original charge.

232. If the alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable him to make his defence to the altered charge; and after hearing his defence, the Court may if it think fits further adjourn the trial to admit of the appearance of any witness whose evidence the Court considers to be material to the case, or who the accused wishes to be summoned in his defence.

233. Whenever a charge is altered by the Court, the complainant and the accused shall be allowed to recall, and examine with reference to such alteration, any witness who may have been examined.

234. If the offence stated in the altered charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered charge is founded.

235. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the Indian Penal Code.

Act X., 1875, s. 8.  
Act X., 1872, s. 446.  
Act X., 1872, ss. 444, 445.  
Act X., 1875, s. 9, 10.  
Act IV., 1877, s. 99, 100.  
Act X., 1872, s. 447.  
Act X., 1875, s. 11.  
Act IV., 1877, s. 101.  
Act X., 1872, s. 448.  
Act X., 1875, s. 12.  
Act IV., 1877, s. 102.  
Act X., 1872, s. 449.  
Act X., 1875, s. 15, omitting during the trial.  
Act IV., 1877, s. 103.  
Act X., 1872, s. 450.  
Act X., 1875, s. 16.  
Act IV., 1877, s. 104.



Pr. VI., Ch. XIX.—The Charge.

Act X, 1872, s. 451. 235. If any Appellate Court, or the High Court in the exercise of its powers of revision, is of opinion that any person convicted of an offence was in fact misled in his defence by an error in the charge, it shall direct a new trial to be had upon a charge amended in whatever manner it thinks fit.

Effect of material error. If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

Act XI, 1874 s. 40. A is convicted of an offence under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of Charges.

Act X, 1872, s. 452, Act X, 1875, s. 17, adding "before the Magistrate." Act IV, 1877, s. 105. 236. There must be a separate charge for every distinct offence of which any person is accused before the Magistrate, and every such charge must be tried separately, except in the cases mentioned in sections 237, 238, 239 and 242.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

Act X, 1872, s. 453, omitting the Explanation. Act X, 1875, s. 13, adding "against the same person." I.L.R., 3 Cal. 540. Act IV, 1877, s. 106; cf. 24 and 25 Vic., c. 96, s. 5. 237. When a person is accused at the same time of more offences than one of the same kind, committed against the same person within one year of each other, he may be charged with and tried at one trial for any number of them not exceeding three.

Act X, 1872, s. 454, omitting illustration (i). Act X, 1875, s. 19. Act IV, 1877, s. 107. 238. I.—If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive punishment more severe than could be inflicted for any of such offences.

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III.—If several acts, of which one or more than one would by itself constitute an offence, when combined, a different offence, the person accused of them may be charged with every offence, or any of the different offences, which he may have committed; but he shall not receive for such offences, collectively a punishment more severe than could be inflicted for any one of such offences.

Illustrations.

to paragraph I—

(a.) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(b.) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, convicted of, and punished for, the possession of each seal under section 473 of the Indian Penal Code.

(c.) A, with intent to cause injury to B, institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding. A also falsely accuses B of having committed an offence knowing that there is no just or lawful ground for such charge. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(d.) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 of the Indian Penal Code.

(e.) A, knowing that B, a female minor, has been kidnapped in order that she may be subjected to grievous hurt, wrongfully confines her and detains her against her will as a slave. A may be separately charged with, convicted of, and punished for, offences under section 368 (read with 367) and 370 of the Indian Penal Code.

(f.) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting, a public servant, endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Penal Code.

(g.) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(h.) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, each of the three offences under section 302 of the Indian Penal Code.

The separate charges referred to in illustrations (a) to (h) respectively may be tried at the same time.



to paragraph II—

(e). *A* wrongfully strikes *B* with a cane. *A* may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 323 only.

(f). *A* wrongfully kills a buffalo worth sixty rupees, belonging to *B*, and then moves the carcass in order to take it dishonestly out of *B*'s possession without *B*'s consent. *A* may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 429 only.

(g). Several stolen sacks of corn are made over to *A* and *B*, who know they are stolen property. *A* and *B* thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. *A* and *B* may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Presidency Magistrate who tries them may not inflict a severer punishment than if he had convicted them under one of those sections only.

(h). *A* dishonestly uses a forged document as genuine evidence, in order to convict *B*, a public servant, of an offence under section 167 of the Indian Penal Code. *A* may be separately charged with, and convicted of, offences under sections 471 read with 466 and 196 of the same Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under one of those sections only.

to paragraph III—

(m). *A* commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with *B*'s wife. *A* may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

(n). *A* commits robbery on *B*, and, in doing so, voluntarily causes hurt to him. *A* may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 392 or 394 only.

(o). *A* entices *B*, the wife of *C*, away from *C*, with intent to commit adultery with *B*, and then commits adultery with her. *A* may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

Act X, 1872, s. 455.  
Act X, 1875, s. 20.  
Act IV, 1877, s. 108.  
N.W.P., 1875, p. 137.

239. If a single act or series of acts is of such a nature that it is doubtful what offence has been committed, the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

#### Illustration.

*A* is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust

and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

240. If, in the case mentioned in section 239, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

#### Illustration.

*A* is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

241. When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

#### Illustration.

(a). *A* is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

242. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit, and the provisions contained in the former part of this chapter shall apply to all such charges.

#### Illustrations.

(a). *A* and *B* are accused of the same murder. *A* and *B* may be charged and tried together for the murder.

(b). *A* and *B* are accused of a robbery, in the course of which *A* commits a murder with which *B* has nothing to do. *A* and *B* may be tried together on a charge, charging both of them with the robbery, and *A* alone with the murder.

(c). *A* and *B* are both charged with a theft, and *B* is charged with two other thefts, committed by him in the course of the same transaction. *A* and *B* may be both tried together on a charge, charging both with the one theft, and *B* alone with the two other thefts.

243. When more charges than one are made against the same person, on conviction and when a conviction has been had on one or more of them, the complainant, or the officer con-

Act X, 1872, s. 456.  
Act X, 1875, s. 21.  
Act IV, 1877, s. 109.

Act X, 1872, s. 457.  
Act X, 1875, s. 22.  
Act IV, 1877, s. 110.  
11 Bomb. 241, per West, J.

Act X, 1872, s. 458.  
Act X, 1875, s. 23.  
Act IV, 1877, s. 111.

Act X, 1872, s. 459, omitting the first ten words "In trials, before"



Court of Session or High Court, and inserting the complainant." Court of Session or High Court, the Court, withdraw, or such Court of its own accord may suspend the inquiry into, or trial of, the remaining charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges.

Act X, 1875, s. 102.  
Act IV, 1877, s. 112.  
New.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

244. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Act X, 1872, s. 203, paras. 1 and 2.  
Act IV, 1877, s. 114.  
Act X, 1872, s. 206.  
Act IV, 1877, s. 119.

245. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted.

246. If the accused admits that he has committed the offence with which he is charged, his admission shall be recorded as nearly as possible in the words used by him; and if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

Act X, 1872, s. 206.  
Act IV, 1877, s. 120.

247. If the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

Act X, 1872, s. 207.  
Act IV, 1877, s. 121.

The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Act X, 1872, s. 361.  
Act IV, 1877, s. 142.

248. If the Magistrate upon taking the evidence referred to in section 247 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

If he finds the accused guilty, he shall pass sentence upon him according to law.

Act X, 1872, s. 211, paras. 1 and 2.  
Act IV, 1877, s. 126.

249. A Magistrate may, under section 246 or section 248, convict the accused of any offence triable under this chapter which, from the facts admitted or proved, he appears to have committed, whatever may be the nature of the complaint or summons.

250. If the summons has been issued on complaint and upon the day appointed for the appearance of the accused or any day subsequent thereto to which the hearing

IV of 1877, s. 117, Nelson 206.

Act X, 1872, ss. 205, 212.  
Act IV, 1872, s. 118.

may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day.

251. If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

252. The Magistrate may in his discretion, in any case instituted otherwise than upon complaint, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction.

253. If in any case instituted upon complaint a Magistrate acquits the accused under section 248 or section 250, and is of opinion that the complaint was frivolous or vexatious, he may, in his discretion, by his order of acquittal, direct the complainant to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit.

The sum so awarded shall be recoverable as if it were a fine; and if it cannot be so recovered, the complainant shall be imprisoned in the civil jail for such term, not exceeding thirty days, as the Magistrate directs, unless such sum is sooner paid.

Recovery of such compensation.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

254. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

255. When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

256. If upon taking all the evidence produced under section 255, and such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no offence has been proved against the accused, the Magistrate shall discharge him.

257. If when such evidence and examination have been wholly or partially taken the Magistrate is of opinion that there is ground for presuming that the accused

Evidence for prosecution.

Act X, 1872, s. 213.  
Act X, 1872, s. 362, para. 1.  
Act IV, 1877, s. 143, para. 1.

Discharge of accused.

Charge to be framed when offence appears proved.



## Pr. VI, Ch. XXII.—Summary Trials.

has committed an offence triable under this chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

Act X, 1872, s. 217.  
Act IV, 1877, ss. 120, 122. 258. The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

cf. Act X, 1872, ss. 237, 324. Plea. If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

Act X, 1872, s. 218.  
Act IV, 1877, s. 121. 259. If the accused refuses to plead or does not plead, or claims to be tried, he shall be called upon to enter upon his defence, and to produce his evidence, and shall, at any time while he is making his defence, be allowed to recall and cross-examine any witness for the prosecution present in the Court or its precincts.

If the accused puts in any written statement, the Magistrate may file it with the record, but shall not be bound to do so.

Act X, 1872, s. 362.  
Act IV, 1877, s. 143, para. 2. 260. If the accused applies to the Magistrate to issue any process for compelling the attendance of any witness

cf. s. 255 and 209. (whether he has or has not been previously examined in the case) or the production of any document or other thing, the Magistrate shall issue such process unless, for reasons to be recorded by him in writing, he considers that such application should be refused.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Act X, 1872, s. 220, omitting the explanation.  
Act IV, 1877, s. 126, first half. 261. If in any case under this chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.

Act X, 1872, s. 215, expl. I. Contrast Act IV, of 1877, s. 118; but see s. 133 of same. 262. When the proceedings have been instituted upon complaint and upon any day fixed for the hearing of the case the complainant is absent and the offence may be lawfully compounded, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

## CHAPTER XXII.

## OF SUMMARY TRIALS.

Act X, 1872, ss. 222, 223, 224. 263. Notwithstanding anything herein contained, the District Magistrate and any Magistrate of the first class specially empowered in this behalf by the Local Government may try in a summary way all or any of the following offences:—

L.R. 3 Calc. 367. (a.) Offences not punishable with death, transportation, whipping, or imprisonment for a term exceeding six months;

(b.) Offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code;

(c.) Hurt, under section 323 of the same Code;

(d.) Theft; under section 379 of the same Code, where the value of the property stolen does not exceed fifty rupees;

(e.) Theft, under section 380 of the same Code, where the value of the property stolen does not exceed fifty rupees;

(f.) Theft, under section 381 of the same Code, where the value of the property stolen does not exceed fifty rupees;

(g.) Receiving stolen property, under section 411 of the same Code;

(h.) Mischief, under section 427 of the same Code;

(i.) House-trespass, under section 448 of the same Code;

(j.) Insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 505, of the same Code;

(k.) Abetment of any of the foregoing offences;

(l.) An attempt to commit any of the foregoing offences when such attempt is an offence.

264. The Local Government may confer on any Bench of Magistrates invested with powers of a Magistrate of the second or third class power to try summarily all or any of the following offences:—

(a.) Offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, and 447;

(b.) Offences against Municipal Acts, and the conservancy-clauses of Police Acts, punishable only with fine, or with imprisonment for a term not exceeding one month;

(c.) Abetment of any of the foregoing offences New

(d.) An attempt to commit any of the foregoing offences when such attempt is an offence. New

265. In trials under this chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

266. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses, or the reasons for passing the judgment, or frame a formal charge; but he or they shall enter in a register to be kept for the purpose the following particulars:—

(a) the serial number;

(b) the date of the commission of the offence;

(c) the date of the report or complaint;

(d) the name of the complainant (if any);

(e) the name, father's name and residence of the accused;

(f) the offence complained of or proved;



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- (g) the plea of the accused and his examination (if any);
- (h) the finding, and, in the case of a conviction, a brief statement of the reasons therefor.
- (i) the sentence, and
- (j) the date on which the proceedings terminated.

Act X, 1872, s. 228. 267. In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence on which the conviction was had, and also the particulars mentioned in section 266.

Such judgment shall be the only record in cases coming within this section.

Act X, 1872, s. 229. 268. Records made under section 266 and judgments recorded under section 267 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

Act X, 1872, s. 230. The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

A.—Preliminary.

Act X, 1875, s. 3. 269. In this chapter the expression "High Court" means a High Court of Judicature established or to be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, and includes the Chief Court of the Panjáb, and such other Courts as the Governor General in Council may from time to time, by notification in the *Gazette of India*, declare to be High Courts for the purposes of this chapter.

Act X, 1875, s. X. 270. All trials under this chapter before a High Court shall be by jury:

and notwithstanding anything contained herein, all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, the trial may, if the High Court so direct, be by jury.

Act X, 1872, s. 232. 271. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

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272. The Local Government may by order in the official Gazette direct that the trial of all offences or of any particular class of offences, before any Court of Session, shall be by jury in any district, and from time to time revoke or alter such order.

When the accused is triable at the same time for several offences of which some are and some are not triable by jury, he shall be tried by jury for each offence.

273. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

274. When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

275. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

276. When any charge, or portion of a charge, appears to a Judge of the High Court, at any time before the commencement of the trial of the person charged, to be clearly unsustainable, such Judge may make on the charge an entry to that effect.

Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

C.—Choosing a Jury.

277. In trials before the High Court the jury shall consist of nine persons.

In trials by jury before the Court of Session, the jury shall consist of such uneven number not being less than three, or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may from time to time direct.

278. In a trial by jury, before the Court of Session, of a person not being a European or an American, at least one half of the jury shall, if



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he so desires, consist of persons, who are neither Europeans nor Americans.

Act X, 1872, s. 240. 279. The jurors shall be chosen by lot from the persons summoned to act as such—  
 Act X, 1875, s. 33. Jurors to be chosen be lot.  
 As to practice in High Court Bombay see I. L. R. 1 Bombay, 462. in trials before the High Court, in such manner as that Court, and in trials before Sessions Courts, in such manner as the Local Government may from time to time by rule direct :

Proviso. Provided that—

Act X, 1875, s. 49. 1st, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed.  
 Existing practice maintained.

Act X, 1872, s. 243. 2nd, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present; and  
 Act X, 1875, s. 33. Persons not summoned when eligible.

Act X, 1875, s. 38. 3rd, in the Presidency towns—  
 Trials before special jurors.  
 (a) if the accused person is charged with having committed an offence punishable with death, or,  
 (b) if in any other case a Judge of the High Court so directs,  
 the jurors shall be chosen from the special jury list hereinafter prescribed.

Act X, 1872, s. 243. 280. As each juror is chosen, his name shall be called aloud, and up on his appearance, the accused shall be asked if he objects to be tried by such juror.  
 Act X, 1875, s. 53. Names of jurors to be called.

Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated :

Act X, 1875, s. 47, para. 1. Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of he person or all the persons charged.

Act X, 1872, ss. 244, 405. 281. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—  
 Act X, 1875, ss. 47, 54. Grounds of objection.

(a) some personal ground, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force ;

(b) his having by habit or religious vows relinquished all care of worldly affairs ;

(c) his holding any office in or under the Court ;  
 (d) his executing any duties of Police or being entrusted with Police-duties ;

(e) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;

(f) some presumed or actual partiality in the juror ;

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(g) inability to understand the language in which the evidence is given, or when such evidence is interpreted, the language in which it is interpreted ;  
 Act X, 1872, s. 245. Act X, 1875, s. 57.

(h) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

282. Every objection taken to a juror shall be decided by the Court, and such decision shall be final.  
 Decision of objection. Act X, 1872, s. 243. Act X, 1875, ss. 48, 55.

If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 279 ; or, if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury, provided that no objection to such juror or other person is taken under section 281 and allowed.  
 Supply of place of juror against whom objection allowed. Act X, 1872, s. 243. Act X, 1875, s. 56.

283. When the jurors have been chosen, they shall appoint one of their number to be foreman.  
 Foreman of jury. Act X, 1872, s. 246. Act X, 1875, s. 58.

The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

284. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873.  
 Swearing of jurors. New.

285. If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not possible to enforce his attendance,  
 Act X, 1872, s. 254. Procedure when juror ceases to attend.

(a) a new juror shall be added ; or

(b) the jury shall be discharged and a new jury chosen ; or

(c) with the consent of the prosecutor and the accused, the trial shall proceed with the remaining jurors.

In cases (a) and (b) the trial shall commence anew.

286. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.  
 Discharge of jury in case of sickness of prisoner. Act X, 1875, s. 99.

D.—Choosing Assessors.

287. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such.  
 Assessor how chosen. Act X, 1872, s. 239.



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Act X, 1872, s. 259. 288. If, in the course of a trial with the aid of assessors, at any time prior to the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not possible to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

Procedure when assessor is unable to attend.

If all the assessors are prevented from attending or absent themselves, the proceeding shall be stayed, and a new trial shall be held with the aid of fresh assessors.

*E.—Trial to Close of Cases for Prosecution and Defence.*

Act X, 1872, s. 247. Act XI, 1874, s. 19. Act X, 1875, s. 59. 289. When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

Opening case for prosecution.

The prosecutor shall then examine his witnesses.

Act X, 1872, s. 248. Act X, 1875, s. 60. 290. The examination of the accused before the committing Magistrate shall be tendered as evidence by the prosecutor, scrutinised by the presiding Judge and read as evidence.

Examination of accused before Magistrate to be evidence.

then examine his witnesses.

Act X, 1872, s. 249. Act XI, 1874, s. 20. Act X, 1875, s. 75. 12 Ben. Appendix 16, 17. 291. The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced, be treated as evidence in the case.

Evidence given at preliminary inquiry admissible.

Magistrate may, in the discretion of the presiding Judge, if such witness is produced, be treated as evidence in the case.

The exercise of this discretion may be reviewed on appeal, 11 Bomb. 282.

Act X, 1872, s. 251. Act X, 1875, s. 62. 292. When the examination of the witnesses for the prosecution and the examination (if any) of the accused is concluded, the accused shall be asked whether he means to call witnesses.

Procedure after examination of witnesses for prosecution.

for the prosecution and the examination (if any) of the accused is concluded, the accused shall be asked whether he means to call witnesses.

In such case it is not necessary to ask the assessors their opinion.—L. R. i All. 610 n. If he says that he does not, the prosecutor may sum up his case; and if the Court wholly discredits the evidence for the prosecution, it may then in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

If the accused says that he means to call witnesses, or if, on his saying that he does not mean to call witnesses, the prosecutor sums up his case and the Court believes, or merely doubts the truth of, the evidence for the prosecution, the Court shall call on the accused to enter on his defence.

Act X, 1872, s. 251. Act X, 1875, s. 62. 293. The accused or his advocate, attorney or agent, may then open his case, stating the facts or law on which he intends to rely, and whether he thinks the evidence for the prosecution insufficient

Defence.

agent, may then open his case, stating the facts or law on which he intends to rely, and whether he thinks the evidence for the prosecution insufficient

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or inapplicable. He may then examine his witnesses, if any, and after their cross-examination and re-examination (if any) may sum up his case.

294. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in section 232, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

Act X, 1872, s. 363. Act X, 1875, s. 85. Act IV, 1877, s. 91. 294. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in section 232, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

Act X, 1872, s. 253, omitting provision as to reconducting to Court. Act X, 1875, s. 64. Taken from Livingston, Art. 357. 296. Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

Such officer shall not suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

Act X, 1872, s. 255. Act X, 1875, s. 69. 297. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

Act X, 1872, s. 260. Act X, 1875, s. 67. 298. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Act X, 1875, s. 65. 299. The High Court may from time to time make rules as to keeping the jury together during a trial before such Court lasting for more than one day, and, subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

Locking-up jury.

the jury together during a trial before such Court lasting for more than one day, and, subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

*F.—Conclusion of Trial in Cases tried by Jury.*

Act X, 1872, s. 255. Act X, 1875, s. 90. 300. In cases tried by jury, when the case for the defence, and the prosecutor's reply, if any, are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Act X, 1872, s. 256. Act X, 1875, s. 91. 301. In such cases, it is the duty of the Judge—

(a) to decide all questions of law, and especially all questions as to the relevancy of facts



which it is proposed to prove, the admissibility of evidence or the propriety of questions asked by or on behalf of the parties which may arise in the course of the trial, and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties ;

(b) to decide upon the meaning and construction of all documents given in evidence at the trial ;

(c) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given ;

(d) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall be final.

The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

*Illustrations.*

(a.) It is proposed to prove a statement made by a person not called as a witness under circumstances which render evidence of his statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(b.) It is proposed to give secondary evidence of a document, the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

Duty of jury. 302. It is the duty of the jury—

(a) to decide which view of the facts is true, and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned ;

(b) to determine the meaning of all technical terms and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not ;

(c) to decide all questions which according to law are to be deemed questions of fact ;

(d) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

*Illustrations.*

(a.) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(b.) The question is whether a person entertained a reasonable belief on a particular point,—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

303. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Retirement to consider. Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

304. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

305. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

306. The jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Verdict to be given on each charge. Judge may question jury. Such questions and the answers to them shall be recorded.

307. When a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

308. When in a case tried before a High Court, the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

If the Judge disagrees with the majority, he shall at once discharge the jury.

If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

309. When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

310. If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, so completely that he considers it necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly,

Procedure where Judge disagrees with verdict. Act X, 1872, s. 263, para. 1. L. R. 1 Bom. 10. The dissent must be complete.

Act X, 1872, s. 257.  
Act X, 1875, s. 93.

Act X, 1872, s. 263.  
Act X, 1875, s. 92.  
Act X, 1872, s. 263.  
Act X, 1875, s. 94.  
Act X, 1872, s. 263, para. 3.  
Act X, 1875, s. 96.  
Act X, 1872, s. 263, para. 2.  
Act X, 1875, s. 95.  
Act X, 1872, s. 263, para. 2, last sentence.  
New. Dears. C. C. 229.  
Act X, 1875, ss. 97, 98.  
Act X, 1872, s. 263, para. 4.  
Act X, 1872, s. 263, para. 1.  
Act XI, 1871, s. 21.  
Act X, 1872, s. 263, last para.  
Act XI, 1874, s. 21.  
I. L. R. 1 Bom. 10.  
The dissent must be complete.



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I. L. R. 2 recording the grounds of his opinion and, when  
Bomb. 526, the verdict is one of acquittal, stating the offence  
I. L. R. 3 which he considers to have been committed.  
Calc. 623.

Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody, or admit him to bail.

Sec Markby J., in I. L. R. 3 Cal. 192. The High Court shall deal with the case so submitted as it would deal with an appeal; but it may acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it; and if it convict him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

Act X, 1875, s. 100. 311. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury, unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

H.—Conclusion of Trial in cases tried with Assessors.

Act X, 1872, ss. 255, 261, 262. 312. When in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall require each of the assessors to state his opinion orally, and shall record such opinion.

The Judge shall then give judgment; but in doing so shall not be bound to conform to the opinion of the assessors.

I.—List of Jurors for High Court and summoning Jurors for that Court.

Act X, 1875, s. 39. 313. The jurors' book for the year current when this Code comes into force shall be taken as containing a correct list of persons liable to serve as jurors under this chapter;

and those persons whose names are entered in the said book as being liable to serve on special juries only shall be deemed to be persons privileged and liable to serve only as special jurors under this chapter during the year for which the said list has been prepared.

Act X, 1875, s. 40. 314. The names of not more than two hundred persons shall, at any one time be entered in the special jurors' list.

Act X, 1875, s. 41. All persons whose names are entered in the special jurors' list shall be exempted from serving on any other than special juries, but so long only as their names are contained in such list.

Act X, 1875, s. 42. 315. The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare—

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(a) a list of all persons liable to serve as common jurors; and

(b) a list of persons liable to serve as special jurors only.

Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

No persons shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

The Governor General in Council may exempt any salaried officer of Government from serving as a juror.

The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision. Act X, 1875, s. 43.

316. Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation. Act X, 1875, s. 44.

Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

317. Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries. Act X, 1875, s. 45.

No persons shall be so summoned more than once in six months unless the number cannot be made up without him.

If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

318. Whenever a High Court has given notice of its intention to hold sittings at any place outside the Presidency-towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list in the manner hereinafter prescribed for summoning jurors to the Court of Session. Act X, 1875, s. 50.

319. In addition to the persons so summoned as jurors, the said Court of Session shall, if it think needful, after communication with the Military jurors, Act X, 1875, s. 51.



Commanding Officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's army resident within ten miles of its place of sitting, as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

Act X, 1875, s. 46. 320. Any person summoned under section 317, 318 or 319, who without Failure of jurors to attend.

Failure of jurors to attend lawful excuse fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable by order of the Judge to such fine as he thinks fit; and, in default of payment of such fine, to imprisonment in the civil jail until the fine is paid.

J.—List of Jurors and Assessors for Court of Session and summoning Jurors and Assessors for that Court.

Act X, 1872, s. 400. 321. The Sessions Judge and the Collector of the District, or such other List of jurors and assessors.

officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the Local Government directs, who are capable of serving as jurors or assessors, qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not exempt under section 327.

The list shall contain the name, place of abode and quality or business of every such person; and if the person is a European or an American, the list shall mention the race to which he belongs.

Act X, 1872, s. 400, para. 1. 322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the Court-houses of the District Magistrate and of the District Court, and in some conspicuous place in the town or towns in or near which the persons named in the list reside.

Act X, 1872, s. 401, para. 2. 323. To every such copy shall be subjoined a notice stating that objections to list. Objections to list. heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the Sessions Court-house, and at a time to be mentioned in the notice.

Act X, 1872, s. 402. 324. For the hearing of such objections, the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list

and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may avail himself of the exemption from service given by section 327, and insert the name of any person omitted from the list whom they deem qualified for such service.

In the event of a difference of opinion between the Collector or other officer as aforesaid and the Sessions Judge, the name of the proposed juror or assessor shall be omitted from the list.

A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

325. The list so prepared and revised shall be again revised once in every year. Act X, 1872, s. 403.

The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

326. All male persons between the ages of twenty-one and sixty Jurors and assessors. resident within the local limits of the jurisdiction of the Court of Session, except those next hereinafter mentioned, shall be deemed capable of serving as jurors and assessors, and shall be liable to be summoned accordingly. Act X, 1872, s. 404.

327. The following persons are exempt from liability to serve as jurors or as assessors, namely:— Exemptions. Act X, 1872, s. 406.

(a). Officers in civil employ superior in rank to a District Magistrate;

(b). Judges and other Judicial Officers;

(c). Commissioners and Collectors of Revenue or Customs;

(d). Persons engaged in the Preventive Service in the Customs Department;

(e). Persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;

(f). Persons actually officiating as priests or ministers of their respective religions;

(g). Persons in Her Majesty's Army except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors;

(h). Surgeons and others who openly and constantly practise the medical profession;

(i). Persons employed in the Post-office and Telegraph Departments;

(j). Persons exempted by the Local Government from liability to serve as jurors, and persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641.

The exemption from service given by this section is a right of which each person exempted may avail himself or not as he thinks fit. Person exempted not bound to avail himself of his right.



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Act X, 1872, s. 407. 328. The Sessions Judge shall ordinarily, three days at least before the time fixed for holding the sessions, send a letter to a Magistrate requesting him to summon as many persons named in the said revised list as seem to the Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any case about to be tried at such sessions.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

Act X, 1872, s. 410. 329. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 328, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever for other reasons such direction is found to be necessary.

Act X, 1872, s. 409, para. 1. 330. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

Act X, 1872, s. 411. 331. If any person summoned to serve as a juror or assessor be in the service of Government or of a Railway Company, the Court may excuse his attendance if it appear, on the representation of the head of the office in which he is employed, that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public service.

Act X, 1872, s. 412. 332. The Court of Session may for reasonable cause excuse any juror or assessor from attendance at any particular session.

Act X, 1872, s. 413. 333. At each session, the said Court shall cause to be made a list of the names of those who serve as jurors or assessors at such session.

Such list shall be kept with the revised list of the jurors and assessors prepared under section 324.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Act X, 1872, s. 414. 334. Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable, by order of the Court of Session, to a fine not exceeding one hundred rupees.

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Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

K.—Special Provisions for High Courts.

335. At any stage of any trial before a High Court under this Code before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal.

336. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

337. The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William, and as the Local Government in the case of the other High Courts, may direct.

But it may from time to time, in the case of the High Court at Fort William, with the consent of the Governor General in Council, in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

338. The High Court may direct that all European British subjects committed or bailed for trial by it within certain specified districts or during certain specified periods of the year shall be tried at the ordinary place of sitting of the Court,

or direct that they shall be tried at a particular place named.

CHAPTER XXIV.

OF TENDER OF PARDON IN CASES TRIABLE BY THE HIGH COURT OR COURT OF SESSION.

339. The District Magistrate, a Presidency Magistrate, any Magistrate of the first class inquiring into the case, Act X, 1872, s. 347. Act IV, 1877, s. 150.



or, with the sanction of the District Magistrate, any Magistrate duly empowered to commit to the Court of Session, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any offence specified in the second schedule as triable exclusively by the Court of Session or High Court, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence, and to every other person concerned in the perpetration thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial.

Every Magistrate, other than a District Magistrate or a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing; and when he has made such tender and examined the accused person, he shall not try the case himself, although the offence which the accused person appears to have committed may be triable by such Magistrate.

340. At any time after committal, but before judgment is passed, the High Court or Court of Session may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or direct the committing Magistrate to tender, a pardon on the same condition to such person.

341. Where a pardon has been tendered under section 339 or 340, if before the trial it appears to the Court making or directing the tender, or to the Magistrate, that any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such Court or Magistrate may commit him for trial for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

The statement made by a person under pardon may be given in evidence against him when the pardon has been withdrawn under this section.

CHAPTER XXV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

342. Every person accused before any criminal Court may of right be defended by a pleader.

343. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and in the case of a Court other than a High Court,

if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstance of the case, and the High Court shall pass thereon such order as it thinks fit.

344. At any stage of any inquiry, or trial the Court may, without previously warning the accused, put such questions to him as the Court considers necessary.

The accused shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them; but the Court shall draw such inference from such refusal or false answers as it thinks just.

The answers given by the accused may be put in evidence against him, not only in such inquiry or trial, but also in any other inquiry into, or trial for, any other offence which such answer may tend to show he has committed.

No oath or affirmation shall be administered to the accused.

345. Except as provided in section 339, no influence, by means of any promise or threat or otherwise, shall be used to induce disclosures. No influence to be used to induce disclosures. Power to direct tender of pardon. Power to postpone or adjourn proceedings.

346. If, from the absence of a witness or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, the Court may, by order, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and by a warrant, or to the like effect, remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a period exceeding fifteen days at a time.

Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge.

EXPLANATION.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

347. In the case of offences which may lawfully be compounded, the injured person may compound the offence out of Court, or in Court, with the permission of the Magistrate or presiding Judge. Such composition shall have the effect of an acquittal of the accused.

EXPLANATION.—The following offences, and no others, may be lawfully compounded:— (a) offences relating to the human body except offences under the Indian Penal Code, sections

Act X, 1872, s. 348, omitting "as a Court of Revision." Act X, 1875, s. 77.

Act X, 1872, s. 349. Act X, 1875, s. 78. Act IV, 1877, s. 151.

Act IV, 1877, s. 131.

Act X, 1872, ss. 193, 250, 342.

Act X, 1875, s. 61.

Act IV, 1877, ss. 5, 148.

1 O'K. 436.

Act X, 1872, s. 343, see

Act I, 1872, s. 114, III.

(h).

Act X, 1872, s. 193.

Act X, 1872, s. 345.

Act X, 1872, s. 344.

Act IV, 1877, s. 149.

Act X, 1872, ss. 194,

paras. 1 and 3, 208, para 1, 219, 264.

Act X, 1875, s. 66.

Act IV, 1877, s. 86, 124.

Acts 11 & 12 Vic., c. 42,

s. 21.

Act X, 1872, s. 188.

Act X, 1875, s. 151.

Act IV, 1877, s. 133.

Compare N. Y. Crim. Proc. Code, s. 731.

New.



299 to 311 (both inclusive) and sections 359 to 373 (both inclusive);

(b) criminal breach of contracts of service;

(c) defamation;

(d) criminal intimidation, insult and annoyance;

(e) offences against property, except offences under the Indian Penal Code, sections 390 to 414 (both inclusive);

(f) offences relating to documents, trade-marks and property-marks, except offences under the same Code, sections 463 to 477 (both inclusive);

(g) adultery and other offences relating to married women, under the same Code, sections 497 and 498;

(h) offences against Municipal and Cantonment Acts, and the conservancy-clauses of Police Acts;

(i) abetment of any of the foregoing offences;

(j) an attempt to commit any of the foregoing offences when such attempt is an offence.

348. If, in the course of an inquiry or trial before a Magistrate in any district outside the Presidency-towns, the evidence appears to him to

warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate, or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

The Magistrate to whom the case is submitted shall, if so empowered, either try the case himself, or refer it to any officer subordinate to him having jurisdiction, or commit the accused for trial.

In any such case, such Magistrate or other officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

349. If in any trial before a Magistrate it appears to him at any stage of the proceedings before signing judgment that the case is one which ought to be tried by the Court of Session or High Court, and he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions hereinbefore contained.

If such Magistrate is not empowered to commit for trial, he shall proceed under section 348.

350. Whoever, having been convicted of an offence punishable under chapter XII or XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate before whom he is

accused considers him an habitual offender, be committed to the Court of Session or High Court, as the case may be:

Provided that, in districts in which the District Magistrate has been invested with powers under section 30, the accused person may be placed on his trial before such Magistrate.

351. Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion upon concluding a trial that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, he may record the finding and, instead of passing sentence, submit his proceedings, and forward the accused to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

The Magistrate to whom the proceedings are submitted may if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case; and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law: Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

352. Whenever any Magistrate, after having heard the whole or any part of the evidence in an inquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and re-commence the enquiry or trial.

Provided that the accused may, when the second Magistrate commences his proceedings, demand that the witnesses be re-summoned and re-heard, in which case the inquiry or trial shall be re-commenced:

Provided also that the High Court, or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, without appeal, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby; and may order a new inquiry or trial.

Nothing in this section applies to cases in which proceedings have been stayed under section 348.

353. Any person attending a criminal Court, although not upon an arrest or summons, may be detained by such Court for the purpose of examination, for any offence of which such Court can take cognizance and which, from the evidence, he may appear to have committed, and may be proceeded against as though he had been arrested or summoned.

354. Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion upon concluding a trial that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, he may record the finding and, instead of passing sentence, submit his proceedings, and forward the accused to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

Act X, 1872, s. 46, inserting "different in kind from or."

e. g., he may order committal to Sessions Court, I. L. R. 1 Madras 289.

Act X, 1872, ss. 328 and 329, Act IV, 1877, s. 156.

Act X, 1872, s. 104.

Act X, 1872, s. 45.

Madras H. C. ruling cited Nelson, 63.

Act X, 1872, s. 221, Act IV, 1877, s. 127.

Act X, 1872, s. 315, Act IV, 1877, s. 128.

Procedure of Mofussil Magistrate in cases which he cannot dispose of.

Procedure when after commencement of trial Magistrate finds case should be committed.

Trial of persons previously convicted of offences against coinage, stamp-law and property.

Proviso.

Procedure when Magistrate cannot pass sentence sufficiently severe.

Conviction on evidence partly recorded by one Magistrate and partly by another.

Detention of offenders attending Court.



When the detention takes place in the course of an inquiry under chapter XVIII, or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh and the witnesses re-heard.

Act X, 1872, s. 187.  
Act X, 1875, s. 150.  
Act IV, 1877, s. 132.

354. The place in which any criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them :

Provided that the presiding Judge may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

## CHAPTER XXVI.

## OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Act X, 1872, s. 191, para. 1.  
Act IV, 1878, s. 83, para. 1.  
Act X, 1872, s. 332.

355. Except as otherwise expressly provided, all evidence taken under chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

356. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the manner of recording evidence in Mufassal (other than a Presidency Magistrate) or Sessions Judge, the evidence of the manner.

Act X, 1872, s. 333.

357. In summons-cases tried before a Magistrate, other than a Presidency Magistrate, and in cases of the offences mentioned below when tried by a Magistrate of the first or second class, the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same ; and such memorandum shall form part of the record.

The offences above referred to are—

- Act X, 1872, s. 222.
- (1). Offences relating to weights and measures, under sections 264, 265 and 266 of the Indian Penal Code ;
  - (2). Hurt, under section 323 of the same Code ;
  - (3). Theft, under section 379 of the same Code, where the value of the property stolen does not exceed fifty rupees ;

- (4). Theft, under section 380 of the same Code, where the value of the property stolen does not exceed fifty rupees ;
- (5). Theft, under section 381 of the same Code, where the value of the property stolen does not exceed fifty rupees ;
- (6). Receiving stolen property, under section 411 of the same Code ;
- (7). Mischief, under section 427 of the same Code ;
- (8). House-trespass, under section 448 of the same Code ;
- (9). Criminal intimidation, under sections 504 and 506 of the same Code ;
- (10). Abetment of any of the foregoing offences ;
- (11). Attempt to commit (when such attempt is an offence) any of the foregoing offences.

358. In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates) and in all inquiries under chapter XVIII, the evidence of each witness shall be taken down in writing in the language of the Court, by the Magistrate or Sessions Judge, or in his presence and under his personal direction and superintendence, and shall be signed by the Magistrate or Sessions Judge.

Act X, 1872, s. 334.

Record in other cases in the Mufassal.

No exception of cases in which no appeal lies, 11 Beng. Appx. 6.

When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

359. The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session or before any Magistrate or class of Magistrates, the evidence shall in the cases referred to in section 358 be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence

Act X, 1872, s. 335.

Language of record of evidence.



Pr. VI, Ch. XXVI.—*Mode of taking and recording Evidence in Inquiries and Trials.*

of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record :

Provided that, if the mother-tongue of the Sessions Judge or Magistrate is not English or the language of the Court, the Local Government may direct him to take down the evidence in the English language, or in the language of the Court.

Act X, 1872, s. 336. 360. In cases of the kind mentioned in section

Option to Magistrate in cases under section 357.

357, the magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 358, or, if within the local limits of the jurisdiction of such Magistrate, the Local Government has made the order referred to in section 359, in the manner provided in the same section.

Act X, 1872, s. 336. 361. Evidence taken under section 358 or 359

Mode of recording evidence under section 358 or 359.

shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

The Magistrate or Sessions Judge may in his discretion take down, or cause to be taken down, any particular question and answer, if there appears any special reason for so doing, or if the prosecutor or the accused, or his pleader so requires.

Act X, 1872, s. 339. 362. As the evidence of each witness taken

Procedure in regard to such evidence when completed.

under section 358 or 359 is completed, it shall be read over to him in the presence of the accused if in attendance, or of his pleader, when his personal attendance is dispensed with and he appears by pleader, and shall, if necessary, be corrected.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, he may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

Act X, 1872, s. 340. 363. Whenever any evidence is given in a lan-

Interpretation of evidence to accused or his agent.

guage not understood by the accused and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

Pr. VI, Ch. XXVI.—*Mode of taking and recording Evidence in Inquiries and Trials.*

When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

364. In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall be part of the record.

Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may in his discretion take down, or cause to be taken down, any particular question or answer.

Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

365. Every Sessions Judge or Magistrate recording the evidence of a

Remarks respecting demeanour of witness.

witness shall record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

366. Whenever the accused is examined by any Magistrate or by any Court other than a High Court established by Royal Charter,

Examination of accused how recorded.

the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge shall certify under his own hand that it was taken in his presence and in his hearing, and contains a full and true account of the statement made by the accused.

In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presidency Magistrate, as the examination proceeds, to make a memorandum thereof in the language of the Court or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

If the Court of Session or High Court finds that the provisions of this section have not been fully complied with by a Magistrate committing any person for trial to such Court, it shall take evidence that such person duly made the statement recorded; and unless the error injures the accused as to his defence on the merits, it shall not affect the admissibility of such statement.



Pr. VI, Ch. XXVII.—Judgment.

Act X, 1875, s. 68, including Chief Court. 367. Every High Court established by Royal Charter and the Chief Court of the Panjáb may from time to time by general rule prescribe the manner in which evidence shall be taken down in cases coming before the Court in the exercise of its ordinary or its extraordinary original criminal jurisdiction, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

CHAPTER XXVII.

OF THE JUDGMENT.

Act VIII, 1859, s. 183. Act X, 1872, s. 462. 368. The judgment in every trial in any criminal Court of original jurisdiction shall be pronounced in open court either immediately or at some subsequent time of which due notice shall be given to the parties or their pleaders; and the accused shall, if in custody, be brought up, or if not in custody shall be required to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only, in which case it may be pronounced in the presence of his pleader.

Act X, 1872, s. 463. cf. Act X, 1877, s. 200. 369. Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officers of the Court in the language of the Court, or in English, or in the presiding officer's mother-tongue, and shall contain the point or points for determination, the decision thereon, and the reasons for the decision, and shall be dated and signed by the presiding officer in open court the time of pronouncing it.

Act X, 1872, s. 464. Act VIII, 1859, s. 185. Contents of judgment. It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted; and the punishment (if any) to which he is sentenced.

Act X, 1872, s. 461. Judgment in alternative. When the conviction is under the Indian Penal Code, it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative, according to section 72 of the same Code.

If it be a judgment of acquittal, it shall direct that the accused be set at liberty.

Act X, 1872, s. 287, para. 2. If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed:

Act X, 1872, s. 255, last para., and 464. Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

Act X, 1872, s. 321. Act X, 1875, s. 113. 370. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

371. No Court when it has signed its judgment shall alter or review the same. Act X, 1872, s. 464, second sentence.

372. Instead of recording a judgment in the manner hereinbefore provided, a Presidency Magistrate shall record the following particulars:—

- (a) the serial number of the case;
- (b) the date of the commission of the offence;
- (c) the name of the complainant (if any);
- (d) the name of the accused person;
- (e) the offence complained of or proved;
- (f) the plea of the accused and his examination (if any);
- (g) the final order;
- (h) the date of such order; and
- (i) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction. Act IV, 1877, s. 126.

373. The judgment shall be explained to the accused, and on his application a copy of the judgment or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay, and free of cost. Act XI, 1874, s. 41.

When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred. Case of person sentenced to death.

374. The original judgment shall be filed with the record of proceedings, and where the original is recorded in a different language from that of the Court, a translation thereof into the language of the Court shall be added to such record. Judgment to be translated.

375. In cases tried by the Court of Session, the Court shall forward a copy of its judgment to the District Magistrate within the local limits of whose jurisdiction the trial was held. Act X, 1872, s. 302.

CHAPTER XXVIII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

376. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court. Act X, 1872, s. 287, para. 1.



Act X, 1872, s. 289. 377. If when such proceedings are submitted the High Court thinks that additional evidence upon any point bearing upon the guilt or innocence of the convicted person is necessary, it may direct such evidence to be taken.

Power to direct additional evidence on such reference. Such evidence shall not be taken in the presence of jurors or assessors, and unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is taken.

The result of such evidence shall be certified to the High Court.

Act X, 1872, s. 288. 378. In any case submitted under section 376, whether tried with the aid of assessors or by jury, the High Court may confirm the sentence, or pass any other sentence warranted by law, or may annul the conviction, and order a new trial on the same or an amended charge, or may acquit the accused person.

Power of High Court to confirm sentence or annul conviction. High Court may confirm the sentence, or pass any other sentence warranted by law, or may annul the conviction, and order a new trial on the same or an amended charge, or may acquit the accused person.

Act X, 1872, s. 290. 379. In every case so submitted, the confirmation of the sentence or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be signed by at least two of them.

Confirmation or new sentence to be signed by two Judges. Confirmation of the sentence or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be signed by at least two of them.

? New. 380. When any such case is heard before a bench of Judges and such Judges are equally divided, the case, with their opinions thereon, shall be laid before another Judge; and such Judge, after such examination and hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure in case of difference of opinion. When any such case is heard before a bench of Judges and such Judges are equally divided, the case, with their opinions thereon, shall be laid before another Judge; and such Judge, after such examination and hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Act X, 1872, s. 301, para. 1. 381. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court, and attested with his official signature, to the Court of Session.

Procedure in cases submitted to High Court for confirmation. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court, and attested with his official signature, to the Court of Session.

Act X, 1872, ss. 18 and 36. Act XI, 1874, s. 3. 382. When a sentence passed by an Assistant Sessions Judge or by a District Magistrate acting under section 34 is submitted to a Sessions Judge for confirmation, such Sessions Judge may either confirm, modify or annul such sentence or the finding on which the same is based, or if he thinks further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, he may direct such enquiry or evidence to be made or taken.

Confirmation of sentence of Assistant Sessions Judge or Magistrate acting under section 34. When a sentence passed by an Assistant Sessions Judge or by a District Magistrate acting under section 34 is submitted to a Sessions Judge for confirmation, such Sessions Judge may either confirm, modify or annul such sentence or the finding on which the same is based, or if he thinks further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, he may direct such enquiry or evidence to be made or taken.

Unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when such evidence is taken; and when the sentence has been submitted by an Assistant Sessions Judge, such evidence shall not be taken in the presence of jurors or assessors.

## CHAPTER XXIX.

## OF EXECUTION.

383. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall on receiving the order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

Execution of order passed under section 378. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall on receiving the order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

384. If a woman sentenced to death be found by the Civil Surgeon to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence to transportation for life.

Postponement of capital sentence on pregnant woman. If a woman sentenced to death be found by the Civil Surgeon to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence to transportation for life.

385. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 383, the Court shall forthwith forward him with a warrant to the jail in which he is to be confined.

Execution of sentences of transportation or imprisonment in other cases. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 383, the Court shall forthwith forward him with a warrant to the jail in which he is to be confined.

386. Every person for whose imprisonment a warrant is issued under sections 383 or 385 shall be confined in such jail or other place as the Local Government directs in his behalf.

Sentence of imprisonment where to be carried out. Every person for whose imprisonment a warrant is issued under sections 383 or 385 shall be confined in such jail or other place as the Local Government directs in his behalf.

387. Every warrant for the execution of a sentence of imprisonment, shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

Direction and form of warrant for execution. Every warrant for the execution of a sentence of imprisonment, shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

388. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor, if he is at the jail, and if he is not at the jail, with his deputy.

Warrant with whom to be lodged. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor, if he is at the jail, and if he is not at the jail, with his deputy.

If the jailor has no deputy, the warrant may be lodged with any officer in charge of the jail for the time being.

389. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may in its discretion issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Execution of sentence of fine. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may in its discretion issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the distress and sale of any such property without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

Whenever an offender is sentenced to pay a fine, the Court passing the sentence may in its discretion issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the distress and sale of any such property without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

390. When a Court issues a warrant under section 389, it may, instead of at once ordering the offender to be imprisoned under section

Detention of offender until return made to distress-warrant. When a Court issues a warrant under section 389, it may, instead of at once ordering the offender to be imprisoned under section



## Pr. VI, Ch. XXIX.—Execution.

64 of the Indian Penal Code, release him on his executing a bond with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than eight days from the time of executing the bond.

Act X, 1872, s. 307, last sentence.  
Act IV, 1877, s. 185, last sentence.  
391. The warrant may be issued either by any Judge or Magistrate who, if the case had been tried by him, might have imposed the fine, or by his successor in office.

Act X, 1872, s. 302A, last sentence.  
Act IV, 1877, s. 183.  
392. Where the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct.

Act X, 1872, s. 310.  
Act IV, 1877, s. 187.  
393. When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence or, if an appeal be made within that time, until the sentence is confirmed by the appellate Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days or, in case of an appeal, immediately on the receipt of the order of the appellate Court confirming the sentence.

Act XI, 1874, s. 33.  
The whipping shall be inflicted in the presence of the officer in charge of the jail: unless the Judge or Magistrate orders it to be inflicted in his own presence.

Act X, 1872, s. 311, para 1.  
Act X, 1875, s. 108.  
Act IV, 1877, s. 188.  
394. In the case of a person of or over sixteen years of age, whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

Act X, 1872, s. 311, para 2.  
395. In no case, if the cat-o'-nine-tails be the instrument employed, shall whipping exceed one hundred and fifty lashes, or if the ratan be employed, shall such punishment exceed thirty stripes.

Act IV, 1877, s. 190.  
Not to be executed by instalments. No sentence of whipping shall be executed by instalments.

Act X, 1872, s. 312.  
Act XI, 1874, s. 33.  
Act X, 1875, s. 108.  
Act IV, 1877, s. 189.  
396. The punishment of whipping shall not be inflicted, unless a Medical Officer, if present, certifies, or, if there is not a Medical Officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

Act XI, 1874, s. 33.  
If, during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

397. In any case in which, under section 396, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

Procedure if punishment cannot be inflicted under the last section.

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Court is competent to award.

398. When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall take effect immediately, and if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say:—

If the new sentence is severer in its quality than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

When the new sentence is not severer in its quality than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

EXPLANATION.—For the purpose of this section—

(a) a sentence of transportation of penal servitude shall be deemed severer than a sentence of imprisonment;

(b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

399. When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced:

Provided that if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction be one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

Act X, 1872, s. 313.  
Act X, 1875, s. 108.  
Act IV, 1877, s. 191.

Act X, 1872, s. 316.  
Act X, 1875, s. 110.  
Act IV, 1877, s. 192.

Act X, 1872, s. 317.  
Act X, 1875, s. 111.  
Act IV, 1877, s. 193.



Act X, 1872, s. 317, last sentence. 400. Nothing in section 398 or section 399 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

Act X, 1872, s. 318. Act X, 1875, s. 112. Act V. of 1876 has not yet come into force when ex- cept— 401. When any person under the age of sixteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed.

## CHAPTER XXX.

## OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

Act X, 1872, s. 322, para. 1. 402. When any person has been sentenced to punishment for an offence the Governor General in Council, or the Local Government, may at any time, without conditions, or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

New. Whenever an application is made to the Governor General in Council or the Local Government for the suspension or remission of a sentence, the Governor General in Council or the Local Government, as the case may be, may require the presiding Judge of the Court before which the conviction was had to furnish without delay a statement of the facts proved on the trial, and of any facts having reference to the propriety of granting or refusing the application.

Act X, 1872, s. 322, para. 2. If the person in whose favour a sentence has been suspended or remitted fails to fulfil the conditions prescribed by the Governor General in Council or the Local Government, the Governor General in Council or the Local Government, as the case may be, may cancel such suspension or remission whereupon such person may, if at large, be arrested by any police officer without warrant and remanded by any Magistrate to undergo the unexpired portion of the sentence.

Act X, 1872, s. 322, para. 3. Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites, or remissions of punishment.

403. The Governor General in Council, or the Local Government, may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it:—

death, transportation, penal servitude, imprisonment.

## CHAPTER XXXI.

## OF PREVIOUS ACQUITTALS OR CONVICTIONS.

404. A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 239, or for which he might have been convicted under section 240.

Person once convicted or acquitted not to be tried for same offence. Act X, 1872, s. 460. Act X, 1875, s. 117. Act IV, 1877, s. 113. Cf. N. Y. Code of Crim. Proc., s. 13. Form of plea under this section, N. W. P., 1875, p. 373.

A person convicted or acquitted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 258, paragraph one.

A person acquitted or convicted of any offence constituted by any act causing consequences, which, together with such act, constituted a different offence from that for which he has acquitted or convicted, may be afterwards tried for such last-mentioned offence if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

*Explanation.*—The dismissal of a complaint, the discharge of the accused or any entry made upon a charge under section 276 is not an acquittal for the purposes of this section. Act X, 1872, s. 215, expl. 2. Act X, 1875, s. 14.

*Illustrations.*

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for robbery.

(c) A is tried for an assault and convicted. The person assaulted afterwards dies. A may be tried again for culpable homicide.

(d) A is tried, under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life, and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 235 of the same Code, with voluntarily causing grievous hurt to that person.

(e) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(f) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to be B on the same facts,



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unless the case comes within paragraph three of this section.

(g.) *A* is charged by a Presidency Magistrate with, and convicted by him of, theft of property from the person of *B*. *A* may be subsequently charged with, and tried for, robbery on the same facts.

(h.) *A*, *B* and *C* are charged by a Magistrate of the first class with, and convicted by him of, robbing *D*. *A*, *B* and *C* may afterwards be charged with, and tried for, dacoity on the facts.

## PART VII.

### OF APPEAL, REFERENCE AND REVISION.

#### CHAPTER XXXII.

##### OF APPEALS.

- Act X, 1872, s. 267. 405. Any person required by a Magistrate, other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 117 may appeal to the District Magistrate.
- Act X, 1872, s. 266, omitting "or to a Magistrate of first class empowered." 406. Any person convicted on a trial held by any Magistrate of the second or third class, or any persons sentenced by a Sub-divisional Magistrate of the second class under section 351, may appeal to the District Magistrate.
- Act X, 1872, s. 47, para. 2. The District Magistrate may refer any appeal under this section, or any class of such appeals, to any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and may withdraw from any such Magistrate any appeal so referred.
- Act X, 1872, s. 269. 407. Any person convicted on a trial held by the District Magistrate or other Magistrate of the first class, or any person sentenced under section 351 by a Magistrate of the first class, may appeal to the Court of Session:
- Act X, 1872, s. 270. Provided that when a District Magistrate passes a sentence in exercise of powers conferred by section 34, and such sentence has been submitted to the Court of Session under section 382, the appeal shall lie to the High Court:
- Act X, 1872, s. 79. Provided also that any European British subject so convicted may at his option appeal either to the High Court or the Court of Session.
- Act X, 1872, s. 270. 408. Any person convicted by an Assistant Sessions Judge may, when the sentence is not submitted for confirmation to the Sessions Judge, appeal to the Sessions Judge, except in the case of an European British subject, when the appeal shall lie to the High Court.
409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional or Joint Sessions Judge.
410. Any person convicted on a trial held by a Sessions Judge, or Additional or Joint Sessions Judge, or convicted by an Assistant Sessions Judge, where the case has been submitted by the Sessions Judge under section 382, may appeal to the High Court.
411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.
412. Notwithstanding anything hereinbefore contained, where an accused person has been convicted by a Court of Session or a Presidency Magistrate on his own plea, there shall be no appeal except as to the extent or legality of the sentence.
413. Notwithstanding anything hereinbefore contained, there shall be no appeal in petty cases.
414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only or of whipping only.
415. An appeal may be brought against any sentence referred to in section 413 or 414 by which any two or more of the punishments therein mentioned are combined; but not against any sentence which would not otherwise be liable to appeal, because the person convicted is ordered to find security to keep the peace.
- EXPLANATION.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.
416. Nothing in sections 413 and 414 applies to appeals from sentences passed on European British subjects under chapter XXXIV.
417. The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal, dismissal or discharge.
418. An appeal may lie on a matter of fact as well as a matter of law except where the conviction was in a trial by
- Act X, 1872, ss. 80, 270, 271. Act XI, 1874, s. 22.
- Act IV, 1877, s. 167.
- Act X, 1872, s. 273, last para. Act IV, 1872, s. 167.
- Act X, 1872, s. 273.
- Act X, 1872, s. 274.
- Act X, 1872, s. 274, para. 2.
- Act XI, 1874, s. 24.
- Act X, 1872, s. 274.
- Act X, 1872, s. 272. Act IV, 1877, s. 168, para. 1.
- Act X, 1872, s. 271, last para. Compare Act X, 1877, s. 541.



jury, in which case the appeal shall be admissible on a matter of law only.

Act X, 1872, ss. 255, 286.  
Act IV, 1877, s. 180.  
149. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.  
Unless otherwise provided, no appeal to lie from judgment or order of Criminal Court.

Act X, 1872, ss. 275, 276.  
Act IV, 1877, s. 169.  
140. Every appeal shall be made in the form of a petition in writing presented by the appellant, and every such petition shall be accompanied by a copy of the judgment or order appealed against, and in cases tried by a jury a copy of the heads of the charge recorded under section 369.  
Petition of appeal.

Act X, 1872, s. 277.  
Act IV, 1877, s. 171.  
141. If the appellant is in jail, he may present his petition of appeal, and the copy of the judgment or order appealed against, to the officer in charge of the jail, who shall thereupon forward such petition and copy to the proper Appellate Court.  
Procedure when appellant in jail.

Act X, 1872, s. 278.  
Act IV, 1877, s. 172, omitting last sentence.  
142. On receiving the petition and copy under section 420 or section 421, the Appellate Court shall peruse the same, and if it considers that there is no sufficient ground for interfering, it may reject the appeal summarily: Provided that no appeal, presented under section 420, shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.  
Summary rejection of appeal.

Before rejecting an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Act X, 1872, ss. 62, 269, para. 2, 279.  
Act IV, 1877, s. 173.  
143. If the Appellate Court does not reject the appeal summarily, it shall cause notice to be given to the appellant and the Public Prosecutor of the time and place at which such appeal will be heard, and shall furnish the Public Prosecutor with a copy of the grounds of appeal;  
Notice of appeal.

Act XI, 1874, s. 27.  
and in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

Act X, 1872, s. 280.  
Act IV, 1877, ss. 174, 179.  
144. The Appellate Court shall then send for record of the case and, after perusing the same and hearing the appellant or his pleader, if he appears, and the Public Prosecutor if he appears, may, if it considers there is no sufficient ground for interfering, reject the appeal, or may—  
Powers of Appellate Court in disposing of appeal.

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from an order of discharge or dismissal, reverse such order and direct that further inquiry be made;

Act X, 1872, s. 284.  
(c) in an appeal from a conviction (1) reverse the finding and sentence, and order the accused to

be discharged or retried by a Court of competent jurisdiction subordinate to such Appellate Court, or (2) alter the finding, or enhance or reduce the sentence with or without altering the finding, or (3) alter the nature of the sentence with or without such enhancement or reduction and with or without altering the finding;

(d) in an appeal from any other order, alter or reverse such order:

Provided that, if the appeal is from the sentence of a Magistrate, the Appellate Court shall not inflict a greater punishment for the offence which, in the opinion of the Appellate Court, the appellant has committed than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class:

Provided also that nothing herein contained shall authorise the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge.

145. The rules contained in chapter XXVII as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court.  
Judgments of subordinate Appellate Courts.

146. Pending any appeal by a convicted person, the Appellate Court may order that the execution of the sentence or order appealed against be suspended and, if he is in confinement, that he be released on bail.  
Suspension of sentence pending appeal.  
Release of appellant on bail.  
Act X, 1872, s. 281, and sec. 297, para. 8, in case of Court of Revision Act IV, 1877, s. 175.

When the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in computing the term of his imprisonment.

147. When an appeal is presented under section 417, the High Court may order that the accused person to be arrested and brought before it, and may commit him to prison pending the disposal of the appeal or admit him to bail.  
Arrest of accused in appeals under section 417.  
Act IV, 1877, s. 168, para 3, I. L. R. I Calc. 281.

148. In dealing with any appeal under this chapter, the Appellate Court, if it thinks additional evidence to be necessary, may either take such evidence itself, or may direct it to be taken by a Magistrate.  
Appellate Court may take further evidence or direct it to be taken.  
Act X, 1872, s. 282.  
Act IV, 1877, s. 176.

When the additional evidence is taken by the Magistrate, he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the Appellate Court otherwise directs, the appellant or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors or assessors.

149. When the Judges composing the Court of appeal are equally divided, the case, with their opinions thereon, shall be laid before an  
Procedure where Judges of Court of appeal, &c., are equally divided.  
Act X, 1872, s. 271B.  
Act XI, 1874, s. 22.



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other Judge of the same Court, and such Judge, after such examination and hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Act X, 1872, s. 235. 430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and chapter XXXIII.

I. L. R., 2 Bom. 564. 431. Every appeal under this chapter finally abates on the death of the appellant or, in the case of an appeal under section 417, on the death of the accused.

CHAPTER XXXIII.

OF REFERENCE AND REVISION.

Act IV, 1877, s. 240. 432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference; and, pending such decision, may either commit the accused to jail or release him on bail to appear for judgment when called upon.

Act IV, 1877, s. 241. 433. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

The High Court may direct by whom the costs of such reference shall be paid.

Act X, 1875, s. 101. 434. When any person has, in a trial before a Judge of a High Court acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail or, if the Judge thinks fit, be admitted to bail,

and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment and sentence as the High Court thinks fit.

Act X, 1872, s. 294, 295, 293. 435. The High Court or any Court of Session or District Magistrate may call for and examine the record of any proceeding before any inferior Criminal Court situate

within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of the proceedings of such inferior Court.

Orders made under sections 141 and 142 are not proceedings within the meaning of this section.

Act X, 1872, s. 520, I would omit. See I. L. R. 2 Calc. 295, from which it appears that the High Court cannot interfere even under section 15 of the High Court Act.

436. When on examining the record of any case under section 435 the Court of Session or District Magistrate considers that such case is triable exclusively by the Court of Session, and that an accused person has been improperly discharged by the inferior Court, the Court of Session, or District Magistrate may direct him to be committed for trial upon the matter of which he has been, in the opinion of the Court of Session or District Magistrate, improperly discharged.

Act X, 1872, s. 296, paras. 2 and 3. Act XI, 1874, s. 29. 10 Beng. 289.

Provided that the accused has had an opportunity of shewing cause to such Court or Magistrate why the committal should not be made:

O'Kin. 93.

Provided also that, if such Court or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Court or Magistrate may direct the inferior Court to inquire into such offence.

Act XI, 1874, s. 29.

437. On examining any record under section 435, the Court of Session may direct the District Magistrate by himself or by any of the Magistrates subordinate to him, or the District Magistrate may direct any subordinate Magistrate, to make further inquiry into any complaint which has been dismissed under section 204.

Act X, 1872, s. 298. Act XI, 1874, s. 31.

438. The Court of Session or District Magistrate may, if it or he thinks fit, on examining under section 435 the record of any proceeding, report for the orders of the High Court the results of such examination.

Act X, 1872, s. 296, para. 1.

439. In the case of any proceeding the record of which has been called for by itself, or which has been reported for to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 424, 426, 427 and 428, and when the Judges composing the Court of revision are equally divided, the case shall be disposed of in manner provided by section 429.

Act X, 1872, s. 297. I. L. R. 2 Calc. 113. I. All. I, 139. I. Bomb. 125; Nelson 287. O'Kin. 84. This will empower High Court to reduce amount of forfeited recognizances? 2 O'K. 408.

440. No party has any right to be heard either personally or by pleader before any High Court when exercising its

Act X, 1872, s. 297, last para.



powers of revision; but the High Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader.

Act IV, 1877, s. 182. 441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record

Statement by Magistrate of grounds of his decision to be considered by High Court.

a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before over-ruling or setting aside the said decision or order.

Act X, 1872, s. 299. 442. Whenever a case is revised by the High Court under this chapter,

Order on revision to be certified to lower Court or District Magistrate.

it shall certify its decision or order to the Court by which the finding, sentence or order was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court and, if necessary, the record shall be amended in accordance therewith.

## PART VIII.

### SPECIAL PROCEEDINGS.

#### CHAPTER XXXIV.

##### CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.

Act X, 1872, s. 74. 443. No charge against a European British subject shall be inquired into or tried by any Magistrate, unless he is a Justice of the Peace, and (except in the case

Magistrates who may inquire into and try charges against European British subjects.

of a Presidency Magistrate) unless he is a Magistrate of the first class and a European British subject.

444. No charge against a European British subject shall be tried by any Sessions Court unless the presiding Judge is a European British subject.

Sessions Judge to be an European British subject.

Act X, 1872, ss. 72, 438. 445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European

Cognizance of offence committed by European British subject.

British subject in any case in which he could take cognizance of a like offence if committed by another person:

Act X of 1872. Provided that if he issues any process for the purpose of compelling the appearance of a European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

446. Notwithstanding anything contained in section 32, or section 34, no Magistrate other than a Presidency Magistrate shall pass any sentence on a European British subject other than imprisonment for a term which may extend to three months, or fine, which may extend to one thousand rupees, or both.

Sentences which may be passed by mufassal Magistrates.

447. When a European British subject is accused of an offence before a Magistrate, and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session or, in the case of a Presidency Magistrate, to the High Court.

When commitment is to be to Court of Session and to High Court.

Act X, 1872, ss. 75, 438. When the offence complained of is punishable with death or transportation for life, the commitment shall be to the High Court.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offence.

Trial for offences of which one is, and the others are not, punishable with death or transportation.

449. Sessions Judges, Additional Sessions Judges or Joint Sessions Judges, and, when specially empowered in this behalf by the Local Government, Assistant Sessions Judges who have been Assistant Sessions Judges for not less than three years, may pass on European British subjects any lawful sentence of imprisonment for a term which may extend to one year, or fine or both.

Sentences which may be passed by Court of Session.

If at any stage of the proceedings in a Sessions Court, before the signing of the judgment, the presiding Judge thinks that the offence which appears to be proved cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court.

Procedure when Sessions Judge finds his powers inadequate.

450. If the Judge of the Sessions Division within which the offence is ordinarily triable is not a European British subject, the case shall be reported by the committing Magistrate for the orders of the High Court.

Procedure when Sessions Judge is not a European British subject.

451. In trials of European British subjects before a High Court or Court of Session, if before the first juror is called

Mixed jury for trial of European British subjects.

Act X, 1872, s. 78. Act X, 1875, s. 35.



and accepted or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, or by a mixed set of assessors, not less than half the number of the jurors or assessors shall be Europeans or Americans, or both Europeans and Americans.

Unless the Magistrate has reason to believe that any person brought before him is not a European British subject, the Magistrate shall ask such person whether he is such a subject or not. Act X, 1872, s. 85.

452. In any case in which a European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such persons may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately:

455. Where a person who is not a European British subject is dealt with under this chapter as such, and does not object the inquiry, commitment or trial (as the case may be) shall not, by reason of such dealing, be invalid.

Provided that, if the European British subject requires under section 451 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being a European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of chapter XXIII.

456. Any European British subject who is detained in custody by any person, and who considers such detention unlawful, may apply to the High Court which would have jurisdiction over him in respect of any offence committed by him at the place where he is detained, or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass. Act X, 1872 s. 81.

453. When any person claims to be dealt with as a European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not a European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's decision was wrong shall lie upon him.

457. The High Court, if it thinks fit, may, before issuing such order, inquire on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary. Act X, 1872, s. 81.

When any such person is committed by the Magistrate for trial before the Court of Session, and such person again before such Court claims to be dealt with as a European British subject, such Court shall after such further enquiry if any, as it thinks fit, decide whether he is or is not a European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's decision was wrong shall lie upon him.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor General in Council may from time to time direct. Act X, 1872, s. 81.

When the Court before which any person is tried decides that he is not a European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

459. Unless there be something repugnant in the context, all enactments heretofore or hereafter made by the Governor General in Council, which confer summary jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons be not expressly referred to therein. Act XXII, 1870, ss. 2 & 4.

454. If a European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and disallowed by the committing Magistrate, it is not again made before the Court to which he is committed, he shall be held to have waived his privilege as such European British subject, and shall not assert it in any subsequent stage of the same case.

Nothing in this section shall be deemed to authorize any Court to exceed the limits prescribed by this chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate not being a Justice of the Peace or on any Magistrate outside the Presidency Towns not being an European British subject.

460. In every case in which an European (not being an European British subject) or an American is the accused person, or one of the accused persons, not less than half the number of Jurors or Assessors shall, if practicable and if such European or American so desires, be Europeans, or Americans. Act X, 1872, s. 234.

Act X, 1875, s. 36.

Trial of European British subject and Native jointly accused.

452. In any case in which a European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such persons may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately:

When Native may claim separate trial.

Provided that, if the European British subject requires under section 451 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being a European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of chapter XXIII.

Act X, 1875, s. 37.

Procedure on claim of European British subject to be dealt with as such.

453. When any person claims to be dealt with as a European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not a European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's decision was wrong shall lie upon him.

Act X, 1872, s. 83.

When any such person is committed by the Magistrate for trial before the Court of Session, and such person again before such Court claims to be dealt with as a European British subject, such Court shall after such further enquiry if any, as it thinks fit, decide whether he is or is not a European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's decision was wrong shall lie upon him.

Act X, 1872, s. 84.

Failure to plead status a waiver.

454. If a European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and disallowed by the committing Magistrate, it is not again made before the Court to which he is committed, he shall be held to have waived his privilege as such European British subject, and shall not assert it in any subsequent stage of the same case.

Jury for trial of European or Americans.

460. In every case in which an European (not being an European British subject) or an American is the accused person, or one of the accused persons, not less than half the number of Jurors or Assessors shall, if practicable and if such European or American so desires, be Europeans, or Americans.



Act X, 1872, s. 242. 461. Whenever an European or American is charged before the Court of Session jointly with a person of any other race, and claims to be tried by a jury consisting of at least one-half of Europeans and Americans, such person shall, if he so desires, be tried separately.

ness and incapacity and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court. Act XI, 1874, s. 39.

Act X, 1872, s. 408. 462. When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 451, or section 460, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinafter prescribed, as many European and American jurors as are required for the trial.

466. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the offence of which such person is accused is bailable, may release him on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf. Act X, 1872, s. 426. Act X, 1875, s. 121. Act IV, 1877, s. 196.

Summoning and empanelling jurors under section 451, or 460. The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons has been already summoned for trials by jury at that session.

Release of lunatic pending investigation or trial. If the offence is not bailable, or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, and the Local Government may order such person to be confined in a Lunatic Asylum or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order. I. L. R. 2 Cal. 356.

From the whole number of persons returned, the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 279, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as possible, has been obtained.

Custody of lunatic. 467. Whenever an enquiry or trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court. Act X, 1872, s. 427. Act X, 1875, s. 122. Act IV, 1877, s. 197.

463. Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of chapter XXIII.

Resumption of enquiry or trial. When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence. Act X, 1872, s. 427. Act X, 1875, s. 122. Act IV, 1877, s. 197.

Conduct of criminal proceedings against European British subjects. 468. If, when the accused appears or is again brought before the Magistrate or Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate or Court. If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

CHAPTER XXXV.

LUNATICS.

Act X, 1872, s. 423. Act IV, 1877, s. 194. 464. When any person accused of an offence before a Magistrate holding an inquiry or a trial appears to such Magistrate to be of unsound mind and incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination into writing.

468. If, when the accused appears or is again brought before the Magistrate or Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed. Act X, 1872, s. 428. Act X, 1875, s. 123. Act IV, 1877, s. 198.

If such Magistrate is of opinion that the accused is of unsound mind, he shall postpone further proceedings in the case.

If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

Act X, 1872, s. 425. Act X, 1875, s. 120. 465. If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and incapable of making his defence, the Court shall, in the first instance, try the fact of such unsound-

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was contrary to law, the Magistrate shall proceed with the case and, if the offence be triable exclusively by the Court of Session or High Court, send the accused for trial before the Court of Session or High Court, as the case may be. Act X, 1872, s. 424. Act IV, 1877, s. 195.



## Pt. VIII, Ch. XXXV.—Lunatics.

Act X, 1872, s. 429. 470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence complained of, or that it was contrary to law, the judgment of acquittal shall state specially whether he committed the act or not.

Act X, 1872, s. 430. 471. Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the order of the Local Government.

The Local Government may order such person to be confined in a Lunatic Asylum, jail or other suitable place of safe custody.

Act X, 1872, s. 432. 472. When any person is confined under the provisions of section 466 or section 471, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Act X, 1872, s. 431. 473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Act X, 1872, s. 433. 474. If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and in case it orders him to be transferred to an Asylum, may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the Asylum shall be one.

The said commission shall make formal inquiry into the state of mind of such person, taking such

## Pt. VIII, Ch. XXXVI.—Proceedings in case of certain offences affecting Administration of Justice.

evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as it thinks fit.

475. Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that care of relative.

he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

The provisions of sections 472 and 474 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate under section 474.

## CHAPTER XXXVI.

## PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

476. When any Court is of opinion that there is ground for enquiring into any offence referred to in section 196, and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for enquiry to any Magistrate having power to try or commit for trial the accused for such offence, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such trial or enquiry.

Such Magistrate shall thereupon proceed according to law, and may, if he is authorised to transfer cases under section 193, transfer the enquiry to some other competent Magistrate, instead of completing the enquiry himself.

477. A Court of Session may charge a person for any offence referred to in section 196 and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail and try, such person upon its own charge.

Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

478. When any such offence is committed before any Civil Court, or brought under the notice of any Civil Court in the course of a judicial proceeding and such

Act X, 1872, s. 434.  
Act X, 1875, s. 129.  
Act IV, 1877, s. 204.

Act X, 1872, s. 471, 477.  
Act X, 1875, s. 135.  
Act IV, 1877, s. 44, omitting last para.  
I. L. R. 1 Cal. 454.  
I. L. R. 1 All. 131, 193.  
cf. 14 & 15 Vic. c. 100, s. 19.  
2 O'Kin. 217.

Act X, 1872, s. 472, Reg. v. Nomal. 4 Beng. App. Crim. Jur. 11.

Act X, 1872, s. 474, paras. 1 and 2.



case is triable exclusively by the High Court or Court of Session, or such Civil Court thinks that it ought to be tried by the High Court or Court of Session, such Civil Court may, instead of sending the case under section 476 to a Magistrate for enquiry, itself complete the enquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

Act X, 1872, s. 476. For the purposes of an enquiry under this section, the Civil Court may exercise all the powers of a Magistrate; and its proceedings in such enquiry shall be conducted as nearly as may be in accordance with the provisions of chapter XVIII, and shall be deemed to have been held by a Magistrate.

Act X, 1872, s. 475. 479. When any such commitment is made by a Civil Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate, or other Magistrate authorised to commit for trial; and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

Act X, 1872, s. 435. Act IV, 1877, s. 205. 480. When any such offence as is described in section 175, 178, 179, 180, or 228 of the Indian Penal Code is committed in the view or presence of any Court, the Court may cause the offender, whether he is a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day\* may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees and, in default of payment, to imprisonment in the civil jail for a term which may extend to one month, unless such fine be sooner paid.

\*Pollard's case, L.R. 2 P. C. 106.

481. In every such case, the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult offered.

New. To Bengal Appendix 40. 482. A Registrar appointed under the Indian Registration Act, 1877, shall be deemed to be a Civil Court within the meaning of section 480.

Act X, 1872, s. 436, para. 1. Act IV, 1877, s. 206. 483. If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion

that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate or, if sufficient security is not given, shall forward such person under custody to such Magistrate.

The Magistrate to whom any person is forwarded under this section shall proceed to hear the complaint against him in manner hereinbefore provided.

484. When any Court has under section 480 or 483 adjudged an offender to punishment, or forwarded him to a Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

485. If any witness before a Court refuses to answer such questions as are put to him or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person, consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or 483, and in the case of a High Court shall be deemed guilty of a contempt.

486. Any person convicted by any Court under section 480 or section 485 may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

Sections 420, 421, 422, 426 and 428 shall apply to appeals under this section, and the Appellate Court may alter or reverse the finding or sentence appealed against, and may if it sees fit enhance any punishment that has been awarded.

An appeal from such conviction by a Small Cause Court may be made to the Court of Session for the Sessions Division within which such Court is situate.

An appeal from such conviction by any officer New. as Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a conviction by such officer in his capacity as such Judge, and in other cases may be made to the Inspector-General of Registration.

Act X, 1872, s. 437. Act IV, 1877, s. 207.

Act X, 1872, ss. 356, 364. Act X, 1875, s. 89. Act IV, 1877, s. 141.

Omitting by warrant under his hand and seal.

Act X, 1872, s. 265.



Pr. VIII, Ch. XXXVII.—Maintenance of Wives and Children.

Act X, 1872, s. 473. 487. Except as provided in sections 477, 480, and 485, no Judge or Magistrate other than a Judge of a High Court, the Recorder of Rangoon, and the Presidency Magistrates, shall try any person for any offence referred to in section 196, when such offence is committed before himself or brought under his notice in a judicial proceeding.

Nothing in section 476 or 483 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from committing any case to such Court, or shall prevent a Presidency Magistrate from himself disposing of any case instead of sending it for enquiry to another Magistrate.

CHAPTER XXXVII.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

Act X, 1872, s. 536. 488. If any person having sufficient means neglects or refuses to maintain his wife or his child unable to maintain himself, the District Magistrate, a Presidency Magistrate, a Sub-Divisional Magistrate, or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Such allowance shall be payable from the date of the order.

If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for each month's allowance remaining unpaid, to imprisonment for any term not exceeding one month :

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her; and may make an order under this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

Act X, 1872, s. 537. Act IV, 1877, s. 235. 489. The Magistrate may, on proof of a change in the circumstances of any person receiving or ordered, under section 488, to pay a monthly allowance, his wife or child, may make such alteration in the allowance ordered as the Magistrate thinks fit, provided the monthly rate of fifty rupees be not exceeded.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any; and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVIII.

STATE-PRISONERS.

491. Whenever, for all or any of the reasons of State hereinafter mentioned, the Governor General in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council is of opinion that any person should be placed under personal restraint, without any immediate view to ulterior judicial proceedings, a warrant of commitment under the authority of the Governor General in Council, the Governor of Fort St. George in Council or the Governor of Bombay in Council (as the case may be) and under the hand of one of the Secretaries to Government, shall be issued to the officer in whose custody such person (hereinafter called a State-prisoner) is to be placed.

The reasons above referred to are as follows :—  
(a) the maintenance of the alliances formed by the British Government with foreign powers ;  
(b) the preservation of tranquillity in the territories of Native Princes and States entitled to its protection ;  
(c) the security of the British dominions from foreign hostility or internal commotion.

492. Such warrant shall authorize the detention of the State-prisoner therein mentioned in any fortress, jail or other place within British India.

493. The officer in whose custody any State-prisoner has been placed under this chapter or under any enactment repealed by this Code, shall forward, with such observations as he thinks necessary, to the Government under whose authority such prisoner was so placed, every representation which he may from time to time be desirous of submitting to such Government.

494. Every officer in whose custody any State-prisoner is placed shall, as soon after taking such prisoner into his custody as may be practicable, report to such Government whether the degree of confinement to which the State-prisoner is subjected seems likely to injure his health, and whether the allowance fixed for his support is adequate to the supply of his own wants and those of his family then with him according to their rank in life.



495. Whenever the Governor General in Council, the Governor of Fort St. George in Council or the Governor of

Ben. Reg. III, 1818, s. 9.  
Mad. Reg. II, 1819, s. 9.  
Bombay Reg. XXV, 1827, s. 7.

Attachment of lands by order of Government.

Bombay in Council for any of the reasons mentioned in section 491, considers it necessary to attach the lands of any proprietor without any previous decision of a Court of justice or other judicial proceeding, he shall direct the District Magistrate within the local limits of whose jurisdiction the lands are situate to attach such lands, and they shall be attached accordingly.

Ben. Reg. III, 1818, s. 10.  
Mad. Reg. II, 1819, s. 10.  
Bombay Reg. XXV, 1827, s. 8.

496. The lands so attached shall be held under the management of the Collector, and shall be administered in the same manner as the estates of disqualified proprietors under the superintendence of Government.

Such lands shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, so long as they are so held under attachment, without the consent of the Government and the proprietor.

But the whole or any part of the annual nett proceeds of such lands may, if the Government so directs, be applied to the satisfaction of the decrees of the Civil Courts against the proprietor.

Bom. Reg. varies.

497. Whenever the Government by whose direction such lands were attached, is of opinion that the circumstances which rendered necessary the attachment have ceased to operate, and that the management of the lands can be committed to the proprietor without public hazard or inconvenience, such Government shall direct the Collector to release the lands from attachment, to adjust the accounts of the collection during the period in which they have been superintended by Government and to pay over to the proprietor the nett proceeds of the lands which have accumulated during the attachment.

498. The warrant of commitment of any State-prisoner under this chapter may be directed to the Superintendent of the jail in any Presidency-town, or to the Commandant of any fortress, or to the officer in charge of any jail or other place in which it is deemed expedient that such State-prisoner be confined, in any part of British India; and such warrant shall authorize the detention of such State-prisoner in the jail, fortress or other place therein mentioned.

499. The Governor General in Council may order the removal of any State-prisoner confined under this chapter or any enactment repealed by this Code from any jail, fortress or place in which he may be confined to any other jail, fortress or place of confinement within British India.

Act XXXIV, 1850, s. 1.  
Act III, 1858, s. 3.

Act III, 1858, s. 5.

500. Nothing in this chapter applies to European British subjects.

Act XI, 1857, s. 6.  
Bom. Reg. XXV, 1827, chapter I, s. 1.

Saving of European British subjects.

## CHAPTER XXXIX.

### DIRECTIONS OF THE NATURE OF A HABEAS CORPUS.

501. Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

Act X, 1875, s. 148.

Power to issue directions of the nature of a *habeas corpus*.

(a) that a person within the limits of its ordinary original criminal jurisdiction be brought up before the Court to be dealt with according to law;

(b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(c) that a prisoner detained in any gaol situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any Commission from the Governor General in Council for trial, or to be examined touching any matter depending before such Court-martial or Commissioners respectively;

(e) that a prisoner within such limits be removed from one custody to another for the purpose of trial;

(f) that the body of a defendant within such limits may be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

Each of the said High Courts may from time to time frame rules to regulate the procedure in cases under this section.

Nothing in this section applies to State-prisoners detained under chapter XXXVIII or under any enactment hereby repealed.

## PART IX.

### SUPPLEMENTARY PROVISIONS.

#### CHAPTER XL.

##### OF THE PUBLIC PROSECUTOR.

502. The Governor General in Council or the Local Government may appoint officers, to be called Public Prosecutors, who shall perform their functions in all or any cases or specified classes of cases in any local area, outside the Presidency-towns.

In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of Police, to act as Public Prosecutor.



Pr. IX, Ch. XLI.—Bail.

Act X, 1872, s. 60. 503. The Public Prosecutor may appear and

Public Prosecutor may plead in all Courts in cases under his charge.

is under inquiry, trial or appeal; and if any private person instructs a

pleader to prosecute in any Court any person in any such case, the Public

Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions.

Act X, 1872, s. 61. 504. The Public Prosecutor may, with the

Effect of withdrawal of charge by Public Prosecutor.

consent of the Court, withdraw any charge against any person in any such case, and upon such withdrawal, if it is made whilst the case is under inquiry, the accused shall be discharged. If it is made when he is under trial, he shall be acquitted: provided that the charge is withdrawn in cases tried by jury, before the return of the verdict, and in other cases, before the judgment is pronounced.

New.

Act X, 1872, s. 59. 505. Any Magistrate inquiring into or trying

any case may permit any person to conduct the

prosecution; but no person, other than the Advocate General, Standing

Counsel, Government Solicitor, or public prosecutor, shall be entitled to do so without such permission.

Any person conducting the prosecution may do so personally or by a pleader.

CHAPTER XLI.

OF BAIL.

Act X, 1872, ss. 388, 393, 194, para. 2; also ss. 128 and 204. Act IV, 1877, ss. 70, 74. N. W. P. 1874, p. 371. 506. When any person is arrested or detained

Bail to be taken in case of bailable offence.

by a Police-officer without warrant for a bailable offence, or appears or is brought before a Court accused of any such offence, and is prepared at any time while in the custody of such Police-officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

Act X, 1872, ss. 128, 389. Act IV, 1877, s. 71. 507. When any person accused of any nonbail-

able offence is arrested or detained without war-

rant by a Police-officer, or appears or is brought before a Court, he shall not be released on bail if there appear reasonable grounds for believing that he has been guilty of the offence of which he is arrested.

If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the

case may be, that there is not reasonable ground for believing that such

person has committed such offence, but that there is sufficient ground for further inquiry into his guilt, the accused person shall be released on bail pending such inquiry.

Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody.

508. The High Court or Court of Session may

in any case, whether there be an appeal on conviction or not, direct that any accused person be admitted to bail, or that the bail required by a Police-officer or Magistrate be reduced.

Power to direct admission to bail or reduction of bail. Act X, 1872, s. 390. Act X, 1875, s. 136. X-L. R. 1 All. 151.

Bail to be taken under this chapter shall not be excessive.

509. Before any person is released on bail or

released on his own bond, a bond for such sum of money as the

Police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and when he is released on bail, by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the Police-officer or Court as the case may be.

If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

510. As soon as the bond has been executed,

the accused shall be released; and when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

Act X, 1872, s. 394. Act IV, 1877, s. 73.

511. If, through mistake or fraud, insufficient

sureties have been taken, or if they afterwards become insufficient, the

Court may issue a warrant of arrest directing that the accused person be brought before it, and may order him to find sufficient sureties, and on his failing so to do may commit him to jail.

512. All or any sureties for the attendance

and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond either wholly or so far as relates to the applicants.

Act X, 1872, s. 395. Act IV, 1877, s. 76.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the person so released be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and if he fails to do so, may commit him to jail.



CHAPTER XLII.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

Act X, 1872, s. 330, paras. 1 and 2. When attendance of witness may be dispensed with. Act X, 1875, s. 76, para. 1, omitting provision where witness is in Native State. Act IV, 1877, s. 157. Act IV, 1877, s. 153.

513. Whenever, in the course of an inquiry or trial or other proceeding under this Code, it appears to a Presidency Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

The Magistrate to whom the commission is issued, or, if he is the District Magistrate, such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where such witness is, or shall summon such witness before him, and shall take his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under this Code.

Act XI, 1874, s. 35. Act X, 1875, s. 76, para. 4.

514. If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the thirty-ninth and fortieth of Victoria, chapter 46, section 3.

Act X, 1872, s. 330, para. 4. Act X, 1875, s. 76, para. 5.

515. The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate to whom the commission is directed shall examine the witness upon such interrogatories.

Such parties may appear before such Magistrate by advocate, attorney or pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Act X, 1872, s. 330, para. 5.

516. Whenever, in the course of a trial before any Magistrate other than a Presidency Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, such Magistrate shall apply to the Court of Session to which he is subordinate, stating the reasons for

the application; and such Court may either issue a commission in the manner hereinbefore provided or reject the application.

517. After any commission issued under section 513 or section 516 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition of such witness shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

518. In every case in which a commission is directed under section 513 or section 516, the inquiry or trial may be stayed for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XLIII.

SPECIAL RULES OF EVIDENCE.

519. The deposition of a Civil Surgeon or other medical witness, duly taken and duly attested by a Magistrate, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

520. Any document purporting to be a report under the hand of the Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

The Court may presume that the signature of any such document is genuine, and that the person signing it held the office which he purported by such signature to hold at the time when he signed the document.

The High Court or a Presidency Magistrate may, if it or he thinks fit, summon and examine such Chemical Examiner or Assistant Chemical Examiner as to the subject-matter of his said report.

521. In proving the existence of circumstances as a defence under the second, third, fifth, sixth, seventh, eighth, ninth, or tenth Exception to Section 499 of the Indian Penal Code, good faith shall be presumed until the contrary appears.



Pr. IX, Ch. XLIV.—Provisions as to Bonds.

Act X, 1872, ss. 326, 515, last clause. Act X, 1875, s. 119. Act IV, 1877, ss. 154, 230. 522. A previous conviction or acquittal may be proved in any inquiry, trial or other proceeding under this Code—

(a.) by an extract certified, under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order; or

(b) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment, under which the punishment was suffered.

Act X, 1872, s. 327. Act X, 1875, s. 74. Act IV, 1877, s. 155. 523. If it be proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions, and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged, if the attendance of the deponent cannot be procured.

CHAPTER XLIV.

PROVISIONS AS TO BONDS.

Act X, 1872, s. 399. Act X, 1875, s. 139. Act IV, 1877, s. 80. 524. When any person is required by any Court or officer to execute a bond with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix in lieu of executing such bond.

Act X, 1872, ss. 396, 397, 398, 502, paras. 1 to 5, 503, 514. Act X, 1875, ss. 137, 138. Act IV, 1877, ss. 77, 78, 79, 228, 229. 525. Whenever it is proved before the Court by which a bond under this Code has been taken or before the Court of a Presidency Magistrate or Magistrate of the first class, that such bond has been forfeited, such Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable property belonging to such person.

Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorise the distress and sale of any movable property belonging to such person without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court

Pr. IX, Ch. XLV.—Disposal of Property produced under this Code.

which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

The Court may at its discretion remit any portion of the penalty mentioned and enforce payment in part only.

526. All orders passed under section 525 by any Magistrate other than a Presidency Magistrate, or District Magistrate shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

527. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

Act X, 1872, s. 398, penultimate para.

Act X, 1875, s. 138, last para.

Act X 1872, s. 418.

Act X, 1875, s. 115.

Act IV, 1877, ss. 243 & 244.

Act XI, 1874, s. 38. High Court Rule, *Bombay Government Gazette*, 13th Sept. 1877, p. 828.

Qy. add provisions of 24 & 25 Vic., c. 96, s. 100, as to restoring property on conviction of theft notwithstanding sale in market overt, and of 30 & 31 Vic., c. 35, s. 10, as to payment to innocent purchaser of stolen property of money found on convicted thief not exceeding amount of proceeds of sale, upon application and upon restitution of stolen property.

CHAPTER XLV.

OF THE DISPOSAL OF PROPERTY PRODUCED UNDER THIS CODE.

528. When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit, for the disposal of any document or other property produced before it regarding which any offence appears to have been committed, or which has been used for the commission of any offence, or which has been produced as evidence in such inquiry or trial.

When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the committing Magistrate.

EXPLANATION.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

529. Any Court of appeal, confirmation, reference or revision may direct any such order passed by a Court subordinate thereto to be stayed pending consideration by the former Court, and may modify, alter or annul such order.

Act X, 1872, s. 419.



Pr. IX, Ch. XLV.—Disposal of Property produced under this Code.

Act X, 1872, s. 420. 530. The order passed by any Court under section 528 or 529 may be in the form of a reference of the property to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if the property had been seized by the Police, and the seizure had been reported to him in the manner hereinafter mentioned.

Livingston, p. 490. 531. On a conviction under the Indian Penal Code, section 292, 293, 501 or 502, the Court may order all the copies of the thing in respect of which the conviction was had, and which remain in the possession or power of the person convicted, to be destroyed.

The Court may in like manner, on a conviction under the Indian Penal Code, sections 272, 273, 274 or 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

Act X, 1872, s. 534. 532. Whenever a person is convicted of using criminal force, and it appears to the Court that, by such force, any person has been dispossessed of any immovable property, the Court may order such person to be restored to the possession of the same.

No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

Act X, 1872, s. 415. 533. The seizure by any Police-officer of property alleged or suspected to have been stolen or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order as he thinks fit respecting the delivery of such property to its owner, or if such owner cannot be ascertained, respecting the custody and production of such property.

Act X, 1872, s. 416. Procedure where owner of property seized unknown. If the owner of such property is known, the Magistrate shall order it to be delivered to him on such condition (if any) as the Magistrate thinks fit. If the owner of such property is unknown, the Magistrate may detain it, and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before him and establish his claim within six months from the date of such proclamation.

Act X, 1872, s. 417. 534. If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate or of a Magistrate of the first class empowered by the Local Government in this behalf.

Pr. IX, Ch. XLVI.—Transfer of Criminal Cases.

In the case of every order passed under this section, an appeal shall be allowed to the Court to which appeals against sentences of the Court passing such order would lie.

535. If the owner of such property is unknown or absent, and such property is of a perishable nature, or the Magistrate is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold; and the provisions of sections 533 and 534 shall, as nearly as may be, apply to the net proceeds of such sale.

CHAPTER XLVI.

OF THE TRANSFER OF CRIMINAL CASES.

536. Whenever it is made to appear to the High Court may transfer High Court—  
Act X, 1872, s. 64.  
Act X, 1875, s. 147.

(a) that a fair and impartial enquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory enquiry into or trial of the same, or

(d) that an order under this section will tend to the general convenience of the parties or witnesses—

it may order—

(1) that any offence be enquired into or tried by any Court not empowered under sections 175 to 182, but in other respects competent to enquire into or try such offence;

(2) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction, or

(3) that any particular criminal case or appeal be transferred to and tried before itself.

When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall except as provided in section 270, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

Every application for the exercise of the power conferred by this section shall be made by motion which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation. I. L. R. 1 Cal. 223.

When an accused person makes an application under this section, the High Court may direct him to execute a bond conditioned that he will, if convicted, pay the costs of the prosecutor. Archb. 88.

Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy Act IV, 1877, s. 181.

Notice to Public Prosecutor of application under this section.



## Pr. IX, Ch. XLVII.—Irregular Proceedings.

of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Act X, 1872, s. 64 A. 537. Whenever it appears to the Governor General in Council that the transfer next herein-after mentioned will promote the ends of justice or tend to the general convenience of parties or witnesses, he may, by notification in the *Gazette of India*, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court.

The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

Act X, 1872, s. 47. 538. Any District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Act X, 1872, s. 48. The Local Government may authorize the District Magistrate to withdraw from the Magistrates subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

Power to authorize District Magistrates to withdraw classes of cases.

## CHAPTER XLVII.

## OF IRREGULAR PROCEEDINGS.

Act X, 1872, s. 32. Nelson, p. 54. 539. If any Magistrate empowered by law to do under certain circumstances any of the following things, namely:—

- (a) to issue a search-warrant, under section 97;
- (b) to order, under section 153, the Police to investigate an offence;
- (c) to hold an inquest under section 174;
- (d) to issue process, under section 184, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits; or
- (e) to take cognizance of an offence under section 192, clause (a) or clause (b);
- (f) to transfer a case under section 193;
- (g) to withdraw a case and try it himself under section 538;

by mistake or accident does that thing in the absence of any of the requisite circumstances, his proceedings shall not be set aside merely on the ground of such absence,

## Pr. IX, Ch. XLVII.—Irregular Proceedings.

540. If any Magistrate, not being empowered by law in this behalf, does any of the following things (namely),—

- (a) passes a sentence under section 351, on proceedings recorded by another Magistrate;
  - (b) takes cognizance under section 192, clause (c) of an offence;
  - (c) attaches and sells property under section 86;
  - (d) tries an offender summarily;
  - (e) decides an appeal;
  - (f) calls under section 435 for proceedings;
  - (g) issues a search-warrant for a letter in the Post-office, or a telegram in the Telegraph Department;
  - (h) revises under section 526 an order passed under section 525;
  - (i) demands security to keep the peace;
  - (j) discharges bonds to keep the peace;
  - (k) demands security for good behaviour;
  - (l) discharges a person lawfully bound to be of good behaviour;
  - (m) makes an order under section 131 as to a local nuisance;
  - (n) issues an order under section 141.
  - (o) prohibits under section 142 the repetition or continuance of a public nuisance;
  - (p) makes an order under chapter XII;
  - (q) makes an order for maintenance, or
  - (r) sells property under section 534 or section 535;
- his proceedings shall be void.

541. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong Sessions Division, District Sub-division or other local area, unless it appears that some party to such proceeding was prejudiced in the conduct of his case by such error.

542. If any Magistrate or other authority purporting to exercise powers duly conferred, but not being so conferred, commits an accused person to take his trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been prejudiced, unless objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority during the enquiry and before the order of commitment.

If such Court considers that the accused was prejudiced, or if such objection as aforesaid was so made, it shall quash the commitment, and direct a fresh enquiry by a competent Magistrate.

543. An omission to ask any person whether he is a European British subject in a case to which the second clause of section 454 applies shall not affect the validity of any proceedings,

Omission to ask question prescribed by section 454, clause 2.

Act X, 1872, s. 34.

Irregularities which vitiate proceedings.

Act X, 1872, s. 70. Act IV, 1877, s. 24.

Act X, 1872, s. 33. Act X, 1875, s. 25.



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Act X, 1872, s. 216. Expln. 1. 544. No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has been occasioned thereby.

Act X, 1872, s. 216. Expln. II. If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge shall be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

Act X, 1872, s. 233. Explanation. 545. If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground be invalid.

If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

Act XI, 1874, s. 41. 546. No error or defect in any judgment shall invalidate the proceedings where such error or defect is in a matter not affecting the merits of the case.

Act X, 1872, ss. 253, 300 11 & 12 Vic., c. 43, s. 9. Act IV, 1877, ss. 117, 177. I. L. R., 1 All. 610. 547. Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or omission in the complaint or summons or in the charge, or in the proceedings during trial, or any misdirection in any charge to a jury, unless such error or omission or misdirection has occasioned a failure of justice either by affecting the due conduct of the prosecution, or by injuring the accused person as to his defence on the merits.

Act IV, 1877, ss. 31, 178. 11 Bomb. 238. Subject as last aforesaid, no irregularity in the proceedings prior to the commencement of the trial is a sufficient ground for reversing any sentence or order passed in a trial properly held.

Act IV, 1877, s. 185, para. 5. 548. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto.

CHAPTER XLVIII.

MISCELLANEOUS.

Act X, 1875, s. 149. 549. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for

Courts and persons before whom affidavits may be sworn.

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that purpose, or any Judge or Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in Chancery in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

550. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness or examine any person in attendance, though not summoned as a witness; or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person, if his evidence appears to it essential to the just decision of the case.

Power to summon material witness, or examine person present.

551. Notwithstanding anything contained in the Prisoners Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a

Power to order prisoner in jail to be brought up for examination.

witness or accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

552. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

553. Subject to any rules made by the Local Government with the previous sanction of the Governor General in Council, any Criminal Court may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any enquiry, trial or other proceeding before such Court under this Code.

554. Whenever a Criminal Court, under any law in force for the time being, imposes a fine or confirms in appeal or revision a sentence of fine, or a sentence of which fine forms a part, the Court may order the whole or any part of the fine to be applied—

(a) in defraying expenses properly incurred in the prosecution;

(b) in compensation for the injury caused by the offence complained of, where substantial compensation could, in the opinion of the Court, be recovered by civil suit.

If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has



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elapsed, or, if an appeal be presented, before the decision of the appeal.

Act X, 1872, s. 322, para. 5.  
Act XI, 1874, s. 34.  
555. Whenever any fine is imposed on any person for any offence, the Governor General in Council or the Local Government may (subject to the provisions of section 554) direct that the whole or any part of the fine be applied in defraying the expenses properly incurred in the prosecution.

Act X, 1872, s. 308, last para.  
Act X, 1875, s. 106, last para.  
22 Suth. W. R. Civil Rulings, 336.  
556. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum which may have been paid as compensation under section 554.

Act X, 1872, s. 276.  
Act XI, 1872, s. 25.  
Act IV, 1877, s. 170.  
557. If any person affected by a judgment or order passed by a Criminal Court desires to have Copies of Proceedings, a copy of the Judge's charge to the jury or of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished therewith: provided that he pay for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Ben. Reg. XX of 1825.  
558. When any officer or soldier or other person subject to any Act of Parliament for the time being in force for the punishment of mutiny and desertion in the army, and who is serving with any body of troops in Her Majesty's service at any place situate more than one hundred and twenty miles from the towns of Calcutta, Madras and Bombay, respectively, is accused of having committed any offence punishable under the Indian Penal Code, and which if committed in England would be punishable by the criminal law there, any Magistrate before whom such officer, soldier or other person is brought shall, unless the Governor General in Council otherwise directs, deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being brought for trial before a Court-martial.

Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any such officer, soldier or other person accused of an offence.

Apprehension of such persons.  
Enforcement of process for attendance of witnesses before Courts-martial.  
Any person appointed to conduct the proceedings of a Court-martial held under any such Act may send the Magistrate within the local limits of whose jurisdiction persons required to attend before such Court-martial reside any process to compel the attendance of such persons; and the Magistrate shall aid in the execution of such process and of all other processes issued by such Courts-martial.

559. Police-officers superior in rank to officers in charge of a Police-station may exercise the same powers, within the District or sub-division to which they are appointed, as may be exercised by officers in charge of Police-stations within the limits of their respective stations.

Act X, 1872, s. 137.  
Act IV, 1877, s. 17.  
560. Upon complaint made to a Presidency Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge or Government of such child, and may compel compliance with such order, using force if necessary.

Act IV, 1877, s. 242, omitting provision as to complaints, which is provided for elsewhere.  
561. Whenever any person causes a Police-officer to arrest another person in a Presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested for his loss of time and expenses in the matter, as the Magistrate thinks fit.

In such cases if more persons than one are arrested or complained against, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine, and if it cannot be so recovered, the person by whom it is payable should be imprisoned in the civil jail for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

Act X, 1827, ss. 292, 293.  
562. With the previous sanction of the Local Government, every High Court not established by Royal Charter may from time to time—

(a) make rules for keeping, all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts; and

(b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(c) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it:

Provided that such rules and forms be not inconsistent with this Code or any other law in force for the time being.

All rules made under this section shall be published in the official Gazette.



563. Subject to the power conferred by section 562 and by the twenty-fourth and twenty-fifth Forms. of Victoria, chapter 104, section 15, the forms set forth in the fifth schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

Act. X, 1872 s. 337. 564. The Local Government may determine what, for the purpose of this Code, shall be held to be the language of each Court, other than the High Court, established within the territories administered by such Government.

565. All powers conferred by this Code on the Local Government may be exercised from time to time as occasion requires.

566. The procedure prescribed by this Code shall be followed, so far as may be, in all cases pending in any criminal Court when this Code comes into force and in all miscellaneous criminal cases and proceedings instituted in any Court. Act. X, 1872, ss. 3 & 539. Act. IV, 1877, ss. 5 & 237.

SCHEDULE I.  
ENACTMENTS REPEALED.

(a).—Statutes.

Year, reign and chapter.	Title.	Extent of repeal.
13 Geo. III, chapter 63	An Act for establishing certain Regulations for the better management of the affairs of the East India Company as well in India as in Europe....	Section 38.

(b).—Acts.

Number and year.	Subject.	Extent of repeal.
XXIII of 1840	Execution of process ...	So much as has not been repealed.
XXXIV of 1850	State-Prisoners ...	The whole.
III of 1858	State-Prisoners ...	So much as has not been repealed.
XLV of 1860	Penal Code ...	The illustrations to section 214.
XVIII of 1862	Criminal Procedure, Supreme Courts ...	So much as has not been repealed.
II of 1869	Justices of the Peace... ..	So much as has not been repealed.
XXII of 1870	Application to European British Subjects of Acts conferring summary jurisdiction.	So much as has not been repealed.
IV of 1872	Panjab Laws ...	So far as it relates to Bengal Regulations III of 1818 and XX of 1825.
X of 1872	The Code of Criminal Procedure... ..	So much as has not been repealed.
XI of 1874	Amending the Code of Criminal Procedure ...	The whole.
XV of 1874	Laws Local Extent ...	So far as it relates to Acts XXXIV of 1850 and III of 1858, and to Bengal Regulations III of 1818 and XX of 1825, Madras Regulation II of 1819, and Bombay Regulation XXV of 1827.
X of 1875	High Courts' Criminal Procedure ...	The whole Act, except section 144 and so much of section 146 as relates to informations.
XVII of 1875	Burma Courts ...	So much of section 98 as relates to Bengal Regulation III of 1818.
XX of 1875	Central Provinces Laws ...	So far as relates to Bengal Regulations III of 1818 and XX of 1825.
XVIII of 1876	Oudh Laws ...	Ditto.
IV of 1877	Presidency Magistrates ...	The whole.



SCHEDULE I,—*continued.*ENACTMENTS REPEALED—*continued.**(c).—Regulations.*

Number and year.	Subject.	Extent of repeal.
Bengal Regulation III of 1818...	State-Prisoners ... ..	So much as has not been repealed.
Bengal Regulation XX of 1825...	Jurisdiction of Courts Martial ... ..	Ditto.
Madras Regulation II of 1819...	State-Prisoners ... ..	Ditto.
Bombay Regulation XXV of 1827.	Ditto. ... ..	Ditto.
III of 1872 ... ..	Sontal Parganas Settlement ... ..	So far as relates to Acts XXXIV of 1850, XXXVII of 1850, III of 1858 and X of 1872, and to Bengal Regulation III of 1818.
IX of 1874 ... ..	Arakhan Hills District Laws ... ..	So far as relates to Acts XXXIV of 1850, XXXVII of 1850, III of 1858, II of 1869, X of 1872 and XI of 1874, and to Bengal Regulation III of 1818.
II of 1877 . ... ..	Ajmer Laws ... ..	So far as relates to Bengal Regulations III of 1818 and XX of 1825.



SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

EXPLANATORY NOTE.—The entries in the second and sixth columns of this schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," and not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

CHAPTER V.—OF ABETMENT.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto	Ditto.
111	When one act is abetted and a different act is done, subject to the proviso.	Ditto	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto.
112	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto	Ditto	Ditto	The same punishment as for the offence committed.	Ditto.
113	If abettor is present when offence is committed.	Ditto	Ditto	Ditto	Ditto	Ditto.
114	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto	Ditto	Not bailable.	Imprisonment of either description for 7 years and fine.	Ditto.
115	If an act which causes harm be done in consequence of the abetment.	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.



SCHEDULE II—*continued.*  
CHAPTER V.—OF ABETMENT—(*continued.*)

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	May arrest without warrant. if arrest for the offence abetted may be made without warrant but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	By the Court by which the offence abetted is triable.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed...	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed.	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto	Ditto	Ditto	Ditto	Ditto:
	If not committed ...	Ditto	Ditto	Ditto	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.



CHAPTER VI.—OFFENCES AGAINST THE STATE.

121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant	...	Not bailable	...	Death, or transportation for life, and forfeiture of property.	Court of Session.
121A	Conspiring to commit certain offences against the State.	Ditto	...	Ditto	...	Ditto	...	Transportation for life or any shorter term, or imprisonment of either description for 10 years.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.
123	Concealing with intent to facilitate a design to wage war.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.
124	Assaulting Governor General, Governor, &c., with intent to compel or restraint the exercise of any lawful power.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.
124A	Exciting, or attempting to excite, disaffection.	Ditto	...	Ditto	...	Ditto	...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	...	Ditto	...	Ditto	...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto	...	Ditto	...	Ditto	...	Ditto ...
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years and fine.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto	...	Ditto	...	Bailable	...	Simple imprisonment for 3 years and fine.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	...	Ditto	...	Not bailable	...	Transportation for life, or imprisonment of either description for 10 years and fine.

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CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	...	Not bailable	...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	...	Ditto	...	Ditto	...	Death, or transportation for life, or imprisonment of either description for 10 years and fine.



SCHEDULE II—continued.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—continued.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

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CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY.

143	Being member of an unlawful assembly	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto.



148	Rioting armed with a deadly weapon	... Ditto	... Ditto	... Ditto	... Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence	By the Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Ditto	... The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	... Summons	... Bailable	... Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot.	Ditto	... Warrant	... Ditto	... Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto	... Ditto	... Ditto	... Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed	... Ditto	... Summons	... Ditto	... Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto	... Ditto	... Fine of 1,000 rupees...	Presidency Magistrate or Magistrate of the first or second class.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	... Ditto	... Ditto	... Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	... Ditto	... Ditto	... Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	... Ditto	... Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	... Ditto	... Ditto	... Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Or to go armed	... Ditto	... Warrant	... Ditto	... Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	... Shall not arrest without warrant.	Summons	... Ditto	... Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.



SCHEDULE II.—*continued.*

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first and second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 200 rupees, or both,	Any Magistrate.



CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant	Summons	...	Bailable	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, &c., in a Court of justice.	Ditto	...	Ditto	...	Ditto	...	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.
	If summons, &c., require attendance in person, &c., in a Court of justice.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.
	If the order require personal attendance, &c., in a Court of justice.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month or fine of 500 rupees, or both.
	If the document is required to be produced in or delivered to a Court of justice.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months or fine of 1,000 rupees, or both.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month or fine of 500 rupees, or both,
	If the notice or information required respects the commission of an offence, &c.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months or fine of 1,000 rupees, or both.
177	Knowingly furnishing false information to a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto ...
	If the information required respects the commission of an offence, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.
178	Refusing oath when duly required to take oath by a public servant.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months or fine of 1,000 rupees, or both.
		Ditto	...	Ditto	...	Ditto	...	Ditto ...
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	...	Ditto	...	Ditto	...	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 3 months or fine of 500 rupees, or both.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.



SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1 Section.	2 Offence.	3 When the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding by a person under a legal incapacity to purchase it for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description of 1 month, or fine of 200 rupees, or both	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process the prevention of offences, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months or fine of 500 rupees, or both	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both	Ditto.



CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

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193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Giving or fabricating false evidence in any other cases.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	...	Ditto	...	Not bailable	...	Transportation for life, or rigorous imprisonment for 10 years and fine.
	If innocent person be thereby convicted and executed.	Ditto	...	Ditto	...	Ditto	...	Death, or as above
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment for more than seven years.	Ditto	...	Ditto	...	Ditto	...	The same as for the offence
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	...	Ditto	...	According as the offence of giving such evidence is bailable or not.	...	The same as for giving or fabricating false evidence.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	...	Ditto	...	Bailable	...	The same as for giving false evidence.
198	Using as a true certificate one known to be false in a material point.	Ditto	...	Ditto	...	Ditto	...	Ditto
199	False statement made in any declaration which is by law received as evidence.	Ditto	...	Ditto	...	Ditto	...	Ditto
200	Using as true any such declaration known to be false.	Ditto	...	Ditto	...	Ditto	...	Ditto
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.
	If punishable with transportation or imprisonment for ten years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.
	If punishable with less than 10 years' imprisonment.	Shall not arrest without warrant.	Warrant	...	Ditto	...	...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	...	Summons	...	Ditto	...	Imprisonment of either description for 6 months, or fine, or both.
203	Giving false information respecting an offence committed.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	...	Ditto	...	Ditto	...	Ditto



SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence or, in execution of a decree.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of justice	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied,	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years or fine, or both.	Ditto.
211	False charge of offence made with intent to injure. If offence charged be capital, or punishable with transportation for life, or imprisonment for 7 years or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.



	If punishable with imprisonment for 1 year and not for 10 years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Presidency Magistrate or Magistrate of the first class, or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.		Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Presidency Magistrate or Magistrate of the first class, or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Presidency Magistrate or Magistrate of the first class, or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.		Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Presidency Magistrate or Magistrate of the first class, or by the Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.		Summons	...	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.



SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—continued.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Shall not arrest without warrant	Warrant	Bailable	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
221	Intentional omission on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of justice, if under sentence of death.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him for lawful custody.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Not bailable	Imprisonment of either description for 3 years and fine.	Court of Session Presidency Magistrate or Magistrate of the first class.
	If charged with a capital offence	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine.	Court of Session.



	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
	If under sentence of death	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years and fine.	...	Ditto	...
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto	..	Ditto	...	Bailable	...	Imprisonment of either description for one year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.			
226	Unlawful return from transportation	...	Ditto	...	Ditto	...	Not bailable	...	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	...	Court of Session.	
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons	...	Ditto	...	...	...	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	...	By the Court by which the original offence was triable.	
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto	...	Ditto	...	Bailable	...	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	...	Court in which the offence is committed, subject to the provisions contained in chapter XXXVI of this Code.	
229	Personation of a juror or assessor	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	...	Presidency Magistrate or Magistrate of the first class.	

## CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant	...	Not bailable	...	Imprisonment of either description for 7 years and fine.	...	Court of Session.		
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Transportation for life or imprisonment of either description for 10 years and fine.	Ditto.		
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.		
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.		
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	May arrest without warrant.	Warrant	...	Not bailable	...	Imprisonment of either description for 3 years and fine.	...	Court of Session, Presidency Magistrate or Magistrate of the first class,		
	If Queen's coin	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	...	Court of Session.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto	...	Ditto	...	Ditto	...	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.		
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.		



SCHEDULE II.—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code	7 By what Court triable.			
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant	...	Not bailable	...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.	
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
240	The same with respect to the Queen's coin	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.



250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.
255	Counterfeiting a Government stamp	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for 10 years and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government Stamp.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
258	Sale of counterfeit Government stamp	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

## CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	...	Bailable	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
	Fraudulent use of false weight or measure	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.



SCHEDULE II.—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 500 rupees ...	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.



281	Exhibition of a false light, mark or buoy ...	Ditto ...	Warrant ...	Ditto ...	...	Imprisonment of either description for 7 years, or fine, or both,	Court of Session.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ...	Ditto ...	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	...	Fine of 200 rupees ...	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	...	Ditto ...	Any Magistrate.
286	So dealing with any explosive substance ...	Ditto ...	Ditto ...	Ditto ...	...	Ditto ...	Ditto.
287	So dealing with any machinery ...	Shall not arrest without warrant	Ditto ...	Ditto ...	...	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto ...	Ditto ...	Ditto ...	...	Ditto ...	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto ...	Ditto ...	...	Ditto ...	Any Magistrate.
290	Committing a public nuisance ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	...	Fine of 200 rupees ...	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ...	Ditto ...	...	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
292	Sale, &c., of obscene books, &c. ...	Ditto ...	Warrant ...	Ditto ...	...	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto ...	Ditto ...	Ditto ...	...	Ditto ...	Ditto.
294	Obscene songs ...	Ditto ...	Ditto ...	Ditto ...	...	Ditto ...	Ditto.
295A	Keeping a lottery-office ...	Shall not arrest without warrant.	Summons ...	Ditto ...	...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries ...	Ditto ...	Ditto ...	Ditto ...	...	Fine of 1,000 rupees...	Ditto.

## CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.



SCHEDULE II.—*continued.*

CHAPTER XV.—OFFENCES RELATING TO RELIGION—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
297	Trespassing in a place of worship or sepulchre, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate, or Magistrate of the first or second class.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

*Offences affecting Life.*

302	Murder ...	May arrest without warrant.	Warrant ...	Not bailable ...	Death, transportation for life and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto ...	Ditto ...	Ditto ...	Death ...	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for two years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto ...	Ditto ...	Not bailable ...	Death, or transportation for life, or imprisonment for 10 years and fine.	Court of Session.
306	Abetting the commission of suicide ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.



307	Attempt to murder ...	...	Ditto	...	Ditto	...	Ditto	...	Ditto
	If such act cause hurt to any person	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or as above
308	Attempt to commit culpable homicide	...	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for 3 years, or fine, or both.
	If such act cause hurt to any person	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.
309	Attempt to commit suicide	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for one year and fine.
311	Being a thug	...	Ditto	...	Ditto	...	Not bailable	...	Transportation for life and fine

*Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.*

312	Causing miscarriage...	...	Shall not arrest without warrant	...	Warrant	...	Bailable	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent.	...	Ditto	...	Ditto	...	Not bailable	...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or as above	Ditto.
315	Act done with intent to prevent a child being borne alive, or to cause it to die after its birth.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent or person having care of it, with intention of wholly abandoning it.	...	May arrest without warrant.	...	Ditto	...	Bailable	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret disposal of dead body.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

*Of Hurt.*

323	Voluntarily causing hurt	...	* May arrest without warrant.	...	Summons	...	Bailable	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.

\* See Act XI of 1874, Section 46.



SCHEDULE II—continued.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.  
Of Hurt—continued.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	May arrest without warrant.	Summons	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
328	Administering stupefying drug with intent to cause hurt.	Ditto	Ditto	Ditto	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.,	Ditto	Ditto	Bailable	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto	Summons	Bailable	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto	Ditto	Bailable	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.



336	Doing any act which endangers human life or the personal safety of others.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 months or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

*Of wrongful Restraint and wrongful Confinement.*

341	Wrongfully restraining any person.	May arrest without warrant.	Summons	...	Bailable	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.	
342	Wrongfully confining any person	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.	
343	Wrongfully confining for three or more days.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days	...	Ditto	...	Ditto	...	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto	...	Ditto	...	...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret...	...	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.

*Of Criminal Force and Assault.*

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant	Summons	...	Bailable	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.



SCHEDULE II.—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

*Of Criminal Force and Assault—continued.*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	May arrest without warrant.	Warrant	... Bailable ...	... Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant	Summons	... Ditto ...	Ditto ...	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	... Not bailable ...	Ditto ...	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto	... Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant	Summons	... Ditto ...	Simple imprisonment for one month, or fine of 200 rupees, or both.	Ditto.

173

*Of Kidnapping, Forcible Abduction, Slavery and forced Labour.*

363	Kidnapping ...	May arrest without warrant.	Warrant	... Not bailable ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abducting in order to murder	Ditto	Ditto	... Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	... Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	Ditto	... Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	Ditto	... Ditto ...	Ditto ...	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	... Ditto ...	Punishment for kidnapping or abduction.	Ditto.



369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.	
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto.	...	Bailable	...	Ditto	...	Ditto.	
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto.	...	Not bailable	...	Transportation for life, or imprisonment of either description for 10 years and fine.	...	Ditto.	
372	Selling or letting to hire minor for the purpose of prostitution.	Ditto.	...	Ditto.	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.	
373	Buying or obtaining possession of a minor for the same purpose.	Ditto.	...	Ditto.	...	Ditto	...	Ditto	Ditto.	
374	Unlawful compulsory labour	...	Ditto.	...	Ditto.	...	Bailable	...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

*Of Rape.*

376	Rape	...	...	...	May arrest without warrant.	Warrant	...	Not bailable	...	Transportation for life or imprisonment of either description for 10 years and fine.	Court of Session.
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*Of Unnatural Offences.*

377	Unnatural offences	...	...	...	May arrest without warrant.	Warrant	...	Not bailable	...	Transportation for life or imprisonment of either description for 10 years and fine.	Court of Session.
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CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

*Of Theft.*

379	Theft	...	...	...	May arrest without warrant.	Warrant	...	Not bailable	...	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent or vessel	...	Ditto	...	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	...	May arrest without warrant	...	Warrant	...	Not bailable	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.	



SCHEDULE II.—*continued.*

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

*Of Theft—continued.*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft or to retiring after committing it, or to retaining property taken by it.	May arrest without warrant.	Warrant ..	Not bailable ..	Rigorous imprisonment for 10 years and fine.	Court of Session.

*Of Extortion.*

384	Extortion ... ..	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 10 years and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life.	Ditto.
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine	Ditto.
	If the offence be an unnatural offence ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life	Ditto.



*Of Robbery and Dacoity.*

392	Robbery ... ..	May arrest without warrant	Warrant	...	Not bailable	...	Rigorous imprisonment for 10 years and fine.	Court of Session Presidency Magistrate or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto	Ditto	...	Ditto	...	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	Ditto	Ditto	...	Ditto	...	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	May arrest without warrant	Warrant	...	Not bailable	...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class
395	Dacoity ... ..	Ditto	Ditto	...	Ditto	...	Ditto ... ..	Court of Session.
396	Murder in dacoity ... ..	Ditto	Ditto	...	Ditto	...	Death, transportation for life or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt	Ditto	Ditto	...	Ditto	...	Rigorous imprisonment for not less than 7 years	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon	Ditto	Ditto	...	Ditto	...	Ditto ... ..	Ditto.
399	Making preparation to commit dacoity ...	Ditto	Ditto	...	Ditto	...	Rigorous imprisonment for 10 years and fine	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity	Ditto	Ditto	...	Ditto	...	Transportation for life, or as above	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts	Ditto	Ditto	...	Ditto	...	Rigorous imprisonment for 7 years and fine	Ditto.
	Being one or five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	...	Ditto	...	Ditto ... ..	Ditto.

*Of Criminal Misappropriation of Property.*

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant	Warrant	..	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If by clerk or person employed by deceased...	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.



SCHEDULE II—*continued.*

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

*Of Criminal Breach of Trust.*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
406	Criminal breach of trust ... ..	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, &c.	Shall not arrest without warrant	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

*Of the Receiving of Stolen Property.*

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
413	Habitually dealing in stolen property ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.



414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
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*Of Cheating.*

417	Cheating	...	...	...	Shall not arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation	...	...	...	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

*Of Fraudulent Deeds and Dispositions of Property.*

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	...	Ditto	...	Ditto	...	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	...	Ditto	...	Ditto	...	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	...	Ditto	...	Ditto	...	Ditto.

*Of Mischief.*

426	Mischief	...	...	...	Shall not arrest without warrant.	Summons	...	Bailable	...	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	* May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.



SCHEDULE II—*continued.*

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

*Of Criminal Breach of Trust.*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
406	Criminal breach of trust ... ..	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, &c.	Shall not arrest without warrant	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

*Of the Receiving of Stolen Property.*

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
413	Habitually dealing in stolen property ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.



414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
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*Of Cheating.*

417	Cheating	...	...	...	Shall not arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest was bound, either by law or by legal contract, to protect.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation	...	...	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

*Of Fraudulent Deeds and Dispositions of Property.*

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	...	Ditto	...	Ditto	...	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	...	Ditto	...	Ditto	...	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	...	Ditto	...	Ditto	...	Ditto.

*Of Mischief.*

426	Mischief	...	...	...	Shall not arrest without warrant.	Summons	...	Bailable	...	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	* May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.



SCHEDULE II.—continued.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—continued.

Of Mischief—continued.

1	2	3	4	5	6	7		
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.		
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	*May arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	...	Ditto	...	Ditto	...	Ditto.
432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto	...	Ditto	...	Ditto	...	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto	...	Bailable	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	Ditto	...	Ditto	...	Not bailable	...	Transportation for life or imprisonment of either description for 10 years and fine.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years and fine.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.



440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
<i>Of Criminal Trespass.</i>									
447	Criminal trespass ... ..	May arrest without warrant.	Summons	...	Bailable	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.	
448	House-trespass ... ..	Ditto	Warrant	...	Ditto	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees or both.	Ditto.	
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	...	Not bailable	...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.	
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.	
451	House-trespass in order to the commission of an offence punishable with imprisonment. If the offence is theft ... ..	Ditto	Ditto	...	Bailable	...	Imprisonment of either description for 2 years and fine.	Any Magistrate.	
		Ditto	Ditto	...	Not bailable	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.	
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	Ditto	...	Ditto	...	Ditto ... ..	Ditto.	
453	Lurking house-trespass or house-breaking ...	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 2 years and fine.	Presidency Magistrate or Magistrate of the first or second class.	
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment. If the offence is theft... ..	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.	
		Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.	
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto	Ditto	...	Ditto	...	Ditto ... ..	Court of Session, Presidency Magistrate or Magistrate of the first class.	
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.	
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment. If the offence is theft ... ..	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.	
		Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 14 years and fine.	Ditto.	
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto	Ditto	...	Ditto	...	Ditto ... ..	Court of Session, Presidency Magistrate or Magistrate of the first class.	



SCHEDULE II—continued:

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—continued.

Of Criminal Trespass—continued.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery ... ..	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Court of Session.
466	Forgery of a record of a Court of justice or of a Register of births, &c., kept by a public servant.	Shall not arrest without warrant.	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any public security or to receive any money, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
468	Forgery for the purpose of cheating	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.



469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto	...	Ditto	..	Bailable	...	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto	...	Ditto	...	Ditto	...	Punishment for forgery	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.		Ditto	...	Not bailable	...	Ditto ...	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.		Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
	If the document is a valuable security or will.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or as above	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

*Of Trade and Property-Marks.*

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.		Warrant	...	Bailable	...	Imprisonment of either description for one year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	...	Summons	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.



SCHEDULE II—continued.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—continued.

Of Trade and Property-Marks—continued.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto	Ditto
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
491	Being bound to attend on, or supply the wants of, a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.



CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant	...	Not bailable	...	Imprisonment of either description for 10 years and fine.	Court of Session.	
494	Marrying again during the life-time of a husband or wife.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	...	Ditto	...	Not bailable	...	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	...	...	Ditto	...	Bailable	...	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation	...	...	Shall not arrest without warrant.	Warrant	...	Bailable	...	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.	
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Ditto	...	Ditto	...	Not bailable	...	Ditto	Presidency Magistrate or Magistrate of the first or second class.
506	Criminal intimidation	...	...	Ditto	...	Bailable	...	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.



SCHEDULE II.—*continued.*

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*continued.*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According to the offence is one in respect of which the Police may arrest without warrant or not.	According to the offence is one in respect of which a summons or warrant shall ordinarily issue.	According to the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.
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OFFENCES AGAINST OTHER LAWS.

If punishable with death, transportation or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ...	Not bailable ...	...	...	...	} According to the provisions of section 29 of this Code.
If punishable with imprisonment for three years and upwards but less than seven.	Ditto ...	Ditto ...	Ditto ...	...	...	...	
If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons ...	Bailable ...	...	...	...	
If punishable with fine only.	Ditto ...	Ditto ...	Ditto ...	...	...	...	



## SCHEDULE III.

## ORDINARY POWERS OF MUFASSAL MAGISTRATES.

*I.—Ordinary Powers of Magistrates of the Third Class.*

- (1.) Power to arrest an offender in the presence of the Magistrate, sect. 62.
- (2.) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sects. 81, 82 and 84.
- (3.) Power to issue proclamations in cases judicially before him, sect. 85.
- (4.) Power to attach and sell property in cases judicially before him, sect. 86.
- (5.) Power to endorse a search-warrant and order delivery of thing found, sects. 96 and 101.
- (6.) Power to record confessions or statements during a Police-investigation, sect. 162.
- (7.) Power to authorize detention of a person during a Police investigation, sect. 165.
- (8.) Power to detain an accused person found in Court, sect. 353.
- (9.) Power to sell perishable property of a suspicious character, sect. 535.

*II.—Ordinary Powers of Magistrates of the Second Class.*

- (1.) The ordinary powers of a Magistrate of the third class.
- (2.) Power to order the Police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, sect. 153.

*III.—Ordinary Powers of Magistrates of the First Class.*

- (1.) The ordinary powers of a Magistrate of the second class.
- (2.) Power to issue search-warrants otherwise than in course of an inquiry, sect. 97.
- (3.) Power to require security to keep the peace, sect. 106.
- (4.) Power to require security for good behaviour, sects 108 and 109.
- (5.) Power to make orders, &c., in possession-cases, sects. 143, 144, 145.
- (6.) Power to commit for trial.
- (7.) Power to make orders of maintenance, sects. 488 and 489.

*IV.—Ordinary Powers of Sub-Divisional Magistrates.*

- (1.) The ordinary powers of a Magistrate of the first class.
- (2.) Power to make orders as to local nuisance, sect. 131.
- (3.) Power to make order under sect. 141.
- (4.) Power to make orders prohibiting repetitions of nuisances, sect. 142.
- (5.) Power to hold inquests, sect. 172.
- (6.) Power to issue process for person within jurisdiction who has committed an offence outside the jurisdiction, sect. 184.
- (7.) Power to receive Police-reports, sect. 192.
- (8.) Power to entertain complaints, sect. 192.
- (9.) Power to entertain cases without complaint, 192.
- (10.) Power to transfer cases to a Subordinate Magistrate, sect. 193.
- (11.) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, sect. 351.
- (12.) Power to sell property alleged or suspected to have been stolen, &c., sect. 534.
- (13.) Power to withdraw cases other than appeals, and to try or refer them for trial, sect. 538.

*V.—Ordinary Powers of District Magistrates.*

- (1.) The ordinary powers of a Sub-divisional Magistrate, being a Magistrate of the first class.
- (2.) Power to direct warrants to landholders, sect. 75.
- (3.) Power to issue search-warrants for letters in Post-officé, sect. 94.
- (4.) Power to discharge persons bound to be of good behaviour, sect. 123.
- (5.) Power to try summarily, sect. 263.
- (6.) Power to quash convictions in certain cases, sect. 352.
- (7.) Power to withdraw or refer appeals from convictions by Magistrates of the second and third classes, sect. 406.
- (8.) Power to hear appeals from convictions by Magistrates of the second and third classes, sect. 406.
- (9.) Power to call for proceedings, sect. 435.
- (10.) Power to revise orders passed under sects. 525 and 526.



## SCHEDULE IV.

## ADDITIONAL POWERS WITH WHICH MUFASSIL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	<ol style="list-style-type: none"> <li>(1). Power to make orders as to local nuisances, section 131 :</li> <li>(2). Power to make orders under section 141 :</li> <li>(3). Power to make orders prohibiting repetitions of nuisances, section 142 :</li> <li>(4). Power to hold inquests, section 172 :</li> <li>(5). Power to issue process for person within jurisdiction who has committed an offence outside the jurisdiction, section 184 :</li> <li>(6). Power to entertain complaints, section 192 :</li> <li>(7). Power to receive Police reports, section 192 :</li> <li>(8). Power to entertain cases without complaint, section 192 :</li> <li>(9). Power to try summarily, section 263 :</li> <li>(10). Power to hear appeals from convictions by Magistrates of the second and third classes, section 406 :</li> <li>(11). Power to sell property alleged or suspected to be stolen, &amp;c., section 534 :</li> </ol>
	BY THE MAGISTRATE OF THE DISTRICT.	<ol style="list-style-type: none"> <li>(1). Power to make orders under section 141 :</li> <li>(2). Power to make orders prohibiting repetitions of nuisances, section 142 :</li> <li>(3). Power to hold inquests, section 172.</li> <li>(4). Power to entertain complaints, section 192 :</li> <li>(5). Power to receive Police-reports, section 192 :</li> </ol>
POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	<ol style="list-style-type: none"> <li>(1). Power to commit for trial :</li> <li>(2). Power to make orders under section 141 :</li> <li>(3). Power to make orders prohibiting repetitions of nuisances, section 142 :</li> <li>(4). Power to hold inquests, section 172 :</li> <li>(5). Power to entertain complaints, section 192 :</li> <li>(6). Power to receive Police-reports, section 192 :</li> <li>(7). Power to entertain cases without complaints, section 192 :</li> </ol>
	BY THE MAGISTRATE OF THE DISTRICT.	<ol style="list-style-type: none"> <li>(1). Power to make orders under section 141 :</li> <li>(2). Power to make orders prohibiting repetitions of nuisances, section 142 :</li> <li>(3). Power to hold inquests, section 172 :</li> <li>(4). Power to entertain complaints, section 192 :</li> <li>(5). Power to receive Police-reports, section 192 :</li> </ol>
POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED.	BY THE LOCAL GOVERNMENT.	<ol style="list-style-type: none"> <li>(1). Power to commit for trial :</li> <li>(2). Power to make orders under section 141 :</li> <li>(3). Power to make orders prohibiting repetitions of nuisances, section 142 :</li> <li>(4). Power to hold inquests, section 172 :</li> <li>(5). Power to entertain complaints, section 192 :</li> </ol>



## SCHEDULE IV.—concluded.

POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED—contd

BY THE MAGISTRATE OF THE DISTRICT.

- (1). Power to make orders under section 141 :
- (2). Power to make orders prohibiting repetitions of nuisances, section 142 :
- (3). Power to hold inquests, section 172 :
- (4). Power to entertain complaints, section 192 :

## SCHEDULE V.

## FORMS.

## I.—SUMMONS TO AN ACCUSED PERSON.

(See section 65).

To \_\_\_\_\_ of \_\_\_\_\_  
 WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*) you are hereby required to appear in person (*or by authorized agent, as the case may be*) before the (*Magistrate*) of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_  
 Herein fail not. Dated the \_\_\_\_\_ day of \_\_\_\_\_  
 (Seal) \_\_\_\_\_ (Signature.)

## II.—WARRANT OF ARREST.

(See section 72.)

To (*name and designation of the person or persons who are to execute the warrant*).  
 WHEREAS \_\_\_\_\_ of \_\_\_\_\_ stands charged with the offence of (*state the offence*) you are hereby directed to apprehend the said \_\_\_\_\_, and to produce him before me.  
 Herein fail not. \_\_\_\_\_ (Signature.)  
 (Seal.) \_\_\_\_\_

This warrant may be endorsed as follows:—

If the said \_\_\_\_\_ shall give bail himself in the sum of \_\_\_\_\_, with one surety in the sum of \_\_\_\_\_ (or two sureties each in the sum of \_\_\_\_\_), to appear before me on the \_\_\_\_\_ day of \_\_\_\_\_, he may be released.  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.  
 \_\_\_\_\_ (Signature.)

## III.—RECOGNIZANCE AND BAIL-BOND AFTER ARREST UNDER A WARRANT.

(See section 84.)

I, (*name*) of \_\_\_\_\_, being brought before the Magistrate of the District of \_\_\_\_\_ (*or as the case may be*) under a warrant issued to compel my appearance to answer to the charge of \_\_\_\_\_, do hereby bind myself to appear in the Court of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next to answer to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of rupees \_\_\_\_\_ . Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.  
 \_\_\_\_\_ (Signature.)

I do hereby declare myself surety for the abovesaid \_\_\_\_\_ of \_\_\_\_\_, that he shall attend before \_\_\_\_\_ at \_\_\_\_\_ in the Court of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next to answer to the charge on which he has been arrested; and, in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees \_\_\_\_\_ .  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.  
 \_\_\_\_\_ (Signature.)

## IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED.

(See section 85.)

WHEREAS complaint has been made before me that (*name, description and address*) has committed *or is suspected to have committed* the offence of \_\_\_\_\_, punishable under section \_\_\_\_\_ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*);

Proclamation is hereby made that the said \_\_\_\_\_ of \_\_\_\_\_ is required to appear before this Court (*or before me*) to answer the said complaint within \_\_\_\_\_ days from this date.  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.  
 (Seal.) \_\_\_\_\_ (Signature.)



FORMS.

SCHEDULE V.—*continued.*

## V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

*(See section 85.)*

WHEREAS complaint has been before me that (*name, description and place of residence*) has committed (*or is suspected to have committed*) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching on the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*);

Proclamation is hereby made that the said (*name*) is required to appear before the Court of  
 on the \_\_\_\_\_ day of \_\_\_\_\_ next at \_\_\_\_\_ o'clock, to be examined touching  
 \_\_\_\_\_, the offence complained of.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
 (Seal.) \_\_\_\_\_ (Signature.)

## VI.—ORDER OF ATTACHMENT.

*(See section 86.)*

To the Police-officer in charge of the Police-station at \_\_\_\_\_

WHEREAS a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*); and thereupon a proclamation was duly issued and published requiring the said \_\_\_\_\_ to appear and give evidence at the time and place mentioned therein, and he has failed to appear;

This is to authorize and require you to attach by seizure the moveable property belonging to the said \_\_\_\_\_ to the value of rupees \_\_\_\_\_ (*see sections \_\_\_\_\_ and \_\_\_\_\_*) which you may find within the District of \_\_\_\_\_ and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
 (Seal.) \_\_\_\_\_ (Signature.)

## WARRANT OF ATTACHMENT TO COMPEL APPEARANCE.

*(See section \_\_\_\_\_.)*

To (*name and designation of the person or persons who is or are to execute the warrant.*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of \_\_\_\_\_ punishable under section \_\_\_\_\_ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*) and thereupon a Proclamation has been duly issued and published requiring the said \_\_\_\_\_ to appear to answer the said charge within \_\_\_\_\_ days; and whereas the said \_\_\_\_\_ is possessed of the following property other than the land paying revenue to Government in the village (*or town*) of \_\_\_\_\_ in the District of \_\_\_\_\_, *viz.*, \_\_\_\_\_ and an order has been made for the attachment thereof;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
 (Seal.) \_\_\_\_\_ (Signature.)

## ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

*(See section 86.)*

To the Deputy Commissioner of the District of \_\_\_\_\_

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of \_\_\_\_\_ punishable under section \_\_\_\_\_ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*) and thereupon a Proclamation has been duly issued and published requiring the said \_\_\_\_\_ to appear to answer the said charge within \_\_\_\_\_ days, but he has not appeared; and whereas the said \_\_\_\_\_ is possessed of certain land paying revenue to Government in the village (*or town*) of \_\_\_\_\_ in the District of \_\_\_\_\_;

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
 (Seal.) \_\_\_\_\_ (Signature.)



SCHEDULE V.—*continued.*

FORMS.

## VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

*(See section 88.)*To *(name and designation of the Police-officer or other person or persons to execute the warrant.)*

WHEREAS complaint has been made before me that of has *(or is suspected to have)* committed the offence of *(mention the offence concisely)*, and it appears likely that *(name and description of witness)* can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorize and require you to serve the said *(name)* with this warrant, and to bring him before this Court on the day of , using no unnecessary violence or forceable restraint for that purpose, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of 18

*(Seal.)**(Signature.)*

## VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

*(See section 95.)*To *(name and designation of the Police-officer or other person or persons to execute the warrant.)*

WHEREAS information has been laid *(or complaint has been made)* before me of the commission *(or suspected commission)* of the offence of *(mention the offence concisely)*, and it has been made to appear to me that the production of *(specify the thing clearly)* is essential to the enquiry now being made *(or about to be made)* into the said offence *(or suspected offence)*;

This is to authorize and require you to search for the said *(the thing specified)* in the *(describe the house or place, or part thereof, to which the search is to be confined)*, and, if found, to produce the same forthwith before this Court: returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18

*(Seal.)**(Signature.)*

## IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

*(See section 97.)*To *(name and designation of a Police-officer above the rank of a Constable.)*

WHEREAS information has been laid before me, and on due enquiry thereupon had I have been led to believe that house *(describe the house or other place)* is used as a place for the deposit *(or sale)* of stolen property *(or, if for either of the other purposes expressed in the section, state the purpose in the words of the section)*;

This is to authorize and require you to enter the said house *(or other place)* with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house *(or other place, or, if the search is to be confined to a part, specify the part clearly)* and to seize and take possession of any property *(or documents or stamps, or seals, or coins, as the case may be)*—[Add *(when the case requires it)* and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps, or false seals, or counterfeit coin *(as the case may be)*,] and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18

*(Seal.)**(Signature.)*

## X.—BOND TO KEEP THE PEACE.

*(See section 105.)*

WHEREAS I, *(name)*, inhabitant of *(place)* have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees

Dated this day of 18

*(Signature.)*

## XI.—FORM OF BOND FOR GOOD BEHAVIOUR.

*(See sections 108 and 109.)*

WHEREAS I, *(name)* inhabitant of *(place)*, have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen and to all Her subjects for the term of *(state the period)* I hereby bind myself to be of good behaviour to Her Majesty and to all Her subjects during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

Dated this day of 18

*(Seal.)**(Signature.)*



FORMS.

SCHEDULE V.—*continued.*

## XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

*(See section 113.)*

To \_\_\_\_\_ of \_\_\_\_\_  
 WHEREAS it has been made to appear to me by credible information that *(state the substance of the information)* and that you are likely to commit a breach of the peace *(or by which act a breach of the peace will probably be occasioned)* you are hereby required to attend in person *(or by a duly authorized agent at the Magistrate's Office at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_)*

18, at ten o'clock in the forenoon, to shew cause why you should not be required to enter into a bond for rupees \_\_\_\_\_ *(when sureties are required add)* and also to give security by the bond of one *(or two, as the case may be)* sureties in the sum of rupees \_\_\_\_\_ *(each if more than one)*, that you will keep the peace for the term of \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
 Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*

## XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

*(See section 122.)*

To *(name and designation of Police-officer)* and to the Superintendent *(or Keeper)* of the Civil Jail at \_\_\_\_\_

WHEREAS *(name and place)* appeared before me in person *(or by his authorized agent)* on the \_\_\_\_\_ day of \_\_\_\_\_ in obedience to a summons calling upon him to shew cause why he should not enter into a bond for rupees \_\_\_\_\_ with one surety *(or a bond with two sureties each in rupees \_\_\_\_\_)*, that he the said *(name)* would keep the peace for the period of \_\_\_\_\_ months; and whereas an order was then made requiring the said *(name)* to enter into and find such security *(state the security ordered when it differs from that mentioned in the summons)* and he has failed to comply with the said order;

This is to authorize and require you the said *(name of Police Constable)* to take and deliver or cause to be taken and delivered, the said *(name)* to the Superintendent *(or Keeper)* of the said Civil Jail, and you the said Superintendent *(or Keeper)* to receive the said *(name)* into your custody together with this warrant, and him safely to keep in the said Jail for the said period of *(term of imprisonment)* unless he shall in the meantime comply with the said order by himself and his sureties entering into the said bond, in which case the same shall be received, and the said *(name)* released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*

## XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

*(See section 122.)*

To *(name and designation of Police-officer)* and to the Superintendent *(or Keeper)* of the Civil Jail at \_\_\_\_\_

WHEREAS it has been made to appear to me that *(name and description)* has been and is lurking within the District of \_\_\_\_\_ having no ostensible means of subsistence *(or, and that he is unable to give any satisfactory account of himself)*;

or

WHEREAS evidence of the general character of *(name and description)* has been adduced before me and recorded, from which it appears that he is by repute a robber *(or house-breaker, &c., as the case may be)*;

or

WHEREAS evidence of the general character of *(name and description)* has been adduced before me and recorded, from which it appears that he is by habit a robber *(or house-breaker, &c., as the case may be)*;

And whereas an order has been recorded stating the same and requiring the said *(name)* to furnish security for his good behaviour for the term of *(state the period)* by entering into a bond with one surety *(or two, or more sureties, as the case may be)* himself for rupees \_\_\_\_\_, and the said surety *(or such of the said sureties)* for rupees \_\_\_\_\_, and the said *(name)* has failed to comply with the said order, and for such default has been adjudged imprisonment for *(state the term)* unless the said security be sooner furnished;

This is to authorize and require you the said *(name of Police-officer)* to take and deliver or cause to be taken and delivered the said *(name)* to the Superintendent *(or Keeper)* of the said Civil Jail, and you the said Superintendent *(or Keeper)* to receive the same *(name)* into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of *(term of imprisonment)*, unless in the meantime he shall be prepared to furnish the said security, and in that event forthwith to cause him to be brought before the Court to be dealt with according to law; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*



SCHEDULE V.—*continued.*

FORMS.

## XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(See section 123.)

To *(the Superintendent or Keeper)* of the Jail at \_\_\_\_\_ *(or other officer in whose custody the person is).*

WHEREAS *(name and description of prisoner)* was committed to your custody under warrant of this Court, dated the \_\_\_\_\_ day of \_\_\_\_\_, and has since with his surety *(or sureties)* duly entered into a recognizance,

or

and sufficient cause has been shewn to me for his release from further imprisonment,

or

and there have appeared to me sufficient grounds for the opinion that he can be released without any hazard to the community;

This is to authorize and require you forthwith to discharge the said *(name)* from your custody.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Seal.)

(Signature.)

## XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

(See section 131.)

To *(name, description and place of residence).*

WHEREAS it has been made to appear to me that you have caused an obstruction *(or nuisance)*, to persons using the public roadway *(or other public place)*, which, &c. *(describe the road or public place)*, by, &c., *(state what it is that causes the obstruction or nuisance)*, and that such obstruction *(or nuisance)*, still exists;

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of *(state the particular trade and the place where it is carried on)*, and that the same is injurious to the public health *(or comfort)* by reason *(state briefly in what manner the injurious effects are caused)*, and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner *(or are in possession of or have the control over)* a certain tank *(or well)* adjacent to the public passage *(describe the thoroughfare)* and that the safety of the public is endangered by reason of the said tank *(or well)* being without a fence *(or insecurely fenced)*;

or

WHEREAS, &c., &c. *(as the case may be)*;

I do hereby direct and require you within *(state the time allowed)* to remove *(state what is required to be done to abate the nuisance)* or to appear at \_\_\_\_\_ in the \_\_\_\_\_ Court of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next, and to shew cause why this order should not be enforced;

or

I do hereby direct and require you within *(state the time allowed)* to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on to *(specify the more suitable place by a limit of distance or local description)*, or to appear, &c.;

or

I do hereby direct and require you within *(state the time allowed)* to put up a sufficient fence *(state the kind of fence and the part to be fenced)*, or to appear, &c.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Seal.)

(Signature.)

## XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

(See section 136.)

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, an order was issued to *(name)* requiring him *(state the effect of the order)*; and whereas the said *(name)* has applied to me by a petition bearing date the \_\_\_\_\_ day of \_\_\_\_\_ for an order appointing a Jury to try whether the said recited order is reasonable and proper, I do hereby appoint *(the names, &c., of the five or more Jurors)* to be the Jury, to try and decide the said question, and do require the said Jury to report their decision within \_\_\_\_\_ days from the date of this order at my office at \_\_\_\_\_

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Seal.)

(Signature.)



FORMS.

SCHEDULE V.—*continued.*

## XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

*(See section 113.)*

To \_\_\_\_\_ of \_\_\_\_\_  
 WHEREAS it has been made to appear to me by credible information that *(state the substance of the information)* and that you are likely to commit a breach of the peace *(or by which act a breach of the peace will probably be occasioned)* you are hereby required to attend in person *(or by a duly authorized agent at the Magistrate's Office at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_)*

18, at ten o'clock in the forenoon, to shew cause why you should not be required to enter into a bond for rupees *(when sureties are required add)* and also to give security by the bond of one *(or two, as the case may be)* sureties in the sum of rupees *(each if more than one)*, that you will keep the peace for the term of \_\_\_\_\_

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*

## XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

*(See section 122.)*

To *(name and designation of Police-officer)* and to the Superintendent *(or Keeper)* of the Civil Jail at \_\_\_\_\_

WHEREAS *(name and place)* appeared before me in person *(or by his authorized agent)* on the \_\_\_\_\_ day of \_\_\_\_\_ in obedience to a summons calling upon him to shew cause why he should not enter into a bond for rupees \_\_\_\_\_ with one surety *(or a bond with two sureties each in rupees \_\_\_\_\_)*, that he the said *(name)* would keep the peace for the period of \_\_\_\_\_ months; and whereas an order was then made requiring the said *(name)* to enter into and find such security *(state the security ordered when it differs from that mentioned in the summons)* and he has failed to comply with the said order;

This is to authorize and require you the said *(name of Police Constable)* to take and deliver or cause to be taken and delivered, the said *(name)* to the Superintendent *(or Keeper)* of the said Civil Jail, and you the said Superintendent *(or Keeper)* to receive the said *(name)* into your custody together with this warrant, and him safely to keep in the said Jail for the said period of *(term of imprisonment)* unless he shall in the meantime comply with the said order by himself and his sureties entering into the said bond, in which case the same shall be received, and the said *(name)* released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*

## XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

*(See section 122.)*

To *(name and designation of Police-officer)* and to the Superintendent *(or Keeper)* of the Civil Jail at \_\_\_\_\_

WHEREAS it has been made to appear to me that *(name and description)* has been and is lurking within the District of \_\_\_\_\_ having no ostensible means of subsistence *(or, and that he is unable to give any satisfactory account of himself)*;

or

WHEREAS evidence of the general character of *(name and description)* has been adduced before me and recorded, from which it appears that he is by repute a robber *(or house-breaker, &c., as the case may be)*;

or

WHEREAS evidence of the general character of *(name and description)* has been adduced before me and recorded, from which it appears that he is by habit a robber *(or house-breaker, &c., as the case may be)*;

And whereas an order has been recorded stating the same and requiring the said *(name)* to furnish security for his good behaviour for the term of *(state the period)* by entering into a bond with one surety *(or two, or more sureties, as the case may be)* himself for rupees \_\_\_\_\_, and the said surety *(or such of the said sureties)* for rupees \_\_\_\_\_, and the said *(name)* has failed to comply with the said order, and for such default has been adjudged imprisonment for *(state the term)* unless the said security be sooner furnished;

This is to authorize and require you the said *(name of Police-officer)* to take and deliver or cause to be taken and delivered the said *(name)* to the Superintendent *(or Keeper)* of the said Civil Jail, and you the said Superintendent *(or Keeper)* to receive the same *(name)* into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of *(term of imprisonment)*, cause him to be brought before the Court to be dealt with according to law; and in that event forthwith to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*



SCHEDULE V.—*continued.*

FORMS.

## XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

*(See section 123.)*To *(the Superintendent or Keeper)* of the Jail at  
*custody the person is).**(or other officer in whose*WHEREAS *(name and description of prisoner)* was committed to your custody under warrant of this Court, dated the            day of            , and has since with his surety *(or sureties)* duly entered into a recognizance,

or

and sufficient cause has been shewn to me for his release from further imprisonment,

or

and there have appeared to me sufficient grounds for the opinion that he can be released without any hazard to the community;

This is to authorize and require you forthwith to discharge the said *(name)* from your custody.

Given under my hand and the seal of the Court, this            day of            18

*(Seal.)**(Signature.)*

## XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

*(See section 131.)*To *(name, description and place of residence).*WHEREAS it has been made to appear to me that you have caused an obstruction *(or nuisance)*, to persons using the public roadway *(or other public place)*, which, &c. *(describe the road or public place)*, by, &c., *(state what it is that causes the obstruction or nuisance)*, and that such obstruction *(or nuisance)*, still exists;

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of *(state the particular trade and the place where it is carried on)*, and that the same is injurious to the public health *(or comfort)* by reason *(state briefly in what manner the injurious effects are caused)*, and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner *(or are in possession of or have the control over)* a certain tank *(or well)* adjacent to the public passage *(describe the thoroughfare)* and that the safety of the public is endangered by reason of the said tank *(or well)* being without a fence *(or insecurely fenced)*;

or

WHEREAS, &c., &c. *(as the case may be)*;I do hereby direct and require you within *(state the time allowed)* to remove *(state what is required to be done to abate the nuisance)* or to appear at            in the            Court of            on the            day of            next, and to shew cause why this order should not be enforced;

or

I do hereby direct and require you within *(state the time allowed)* to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on to *(specify the more suitable place by a limit of distance or local description)*, or to appear, &c.;

or

I do hereby direct and require you within *(state the time allowed)* to put up a sufficient fence *(state the kind of fence and the part to be fenced)*, or to appear, &c.

Given under my hand and the seal of the Court, this            day of            18

*(Seal.)**(Signature.)*

## XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

*(See section 136.)*WHEREAS on the            day of            18            , an order was issued to *(name)* requiring him *(state the effect of the order)*; and whereas the said *(name)* has applied to me by a petition bearing date the            day of            for an order appointing a Jury to try whether the said recited order is reasonable and proper, I do hereby appoint *(the names, &c., of the five or more Jurors)* to be the Jury, to try and decide the said question, and do require the said Jury to report their decision within            days from the date of this order at my office at

Given under my hand and the seal of the Court, this            day of            18

*(Seal.)**(Signature.)*



FORMS.

SCHEDULE V.—*continued.*

## XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

*(See section 138.)*To *(name, description and residence)*.

I HEREBY give you notice that the Jury duly appointed on the petition presented by you on the day of \_\_\_\_\_ have found that the order issued on the day of \_\_\_\_\_ requiring you *(state substantially the requisition in the order)* is reasonable and proper, and I hereby direct and require you to obey the said order within *(state the time allowed)* on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)*

\_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Signature.)*

## XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING ENQUIRY BY JURY.

*(See section 140.)*To *(name, description and residence)*.

WHEREAS the enquiry by a Jury appointed to try whether my order issued on the day of \_\_\_\_\_ is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section \_\_\_\_\_ of the Code of Criminal Procedure, direct and enjoin you forthwith to *(state plainly what is required to be done as temporary safeguard)*, pending the result of the local enquiry by the Jury.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)*

\_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Signature.)*

## XX.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, &amp;c.

*(See section 141.)*To *(name, description and place of residence)*.

WHEREAS it has been made to appear to me that you are in possession *(or have the management)* of *(describe clearly the property)*, and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

*or*

WHEREAS it has been made to appear to me that you and a number of other persons *(mention the class of persons)* are about to meet and proceed in a religious procession along the public street, &c. *(as the case may be)*, and that such procession is likely to lead to a riot or an affray;

*or*

WHEREAS, &c., &c. *(as the case may be)*; I do hereby order you not to place or permit to be placed any of the earth or stone dug from your land in any part of the said road; or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession *(or as the case recited may require)*.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)*

\_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Signature.)*

## XXI.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, &amp;c., OF A NUISANCE.

*(See section 142.)*To *(name, description and place of residence)*.

WHEREAS it has been made to appear to me that, &c. *(state the proper recital guided by Form No. XX.)*

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, &c. *(as the case may be)*.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

*(Seal.)*

\_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Signature.)*

## XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, &amp;c., IN DISPUTE.

*(See section 143.)*

It appearing to me, on the grounds duly recorded, that a dispute likely to induce a breach of the peace, existed between *(describe the parties by name and residence, or residence only, if the dispute be between bodies of villagers)* concerning certain *(state concisely the subject of dispute)* situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said *(the subject of dispute)* and being satisfied by due enquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said *(name or names or description)* is true,







## FORMS.

SCHEDULE V.—*continued.*

*may be, prosecute and give evidence, or to give evidence*) in the matter of a charge of \_\_\_\_\_ against one  
 A. B., and, in case of making default herein, I bind myself to forfeit to Her Majesty the sum of rupees \_\_\_\_\_  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ (Signature.)

## XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE OR GOVERNMENT PLEADER.

(See section 220.)

The Magistrate of \_\_\_\_\_ hereby gives notice that he has committed one \_\_\_\_\_ for trial at  
 the next Sessions; and the Magistrate hereby instructs the Government Pleader to conduct the prose-  
 cution of the said case.

The charge against the accused is that, &c. (*state the offence as in the charge*).  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ (Signature.)

## XXVIII.—CHARGES.

(See sections 223, 224, 225.)

## (I).—CHARGES WITH ONE HEAD.

(a). I, [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows:—

(b). That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, waged war against  
 On Penal Code, section 121. Her Majesty the Queen, Empress of India, and thereby committed an  
 offence punishable under section 121 of the Indian Penal Code, and with-  
 in the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for  
 Court of Session, substitute High Court*].

(c). And I hereby direct that you be tried by the said Court on the said charge.  
 [Signature and seal of the Magistrate.]

[To be substituted for (b):—]

(2). That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, with the intention  
 On section 124. of inducing the Honorable A. B., Member of the Council of the Gov-  
 ernor General of India, to refrain from exercising a lawful power as  
 such Member, assaulted such Member, and thereby committed an offence punishable under section 124  
 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(3). That you, being a public servant in the \_\_\_\_\_ Department, directly accepted  
 On section 161. from [*state the name*], for another party [*state the name*], a gratifi-  
 cation, other than legal remuneration, as a motive for forbearing to  
 do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal  
 Code, and within the cognizance of the Court of Session [*or High Court*].

(4). That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed culpable  
 On section 304. homicide not amounting to murder, causing the death of \_\_\_\_\_  
 and thereby committed an offence punishable under section 304 of  
 the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(5). That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, abetted the commis-  
 On section 306. sion of suicide by A. B., a person in a state of intoxication, and there-  
 by committed an offence punishable under section 306 of the India  
 Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(6). That you, on or about \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, voluntarily caused griev-  
 On section 325. ous hurt to \_\_\_\_\_, and thereby committed an offence punish-  
 able under section 325 of the Indian Penal Code, and within the  
 cognizance of the Court of Session [*or High Court*].

(7). That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed robbery, an  
 On section 392. offence punishable under section 392 of the Indian Penal Code, and  
 within the cognizance of the Court of Session [*or High Court*].

(8). That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed dacoity, an  
 On section 395. offence punishable under section 395 of the Indian Penal Code, and  
 within the cognizance of the Court of Session [*or High Court*].

(9). That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, did [*or omitted to do*,  
 On section 166. as the case may be] \_\_\_\_\_, such conduct being contrary  
 to the provisions of Act \_\_\_\_\_, section \_\_\_\_\_, and was known  
 by you to be prejudicial to \_\_\_\_\_, and thereby committed an offence punish-  
 able under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or  
 High Court*].



SCHEDULE V.—*continued.*

FORMS.

(10). That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the course of the trial of \_\_\_\_\_, before \_\_\_\_\_, stated in evidence that "\_\_\_\_\_" which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates, substitute "within my cognizance" for "within the cognizance of the Court of Session." In (d) omit "by the said Court."]

## (II).—CHARGES WITH TWO OR MORE HEADS.

(a) I, [name and office of Magistrate, &c.,] hereby charge you, [name of accused person], as follows:—

(b) *First.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_, knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and thereby committed an offence punishable under section 201 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Secondly.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, knowing a coin to be counterfeit, attempted to induce another person, by name A. B., to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the Court of Session or High Court].

(c). And I hereby direct that you be tried by the said Court on the said charge.

[Signature and Seal of the Magistrate].

or (b) *First.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed murder by causing the death of \_\_\_\_\_ and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Secondly.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, by causing the death of \_\_\_\_\_, committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

For (b) *First.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Secondly.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Thirdly.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Fourthly.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Alternative charges on section 193. For (b) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the course of the enquiry into \_\_\_\_\_ before \_\_\_\_\_, stated in evidence that "\_\_\_\_\_" and that you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the course of the trial of \_\_\_\_\_, before \_\_\_\_\_, stated in evidence that "\_\_\_\_\_" one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

In trials before Magistrates, substitute "within my cognizance" for "within the cognizance of the Court of Session" and omit "by the said Court."

## XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(See sections 248 and 261.)

To (name and designation of Police Constable) and to the Superintendent (or Keeper) of the Jail at \_\_\_\_\_

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ (name of prisoner) the (1st, 2nd, 3rd, as the case may be) prisoner in case No. \_\_\_\_\_ of the calendar for 18 \_\_\_\_\_ was convicted before me (name and







SCHEDULE V.—*continued.*

FORMS.

## XXXIII.—PRECEPT TO MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

*(See section 328.)*

To the Magistrate of

WHEREAS a Criminal Session is appointed to be held in the Court-house at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next, and the names of the persons herein stated have been duly drawn by lot from among those names of the revised list of jurors and assessors furnished to this Court, you are hereby required to summon the said persons to attend at the said Court of Session at 10 A. M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

*(Here enter the names of Jurors and Assessors.)*

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*

## XXXIV.—SUMMONS TO JUROR OR ASSESSOR.

*(See section 330.)*To *(name)* of *(place)*.

PURSUANT to a precept directed to me by the Court of Session of \_\_\_\_\_ requiring your attendance as an Assessor *(or Juror)* at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at ten o'clock in the forenoon on the \_\_\_\_\_ day of \_\_\_\_\_ next.

Given under my hand and seal of office, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*

## XXXV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

*(See section 369.)*To *(the Superintendent or Keeper)* of the Jail at

WHEREAS at the Sessions held before me on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, *(name of prisoner)* the *(1st, 2nd, 3rd, as the case may be)* prisoner in case No. \_\_\_\_\_ of the calendar, at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section \_\_\_\_\_ of the Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the \_\_\_\_\_ Court of \_\_\_\_\_ ;

This is to authorize and require you, the said *(Superintendent or Keeper)*, to receive the said *(prisoner's name)* into your custody in the said Jail, together with this warrant, and him there safely keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*

## XXXVI.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

*(See section 383.)*To the Superintendent *(or Keeper)* of the Jail at

WHEREAS *(name of prisoner)* the *(1st, 2nd, 3rd, as the case may be)* prisoner in case No. \_\_\_\_\_ of the calendar, at the Sessions held before me on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, has been by a warrant of this Court, dated the \_\_\_\_\_ day of \_\_\_\_\_, committed to your custody under sentence of death, and whereas the order of the \_\_\_\_\_ Court of \_\_\_\_\_ confirming the said sentence has been received by this Court ;

This is to authorize and require you the said Superintendent *(or Keeper)* to carry the said sentence into execution by causing the said \_\_\_\_\_ to be hanged by the neck until \_\_\_\_\_ be dead, at the usual time and place of execution, and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
*(Seal.)* *(Signature.)*

## XXXVII.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

*(See section 384.)*To the Superintendent *(or Keeper)* of the Jail at

WHEREAS at a Session held on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, *(name of prisoner)* the *(1st, 2nd, or 3rd, as the case may be)* prisoner in case No. \_\_\_\_\_ of the calendar, at the said Sessions, was convicted of the offence of \_\_\_\_\_, punishable under section \_\_\_\_\_ of the Indian Penal Code, and



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SCHEDULE V.—*continued.*

sentenced to \_\_\_\_\_, and was thereupon committed to your custody; and whereas by the order of the Court of \_\_\_\_\_ Court (a duplicate of which is herewith annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (or as the case may be);

This is to authorize and to require you, the said (Superintendent or Keeper), safely to keep the said (prisoner's name) in your custody in the said Jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or  
if the mitigated sentence is one of imprisonment, say after the words "custody in the said Jail," and there to carry into execution the punishment of imprisonment under the said order according to law.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_ .  
(Seal.) \_\_\_\_\_ (Signature.)

## XXXVIII.—WARRANT TO LEVY A FINE BY DISTRESS AND SALE.

(See section 389.)

To (name and designation of the Police-officer or other person, or persons, to execute the warrant).

WHEREAS (name and description of the offender) was on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_, convicted before me of the offence of (mention the offence concisely) and sentenced to pay a fine of \_\_\_\_\_ rupees, and whereas the said (name), although required to pay the said fine, hath not paid the same or any part thereof;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (name) which may be found within the District of \_\_\_\_\_; and, if within (state the number of days or hours allowed) next after such distress the said sum shall not be paid (or forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_ .  
(Seal.) \_\_\_\_\_ (Signature.)

## XXXIX.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(See section 480.)

To (name and designation of Police Constable) at the Police-station of \_\_\_\_\_ and to (name) the Superintendent (or Keeper) of the Civil Jail at \_\_\_\_\_

WHEREAS at a Court holden before me on this day (name and description of the offender) in the presence (or view) of the Court committed wilful contempt, for that he

(a) being legally bound (state whether in obedience to the summons or order of the Court, or how otherwise) to produce (or deliver up) a certain (specify the document) to the Court (if to a particular officer so state), intentionally omitted to produce or deliver up the said (document specified) when required to do so;

Applicable to a case under section 175 of the Penal Code.

(b) being legally required by the Court to bind himself by an oath (or solemn affirmation) duly administered to state the truth as a witness on the hearing of a suit (or if not a suit as the fact may be), wilfully refused to take such oath (or solemn affirmation) without alleging any just excuse for such refusal;

Applicable to a case under section 178 of the Penal Code.

(c) being a witness in (state the suit or enquiry or other proceeding as the case may be), and legally bound by an oath (or solemn affirmation) duly administered to state the truth, wilfully refused to give answer to a question (or questions) put to him by the Court touching the subject matter of the said suit (or other proceeding) without alleging any just cause for such refusal;

Applicable to a case under section 179 of the Penal Code.

(d) being legally required by the Court (or if by a duly empowered Ministerial Officer so state) to sign a written record of the statements made by him as a witness on the hearing of a suit (or if not a suit, as the fact may be) wilfully refused to sign the same when required so to do, without alleging any just cause for such refusal;

Applicable to a case under section 180 of the Penal Code.

(e) wilfully insulted me whilst sitting in Court and engaged in the hearing of (state the judicial proceeding) or wilfully caused an interruption during the sitting of the Court, and whilst I was engaged in the hearing of (state the judicial proceeding) by (mention concisely the conduct causing the contempt).

Applicable to a case under section 228 of the Penal Code.

And whereas for such his contempt the said (name of offender) has been adjudged by the Court to pay a fine of \_\_\_\_\_ rupees or in default to suffer imprisonment for the space of (state the number of months or days);











SCHEDULE V.—*continued.*

FORMS.

## XLVI.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

*(See section 510.)*

To *(the Superintendent or Keeper)* of the Jail at \_\_\_\_\_ *(or other Officer in whose custody the person is).*

WHEREAS *(name and description of prisoner)* was committed to your custody under warrant of this Court, dated the \_\_\_\_\_ day of \_\_\_\_\_, and has since with his surety *(or sureties)* duly executed a bond,

*or*

and sufficient cause has been shown to me for his release from further imprisonment,

*or*

and there have appeared to me sufficient grounds for the opinion that he can be released without any hazard to the community ;

This is to authorize and require you forthwith to discharge the said *(name)* from your custody.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

*(Signature.)*

## XLVII.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

*(See section 525.)*

To *(the Police-officer in charge)* of the Police-station at \_\_\_\_\_

WHEREAS *(name, description and address of person)* has failed to appear on *(mention the occasion)* pursuant to his recognizance, and has by such default forfeited to Her Majesty the Empress the sum of \_\_\_\_\_ rupees *(the penalty in the bond)* ;

This is to authorize and require you to attach any moveable property of the said *(name)* that you may find within the district of \_\_\_\_\_ by seizure and detention, and if the said amount be not paid within three days to sell the property so attached or so much of it as may be sufficient to realize the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

*(Seal.)**(Signature.)*

## XLVIII.—NOTICE TO SURETY ON BREACH OF A BOND.

To \_\_\_\_\_ of \_\_\_\_\_

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ 18 , you became surety for *(name)* of *(place)* that he should appear before this Court on the \_\_\_\_\_ day of \_\_\_\_\_, and bound yourself in default thereof to forfeit the sum of \_\_\_\_\_ rupees \_\_\_\_\_ to Her Majesty the Empress ; and whereas the said *(name)* has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of \_\_\_\_\_ rupees \_\_\_\_\_, you are hereby required to pay the said penalty or shew cause, within \_\_\_\_\_ days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

*(Seal.)**(Signature.)*

## XLIX.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

To \_\_\_\_\_ of \_\_\_\_\_

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ 18 , you became surety by a bond for *(name)* of *(place)* that he would keep the peace for the period of \_\_\_\_\_, and bound yourself in default thereof to forfeit the sum of \_\_\_\_\_ rupees \_\_\_\_\_ to Her Majesty the Empress ; and whereas the said *(name)* has been convicted of the offence of *(mention the offence concisely)* committed since you became such surety, whereby your security-bond has become forfeited ;

You are hereby required to pay the said penalty of \_\_\_\_\_ rupees \_\_\_\_\_, or to show cause within \_\_\_\_\_ days, why it should not be paid.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

*(Seal.)**(Signature.)*



FORMS.

SCHEDULE V.—*continued.*

## L.—WARRANT OF ATTACHMENT AGAINST A SURETY.

To

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Empress the sum of rupees (*the penalty in the bond*);

This is to authorize and require you to attach any moveable property of the said (*name*) which you may find within the district of \_\_\_\_\_ by seizure and detention. If the said amount be not paid within three days, to sell property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Seal.)

(Signature.)

## LI.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

To (*name and designation of Police-officer*) and the Superintendent (*or Keeper*) of the Civil Jail at

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*), and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Empress; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or shew any sufficient cause why it should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his confinement in Jail for (*specify the period*);

This is to authorize and require you the said (*name of Police-officer*) to take and deliver, or cause to be taken and delivered, the said (*name*) to the Superintendent (*or Keeper*) of the said Civil Jail, and you the said Superintendent (*or Keeper*) to receive the said (*name*) into your custody with this warrant and him safely to keep in the said Jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Seal.)

(Signature.)

## LII.—NOTICE OF FORFEITURE OF A BOND TO KEEP THE PEACE TO THE PRINCIPAL.

To (*name, description and address*).

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, you entered into a bond (*or recognizance*) not to commit, &c. (*as in the bond or recognizance*), and proof of the forfeiture of the same has been given before me and duly recorded:

You are hereby called upon to pay the said penalty of rupees \_\_\_\_\_ or to shew cause before me within \_\_\_\_\_ days, why payment of the same should not be enforced against you.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Seal.)

(Signature.)

## LIII.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

To (*name and designation of Police-officer*) at the Police-station of \_\_\_\_\_

WHEREAS (*name and description*) did on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, enter into a bond for the sum of rupees \_\_\_\_\_, binding himself not to commit a breach of the peace, &c., (*as in the bond*), and proof of the forfeiture of the said bond or recognizance has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon him to shew cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees \_\_\_\_\_ which you may find within the district of \_\_\_\_\_, and if the said sum be not paid within \_\_\_\_\_ to sell the property so attached, or so much of it as may be sufficient to realize the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Seal.)

(Signature.)

## LIV.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

To (*name and designation of Police-officer*) and to the Superintendent (*or Keeper*) of the Civil Jail at \_\_\_\_\_

WHEREAS proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond or recognizance entered into by him to keep the peace where by he has forfeited to Her Majesty the Empress the sum of rupees \_\_\_\_\_; and whereas the said (*name*)







thus at last give to India a single and complete Code of Criminal Procedure, and carry out, so far, the policy of providing a simple and uniform system of law for this country. The language and arrangement of Act X. of 1872 have, for obvious reasons, been departed from only so far as is necessary for the main purpose of the Bill.

2. Though many of the outlying Acts and Regulations dealing with Criminal Procedure were repealed and re-enacted by Act X. of 1872, many more are still untouched, and the secondary object of the present Bill is to consolidate these enactments, which are eleven in number:—

*Acts.*

XXIII. of 1840 (Execution of process).  
XXXIV. of 1850 (State prisoners).  
III. of 1858 (State prisoners).

XVIII. of 1862 (Administration of Criminal Justice in the High Courts).  
II. of 1869 (Justices of the Peace).  
XXII. of 1870, sections 2 and 4 (Application to European British subjects of Acts giving summary jurisdiction).

*Regulations.*

Bengal Regulation III., 1818 (State prisoners).  
Bengal Regulation XX., of 1825 (Jurisdiction of Courts Martial).  
Madras Regulation II., 1819 (State prisoners).  
Bombay Regulation XXV., 1827 (State prisoners).

3. The result of consolidating the Acts and Regulations above specified will be to substitute a single Act of 566 sections for fourteen enactments containing about one thousand unrepealed sections.

4. The present Bill is divided into nine Parts, the first containing the usual preliminary matter; the second dealing with the constitution and powers of the Criminal Courts and offices; the third containing some general provisions; the fourth treating of the prevention of offences; the fifth, of information to the Police and of their powers to investigate; the sixth, of proceedings in prosecutions; the seventh, of appeal, reference and revision; the eighth, of special proceedings; the ninth, of supplementary provisions.

*Preliminary.*

5. Part I. consists of a single chapter containing the usual preliminary matter. The wording of some of the definitions in Act X. of 1872 has been amended and definitions of 'to sign,' 'public prosecutor,' 'pleader,' 'offence,' 'chapter,' 'schedule' and 'place' have been added. The definition of 'European British subject' has been extended to persons naturalized in British India. Words referring to acts done are declared to extend also to illegal omissions, and words such as 'special law,' 'local law,' defined in the Penal Code will have the meanings attached to them respectively by that Code. On the other hand, the definitions of 'inquired into,' 'trial,' 'Magistrate's case,' have been omitted as not needed in the Code in its revised form.

*Criminal Courts.*

6. Part II. (constitution and powers of the Criminal Courts and offices) consists of two chapters, of which the first deals (a) with the classes of Criminal Courts, (b) with territorial divisions, (c) with Courts outside the Presidency-towns, (d) with the Courts of the Presidency Magistrates, (e) with Justices of the Peace, and (f) with the suspension and removal of Judges, Magistrates and Justices of the Peace. The second chapter treats of the powers of Judges and Magistrates, the description of offences cognizable by each Court, the sentences which may be passed by Courts of various classes, and the mode of conferring powers on the latter. The changes of the law here made are little more than verbal, save that in section 39 (= Act X. of 1872, section 56), as to the continuance of powers of an officer transferred to another local area, words have been introduced to show clearly that the direction therein mentioned may have preceded the transfer. In connection with section 33 as to power to sentence to imprisonment in default of payment of fine, it will be necessary to pass simultaneously with the Bill a short Act amending section 67 of the Penal Code, by inserting a declaration that such imprisonment shall be simple.

Section 35 declares, in accordance with a decision of the Bombay High Court, that, for the purpose of confirmation or appeal, a combined sentence, in case of simultaneous convictions for several offences, shall be deemed to be a single sentence.

*General Provisions.*

7. Part III. contains certain general provisions which it seems convenient to group together and which, to avoid forward references, must stand near the beginning of the Code. They relate to the following matters:— aid and information to the Magistrates and Police: arrest, escape and retaking: processes to compel appearance and production of documents. Here, again, the changes in the law are little more than verbal, save that, to the offences which the public are bound to assist in preventing, has been added (section 41) attempts to injure public property: that the section (44) authorizing, in the case of forcible resistance, the use of necessary means to effect arrests, has been extended to meet the case of attempts to evade them; that power has been given (section 47) to break open the doors of a house for the purpose of liberating persons who have lawfully entered for the purpose of making arrests therein: that persons making arrests have been expressly empowered (section 50) to take from the person arrested any offensive weapons which he may have about him; that the Police have been authorized to arrest,



without warrant, deserters from the Navy; and that sections (63, 64) equivalent to Act XXV. of 1861, section 112, have been inserted to provide for the retaking of persons escaping or rescued from lawful custody.

8. Under the present Code (Act X. of 1872, section 153), summonses issued by Magistrates are ordinarily served "through a Police-officer:" the Bill (section 65) provides that they shall ordinarily be served by an officer of the Court, but that the Magistrate may direct service by the Police. Persons to or with whom a summons is delivered, tendered or left may be required (section 67) to countersign a copy of the original. Provision is made (sections 70, 71) for the service of a summons outside the local jurisdiction of the Magistrate who issues it, and for the proof of such service.

9. Section 72 requires that all warrants of arrest, whether issued in the Presidency-towns or the Mufassil, shall be sealed. Act IV. of 1877, section 56, does not in such cases require a seal.

10. Section 85 clears up a doubt as to the commencement of the period provided in the corresponding section (171) of Act X. of 1872, for the appearance of a person absconding against whom a warrant has been issued.

11. On the other hand, the power to arrest without warrant persons against whom a hue and cry has been raised is omitted, as that obsolete common-law process is unknown in India, and the section authorizing masters and mates to arrest deserters from ships is omitted, as the matter is sufficiently provided for by the Merchant Shipping Act.

#### *Prevention of Offences.*

12. Part IV. which relates to the prevention of offences, comes, it is considered, properly before Part VI. which relates to their prosecution. It comprises six chapters dealing respectively with lawful resistance; security for keeping the peace and for good behaviour; the dispersion of unlawful assemblies; suppression of nuisances; disputes as to immoveable property; and, lastly, the preventive action of the Police.

13. The provision (section 104) relating to lawful resistance to the commission of an offence is new. It declares that such resistance may be made by any person in the cases and to the extent in and to which he may exercise the right of private defence—a right defined and limited by the Penal Code, sections 96—106.

14. In the chapter relating to bonds for keeping the peace, and for good behaviour, provision has been made (section 116) as to the manner of conducting inquiries. We have made it clear in section 124 that a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, and Magistrate of the first class can cancel a bond on the application of a surety. Such Magistrates are also empowered (section 108) to require security for good behaviour.

15. In the chapter (X.) on dispersion of unlawful assemblies, volunteers enrolled under the Indian Volunteers Act, 1869, are placed on the same footing as soldiers of Her Majesty's army.

#### *Information to the Police, and their power to investigate.*

16. Part V. consists of a single chapter relating to information to the Police and their power to investigate. It corresponds with chapter X. of Act X. of 1872, and sections 379, 380 of the same Act.

17. The words "or that immediate arrest is not necessary," which are to be found in section 117 of Act X. of 1872, have been omitted from section 155 of the Bill, as it is not apparent why a police-officer should be debarred from investigating a case of a cognizable offence because he does not at starting feel himself justified in arresting any person.

18. Section 162 makes it clear that confessions to Magistrates shall not only be "taken," but signed and certified, like examinations of accused persons.

19. Power resembling that conferred on Coroners by Act IV. of 1871, section 11, has been given (section 174) to Magistrates authorized to hold inquests, to disinter and examine corpses in order to discover the cause of death.

#### *Proceedings in Prosecutions.*

20. Part VI. treats of proceedings in prosecutions up to appeal, and is divided into seventeen chapters, arranged as follows:—

- XV. Jurisdiction of Criminal Courts in Inquiries and Trials.
- XVI. Complaints to Magistrates.
- XVII. Commencement of Proceedings before Magistrates.
- XVIII. Inquiry into cases triable by the Court of Session or High Court.
- XIX. The Charge.
- XX. Trial of Summons Cases by Magistrates.
- XXI. Trial of Warrant Cases by Magistrates.
- XXII. Summary Trials.
- XXIII. Trials before High Courts and Courts of Session.

- XXIV. Tender of Pardon in cases triable by the High Court or Court of Session.
- XXV. General Provisions as to Inquiries and Trials.
- XXVI. Evidence.
- XXVII. The Judgment.
- XXVIII. Submission of Sentences for Confirmation.
- XXIX. Execution.
- XXX. Suspensions, Remissions and Commutations of Sentences.
- XXXI. Previous Acquittals or Convictions.



It will be seen that the above-mentioned chapters are arranged, as nearly as may be, according to the chronological order of the events in a prosecution.

Chapter XV. (as to the jurisdiction of the Courts in inquiries and trials) deals, first, with the place of inquiry or trial; then with the time of commencing prosecutions: and thirdly, with the conditions requisite for the initiation of proceedings.

21. "Delay," says Livingston, "inflicts punishment on the innocent, or lessens the force of example by punishing the guilty after the crime he has committed is forgotten." Sections 186-191 accordingly contain rules as to the time within which prosecutions for most offences must be commenced. There will be no limit for prosecutions for the following: offences against the State; offences relating to the Army and Navy; false evidence and offences against public justice; offences relating to coin and Government stamps; offences under the Penal Code, sections 299 to 311, 359 to 373 and 390 to 414; offences under the same Code relating to documents, trade and property-marks and marriage. Three years is the period fixed in case of the following: offences against the public tranquillity; offences by or relating to public servants; contempts of their lawful authority; offences against property other than those against trade and property-marks. For all other offences six months is the period prescribed. The time during which the accused is absent from the jurisdiction of the Court empowered to try him, or fails to surrender pursuant to a proclamation, will be excluded in computing the prescribed periods.

22. Section 196 requires that the sanction to entertain complaints of certain offences shall, so far as practicable, specify the place in which, and the occasion on which, the offence complained of was committed.

23. Chapter XVI. of complaints to Magistrates, corresponds to sections 144 to 147 of Act X. of 1872, but adds (section 202) a provision that a complaint in writing made to a Magistrate not competent to entertain it shall be returned for presentation to the proper tribunal.

24. Chapter XIX., of the charge, extends to the whole of British India the amendments in Act X. of 1872, sections 439 to 459, made by Act X. of 1875; and with reference to Mr. Justice West's observations in *Reg. v. Chand Hur*, 11 Bomb. 241, on the corresponding section (457) of Act X. of 1872, section 241 of the Bill has been confined to offences consisting of several particulars, a combination of some only of which constitutes a complete minor offence.

25. The provision (Act X. of 1872, section 218) that the accused shall, while making his defence, be allowed to recall and cross-examine the witnesses for the prosecution has been expressly confined (section 259) to cases where the witnesses are present in the Court or its precincts.

26. In chapter XXII. summary trials, the Local Government has been authorised to confer on Benches invested with second or third class powers jurisdiction to try abetments of, and attempts to commit, the offences which they may now try summarily.

27. Chapter XXIII. provides a common procedure for the High Court and the Court of Session, preserving, however, the special rules as to juries and their verdicts.

When a juror becomes unable to attend or absents himself, power is given (section 285), with the consent of the prosecutor and the accused, to proceed with the remaining jurors.

Where jurors or assessors have been taken to view the place in which the offence charged is alleged to have been committed, the Court has been empowered (section 296) to exempt them from being immediately brought back.

Where the Sessions Judge disagrees with a verdict of acquittal and submits the case to the High Court, he is required (section 310) to state the offence which he considers to have been committed, and the High Court is empowered to acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it. This, it is believed, is the intention of the corresponding clause of section 263 of Act X. of 1872.

28. Much doubt exists as to the offences which may lawfully be compounded. The Exception to section 214 of the Penal Code (in which the law on the subject is contained) is excessively obscure, and this obscurity is increased rather than diminished by the illustrations annexed to that section. The Bill repeals these illustrations; and section 347 declares in unmistakeable language that certain specified offences, and no others, may be compounded. It will be necessary to pass simultaneously with the Bill a short Act declaring that, for the Exception to section 280 of the Penal Code, the following shall be substituted:—

"Exception.—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded."

29. In chapter XXVII., as to judgment, section 369 allows the judgments of Mufassil Courts to be written in the mother-tongue of the presiding officer.

30. In chapter XXIX. as to execution, there are no sections corresponding with sections 319, 320 of Act X. of 1872. The reason for this omission is that the matter with which they deal does not belong to criminal procedure, but falls within the scope of the Prisoners' Act, 1871; and it is proposed that simultaneously with the passing of the present Bill, a short Act be passed, substituting for section 33 of the Prisoners' Act, and for section 57 of Act IV. of 1877, a section equivalent to Act X. of 1872, sections 319, 320.



31. Chapter XXX., as to suspensions, remissions and commutations of sentences.—Where application is made for the suspension or remissions of a sentence, the Government is empowered (section 402) to require the presiding Judge of the Court before which the conviction was had to furnish a statement of the facts proved on the trial, and of any facts bearing on the propriety of granting or refusing the application.

*Appeal, Reference and Revision.*

32. Part VII. deals with appeals, references and the revisional jurisdiction of the High Court.

Section 407 provides that the appeal from a District Magistrate exercising the enhanced powers conferred under section 34 shall lie to the Court of Session in cases in which the sentence has not been submitted to that Court for confirmation, and, when it has been so submitted, to the High Court. This puts the appeals in question on the same footing as appeal from an Assistant Sessions Judge. There seems to be no reason for making any distinction between the two.

33. Section 424, in accordance with a decision of the Madras High Court (I. L. R. 1 Mad. 54), declares that, when an Appellate Court enhances any punishment inflicted by the sentence appealed against, it may inflict punishment of a different kind.

34. In the case of an appeal from an acquittal, section 427 expressly authorizes the High Court to order the accused to be arrested and brought before it, and to commit him to prison pending the disposal of the appeal, or admit him to bail.

35. A section (431) suggested by a decision of the Bombay High Court (I. L. R. 2 Bomb. 564) provides that appeals by persons required to give security for good behaviour or by convicted persons abate on their death, and that appeals against acquittals abate on the death of the accused. The power of division conferred by section 439 will enable the High Court to alter sentences even after the appeal has abated.

36. Where, in the opinion of the Court of Session or District Magistrate, an accused person has been improperly discharged by an inferior Court, the accused should not be committed without having had an opportunity of shewing cause why the committal should not be made (1 O.K. 98). Provision to this effect has been made by section 436.

37. Section 439 (corresponding with Act X of 1872, section 297) has been framed so as to allow the High Court, when exercising its revisional jurisdiction, to interfere with improper acquittals. There is reason to believe that this change is in accordance with the intention of the framers of Act X of 1872.

*Special Proceedings.*

38. Part VIII. as to special proceedings, deals with the procedure relating to the following matters:—criminal proceedings against Europeans and Americans: lunatics: contempts of Court and other offences affecting the administration of justice: maintenance of wives and children: State prisoners: proceedings in the nature of *habeas corpus*.

Section 451 removes some differences which exist in the present law between the procedure of the High Courts and Courts of Session in cases in which European British subjects are concerned and which seem unnecessary. In particular, it is provided that, in the Court of Session as well as in the High Court, the requisite moiety of the jury or Assessors may be made up of Americans as well as Europeans.

39. The power given by sections 433 and 434 of Act X of 1872, to discharge from custody or make over to his relative a person acquitted on the ground of insanity, has been extended, in sections 474 and 475 of the Bill, to the case of persons who, being found to be insane at the time of trial, are committed to custody.

40. Section 477 has been framed so as to allow a Court of Session to charge a person for giving false evidence before itself—a power of which such Courts were unintentionally deprived by section 472 of the present Code.

41. Section 487 has been redrawn so as to avoid the difficulty which is felt in determining the meaning of the words “offence committed in contempt of its own authority,” which occur in the corresponding section (473) of Act X. of 1872.

*Supplementary Provisions.*

42. Part IX. contains certain provisions supplementary to the general rules of procedure contained in the Code. It deals, first, with the public prosecutor, bail, commissions for the examination of witnesses and special rules of evidence. It then contains certain provisions relating to bonds to keep the peace, for good behaviour, for appearance, &c.: the disposal of property regarding which an offence has been committed: the transfer of criminal cases: irregular proceedings, and, lastly, certain miscellaneous matters.

43. Words have been introduced into the section (502) providing for the appointment of a public prosecutor which will have the effect of putting a stop to the practice of appointing a police officer.

44. Section 505 exempts the Advocate General, Standing Counsel, Government Solicitor or other officer empowered by the Local Government from the necessity of obtaining permission to conduct prosecutions.

45. The provisions of the present law as to commissions for the examination of witnesses have been amended in two respects. The Bill (section 515) requires that the interrogatories shall be thought relevant by the Magistrate or Court directing the commission, and power is expressly given (section 518) to stay the inquiry or trial for a specified time reasonably sufficient for the execution and return of the commission.



46. In proving the existence of circumstances as a defence under the 2nd, 3rd, 5th, 6th, 7th, 8th, 9th or 10th Exception to section 499 of the Penal Code, section 521 of the Bill provides that good faith shall be presumed until the contrary appears. This is now the law in the Presidency-towns (Act XVIII of 1862, section 27) and may usefully be extended to the Mufassil.

47. In accordance with a recent rule of the High Court at Bombay, section 528 declares that, when a High Court or Court of Session makes an order for the disposal of property, and cannot through its own officers conveniently deliver the property to the person entitled thereto, the Court may direct its order to be carried into effect by the committing Magistrate.

48. Section 531 provides, in case of a conviction under the Penal Code, sections 292, 293, 501, or 502, for the destruction of the obscene books and defamatory matter in respect of which the conviction was had. It also provides for the destruction of adulterated or noxious food, drink or drugs in respect of which a conviction was had under sections 272—275 of the same Code.

49. Section 536 provides, in accordance with a Minute of Sir B. Peacock, cited I. L. R. I Calc. 223, that applications to the High Court for the transfer of cases shall be made by motion supported by affidavit or affirmation.

#### Schedules.

50. Schedules II and V, which correspond respectively with schedules IV and II of Act X of 1872, have been altered so as to adapt them, not only to the Mufassil Courts, but to those of the Presidency Magistrates.

The lists of powers contained in section 21 *et seq.* of Act X of 1872, have been thrown into Schedules III and IV of the Bill.

51. Excluding the special provisions of the Acts relating respectively to Coroners in the Presidency-towns, extradition, European British vagrants, and criminal tribes, the Bill is now, so far as Mr. Cockerell, Mr. Fitzpatrick and myself have been able to make it, a complete body of criminal procedure. No pains have been spared to render its provisions plain and practical; and in return all competent persons are earnestly asked to point out the mistakes and omissions which they will doubtless discover in so large and complicated a work.

CALCUTTA; }  
The 28th March 1879.

(Signed) WHITLEY STOKES.

D. FITZPATRICK,  
Secretary to the Government of India.