

[Published with the "Bombay Government Gazette" on the 23rd April 1874.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th April 1874, and was referred to a Select Committee with instructions to make their report thereon in two months:—

Bill No. 6 of 1874.

A Bill to extend certain parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency Towns.

For the purpose of extending certain parts of the Code of Criminal Procedure to the Courts of the Magistrates of Police in the Towns of Calcutta, Madras and Bombay; It is hereby enacted as follows:—

1. This Act may be called "The Presidency Police Magistrates Act, 1874":

It extends to all places within the local limits of the ordinary original criminal jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay;

And it shall come into force at once.

2. The enactments specified in the second schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

3. The parts of the Code of Criminal Procedure mentioned in the first schedule hereto annexed shall apply (so far as they are applicable and subject to the modifications shown in the second column of the same schedule) to the Courts of the Magistrates of Police in the towns of Calcutta, Madras and Bombay.

Nothing in this section shall be deemed to restrict any power conferred by any special or local law.

4. In the parts of the said Code so applied, the expressions 'Magistrate of District,' 'Magistrate of a District,' 'Magistrate of a Division of a District,' 'Magistrate of the first class,' 'a competent Magistrate,' 'Magistrate having jurisdiction,' and every other expression applicable to a Magistrate of the District, shall be deemed to include a Magistrate of Police.

THE FIRST SCHEDULE.

(See Section 3.)

Parts of the Code applied.	Modifications.
<p>Chapter I, sections three (<i>Pending cases</i>) and four (<i>Definitions</i>):</p> <p>Chapter VI. (<i>The place of Inquiry and Trial</i>), the first sentence of section sixty-three and sections sixty-five to seventy, both inclusive:</p> <p>Chapter XI. (<i>Of Complaints to a Magistrate</i>):</p> <p>Chapter XII. (<i>Of the Summons</i>):</p>	<p><i>Omit</i> the second clause of section one hundred and forty-four, and the whole of section one hundred and forty-six. In section one hundred and forty-eight, <i>after</i> the words "such Magistrate," <i>insert</i> the words "as may then be there."</p> <p>In section one hundred and fifty-two, <i>omit</i> the words "in duplicate." In section one hundred and fifty-four, <i>for</i> the words "one of the copies" <i>read</i> "the original" and <i>for</i> the words "the other copy" <i>read</i> "a copy."</p>

THE FIRST SCHEDULE—*continued.*

Parts of the Code applied.	Modifications.
Chapter XIII. (<i>Of the Warrant</i>), sections one hundred and fifty-nine to one hundred and seventy-four, both inclusive :	Except so far as they relate to the issue of warrants to persons other than Police officers.
Chapter XIV. (<i>Preliminary</i>) :	Omit the last sentence of the first clause of section one hundred and ninety-eight.
Chapter XV. (<i>Of Inquiry into Cases triable by the Court of Session or High Court</i>) :	Omit section two hundred and one and the second clause of section two hundred and two.
Chapter XVI. (<i>Of the Trial of Summons Cases by Magistrates</i>) :	To be applicable to all cases (whether summons cases or warrant cases) tried and disposed of by the Courts of the Police Magistrates.
Chapter XXIII. sections three hundred and seven, three hundred and eight (except the penultimate clause), three hundred and nine, three hundred and eleven to three hundred and eighteen (both inclusive) and three hundred and twenty-two :	Omit in section two hundred and six the last fourteen words.
Chapter XXIV. (<i>Special Rules of Evidence in Criminal Cases</i>) :	Omit in section two hundred and twelve the second clause.
Chapter XXV. (<i>Evidence how taken</i>), sections three hundred and thirty-one, three hundred and forty, three hundred and forty-two to three hundred and forty-five (both inclusive), three hundred and forty-seven and three hundred and forty-nine :	Omit the last proviso in section three hundred and twenty-eight.
Chapter XXVI. (<i>Of securing the Attendance of Witnesses</i>) :	Omit the last sentence of the second paragraph of section three hundred and sixty-two.
Chapter XXVII. (<i>Of Search Warrants</i>) :	Omit section three hundred and seventy-nine to section three hundred and eighty-seven (both inclusive).
Chapter XXVIII. (<i>Bail</i>) :	Omit section three hundred and ninety, and the last two paragraphs of section three hundred and ninety-eight.
Chapter XXX. (<i>Miscellaneous Provisions</i>), sections four hundred and eighteen, four hundred and twenty-one, and four hundred and twenty-two :	Omit section four hundred and fifty-one.
Chapter XXXI. (<i>Lunatics</i>) :	Omit the two last clauses of section four hundred and eighty-nine.
Chapter XXXII. (<i>Contempts of Court</i>) :	
Chapter XXXIII. (<i>Of the Charge</i>) :	
Chapter XXXIV. (<i>Of the Judgment, Order and Sentence</i>), section four hundred and sixty-one :	
Chapter XXXV. (<i>Prosecutions in certain Cases</i>) :	
Chapter XXXVII. (<i>Of Security for keeping the Peace</i>) :	
Chapter XXXVIII. (<i>Of Security for Good Behaviour</i>) :	
Chapter XXXIX. (<i>Local Nuisances</i>) :	
Chapter XLI. (<i>Of the Maintenance of Wives and Families</i>) :	
Chapter XLII. (<i>Miscellaneous</i>), section five hundred and thirty-nine.	

THE SECOND SCHEDULE.

(See Section 2.)

Acts.

No. and year.	Title or Subject.	Extent of repeal.
XIII. of 1856	Presidency Towns Police.	Sections ninety-seven and ninety-eight.
XLVIII. of 1860	Amending Act XIII of 1856.	Sections six and ten.
XXI. of 1864	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	Sections two and three.
Madras Act VIII. of 1867.	Madras Town Police and Police Magistrates	Sections sixteen, twenty-one, sixty-one, sixty-two, seventy-one, and seventy-two.
Bengal Act IV. of 1866.	The Calcutta Police Act, 1866...	Sections twenty-eight, thirty, eighty-five, eighty-six, and ninety-six.

STATEMENT OF OBJECTS AND REASONS.

The Select Committee to which the Bill to regulate the Procedure of the High Courts in the exercise of their Original Criminal Jurisdiction, and for other purposes was referred, have already reported on so much of that Bill as relates to the Criminal Procedure of the High Courts. In that report the Committee explained that the course of discussion had led them to think it undesirable to deal in the same measure with two subjects so unconnected as the Criminal Procedure of the four High Courts and the Chief Court of the Panjáb, and the Procedure of the Presidency Police Magistrates, and that the Bill had therefore been divided into two. The present Bill represents so much of the original Bill as related to the Police and to the procedure of the Police Magistrates in the Presidency towns.

2. The original Bill as introduced applied to the Police of the Presidency towns several chapters and sections of the Code of Criminal Procedure and, in particular, it proposed that Police Magistrates should exercise the miscellaneous powers conferred on a Magistrate of the District by Section 30 of the Code. The Madras Government, however, has recently represented that these provisions would materially affect the constitution of the Police, and otherwise involve violent and undesirable changes in the relations at present existing between the Police and the Magistracy. In consequence of this opinion the present Bill omits from the list of chapters and sections of the Code appended to clause 40 of the Bill as introduced those that have reference to the Police, namely, Chapters IX. and X. and Sections 146, 176—181, 379—387, 415, 416, 417. The present Bill merely proposes to assimilate the judicial procedure of the Police Magistrates to that prescribed for Magistrates in the Mofussil.

3. The Bill proposes to repeal certain sections of the Police Acts, now in force in the Presidency towns, which Sections will be superseded by the extension of Sections 141, 142, 148, 149, 157, 308, and Chapters XXVIII. and XLII. of the Code of Criminal Procedure.

4. The Bill omits, as unnecessary, the following parts of the Code: Sections 175 and 201, the penultimate clause of Section 308, the last proviso in Section 328, the last sentence of clause 2 of Section 362, Section 390, the penultimate paragraph of Section 398, Sections 419 and 420, and the last two clauses of Section 489.

5. Chapter VII. of the Code (as to European British subjects) has been omitted as introducing an unnecessary and invidious distinction between European and Native Magistrates.

6. Section 148 of the Code has been modified so as to enable a case to be heard by a Magistrate other than the Magistrate by whom the summons was issued.

7. Chapter XII. of the Code, Sections 152, 154, has been modified so as to relieve the Police Courts from the useless expense and labour of preparing in all cases copies of summonses.

8. Sections 159 to 174 of the Code will not apply so far as they relate to the issue of warrants to persons not being police officers.

9. In applying Chapter XV., the last sentence of the first clause of Section 198 and the second clause of Section 202 have been omitted.

10. Chapter XXXVI. (*of the dispersion of unlawful assemblies*) is omitted, as that chapter is to be expressly extended by the Bill to amend the Code of Criminal Procedure.

11. In the parts of the Code, which it is proposed to apply to the Presidency towns, the expressions 'Magistrate', 'Magistrate of a District,' &c., will include a Magistrate of Police.

12. The High Court at Fort William has represented to the Government of India in the Legislative Department that the limits which now restrict the jurisdiction of the Police Magistrates in the matter of trying offences depend too much upon the artificial element of value; and the consequence is that a very large portion of the time of jurors and High Court Judges at the Criminal Sessions is taken up in disposing of trivial cases which might have inexpensively, and most satisfactorily, been dealt with finally by the Magistrate himself at, perhaps, the first hearing. The Court thinks that this mischief ought to be removed by the proposed Act, and suggests that a good mode of doing so would be by defining the jurisdiction of the Police Magistrates after the method adopted for Magistrates in the Criminal Procedure Code.

13. The Government of India feel the force of this representation, and are inclined to adopt the suggestion so made for the removal of the evil complained of. But before doing so, it is thought desirable that the Local Governments and the Presidency High Courts should be invited to define more precisely the mode in which and the limits to which relief may be given to the High Courts in this respect; and it is proposed that the present Bill together with this Statement should be sent to the Local Governments and High Courts concerned, with a view to obtaining the information above indicated.

(Signed) A. HOBHOUSE.

The 5th April 1874.

WHITLEY STOKES,
Secretary to the Government of India.