drawn from Sec. 187 is that every summons must be in duplicate, and that a copy is to be left with the party on whom the service is made.

"It appears to me but just towards the parties, who are liable to such heavy fines for not being punctual to time, that they should have left with them a summons which indicates the day and hour, and which they can refer to.

"The Magistrate states that the mode of service in these cases is the same as obtains in every zillá, and I am informed that, as regards the Ahmedábád zillá, this is so."

PER CURIAM (COUCH, C.J., and NEWTON, J.):—The Court is of opinion that the mere showing the summons to the accused was not sufficient service. Either the original summons should have been left with the accused, or should have been exhibited to them and a copy delivered or tendered. We, therefore, reverse the conviction and sentence.

Conviction and sentence reversed.

REG. v. KHANDO'JI bin TA'NA'JI.

March 10.

Mámlatdár—Illegal Order—Act V. of 1864 (Bombay).

Conviction and sentence for disobeying an order made by a Mámlatdár, under Bombay Act V. of 1864, directing the accused to keep a gateway open, reversed, as the Mámlatdár was not empowered under that Act to make the order.

IN this case one Bápú Sakhárám having complained to the Mámlatdár of the City of Puná that the accused was preventing his right of way through his (the accused's) own compound gateway, the Mámlatdár made an inquiry under Act V. of 1864 (Bombay), and, finding the complainant's right of way proved, ordered the accused not to obstruct the complainant in going and coming by his gateway, and to keep it open. The accused disobeyed this order, by keeping the gate still locked.

E. T. Richardson, Magistrate F. P. at Puná, thereupon convicted the accused under Sec. 188 of the Penal Code,

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and sentenced him to pay a fine of ten rupees, or in default of payment to undergo simple imprisonment for fifteen days.

The case was referred for the orders of the High Court, under Sec. 434 of the Code of Criminal Procedure, by F. Lloyd, Session Judge of Puná, with a remark that it did not appear to him that under the said Act the Mámlatdár was lawfully empowered to promulgate the order, and that disobedience to the order was, consequently, not an offence under Sec. 188 of the Penal Code.

PER CURIAM (COUCH, C.J., and NEWTON, J.) :—The Court reverse the order of the Magistrate F. P., and direct that the fine be refunded to the accused.

Conviction and sentence reversed.

March 10.

REG. v. JOAO THOMESIT, DOMINGOS THOMESIT, and ANTONIO LOURENÇO DIAS.

Conviction, Alteration of—Amendment of Sentence—Re-trial—Crim. Proc. Code, Sec. 22.

Held that an order of a Session Judge by which he altered a conviction by the Assistant Session Judge, of "dacoity" to one of "robbery," was illegal, not being an amendment of a sentence or order within the meaning of Sec. 22 of the Crim. Proc. Code.

Held further that if the accused were, in the opinion of the Session Judge, improperly convicted of "dacoity," he ought to have declined to confirm the sentence, and to have left them to be charged with and tried for "robbery."

ALL three accused in this case were convicted, by A. Lyon, Assistant Session Judge of the Konkan at Thána, on the 6th of December 1867, of dacoity, "in having on the high road attacked, with the assistance of about ten men, some pedlars, and carried away their property," and were sentenced, under Sec. 395 of the Penal Code, each to be transported for seven years, subject to confirmation by the Session Judge.

The Session Judge, R. H. Pinhey, was of opinion that the conviction of dacoity must be altered to one of robbery