

CHAPTER II.

OF THE JURISDICTION OF THE CRIMINAL COURTS.

21. The Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code (Act XLV of 1860) or under any special or local law (except offences which are by any such law made punishable by some other authority therein specially mentioned), and in the investigation and trial of the offences hereby declared to be within their jurisdiction, shall be guided by the provisions of this Act.

Offences cognizable by Criminal Courts.

22. The offences mentioned in the Schedule annexed to this Act shall, subject to the provision contained in the third explanatory note prefixed to the said Schedule, be triable by the Courts specified in Column 7 of the said Schedule, and such Courts shall be competent to pass sentence in respect of such offences within the following limits, (that is to say,)

By what Courts the offences named in the Schedule are triable and within what limits such Courts may pass sentence.

The Court of Session. Death (subject to confirmation by the Sudder Court). Transportation, imprisonment of either description for a period not exceeding fourteen years, including such solitary confinement as is authorized by law, or fine to an unlimited amount, or both transportation and fine, or imprisonment and fine, in cases in which both punishments are authorized by the Indian Penal Code. In cases in which, according to the Indian Penal Code, forfeiture of property may be adjudged, the Court of Session may adjudge such forfeiture in addition to the sentence.

In the Presidency of Bombay it shall be lawful for a Sessions Judge to delegate cases for trial by an Assistant Sessions Judge: and such Assistant Sessions Judge shall be competent in such cases to pass sentences within the following limits:—Imprisonment of either description for a term not exceeding seven years (including such solitary confinement as is authorized by law), or fine, or both. If the sentence be one of imprisonment for a term exceeding three

years, it shall be passed subject to confirmation by the Sessions Judge. The Sessions Judge may review and hear appeals against the proceedings of his Assistants, and may confirm and amend (but not so as to enhance), or may reverse their sentences or orders. It shall not be competent to an Assistant Sessions Judge to review or hear an appeal against the proceedings of a Magistrate.

The Magistrate of a District or other Officer authorized to exercise the powers of a Magistrate. Imprisonment of either description not exceeding the term of two years, including such solitary confinement as is authorised by law, or fine to the extent of one thousand Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Subordinate Magistrates or Officers authorized to exercise any of the powers of a Magistrate—

1st Class. Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

2nd Class. Imprisonment of either description not exceeding one month, or fine not exceeding fifty Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

No sentence of solitary confinement, under Section 73 of the Indian Penal Code, shall be passed by any Court inferior to an Officer exercising the powers of a Magistrate.

23. The Local Government may invest any person with the powers of a Magistrate or of a Subordinate Magistrate of the first or second class, as described in the last preceding Section, with a view to the exercise, by such person, of such powers under this Act or under any special or local law.

24. The Criminal Courts shall have jurisdiction over all persons, except such persons as, by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras,

The Government may invest any person with powers of a Magistrate or of a Subordinate Magistrate.

Courts to have jurisdiction over all persons, not expressly exempted.

and Bombay, respectively, or by this Act or any other Act of the Governor-General of India in Council, are, or shall be, exempted from their jurisdiction.

25. No person whatever shall, by reason of place of birth, or by reason of descent, be exempt from the rules of Criminal Procedure contained in this Act. Provided that nothing in this Section shall be held to authorize the trial or commitment for trial before any Criminal Court of any person who, in respect of the offence with which he is charged, is not subject to the jurisdiction of that Court.

26. Except where otherwise expressly provided by this Act, every offence shall be enquired into and determined in the District or division of a District in which the offence was committed. Provided that nothing in this Section shall exempt European British Subjects from being tried and convicted before the Supreme Courts of Judicature for offences committed beyond the local limits of such Courts.

27. When a person shall be accused of the commission of any offence by reason of any thing which has been done, and of any consequence which has ensued, such offence may be enquired into or determined in any District or division of a District in which any such thing shall have been done or any such consequence shall have ensued.

28. The abetment of an offence, wherever such abetment shall have taken place, may be enquired into or determined in any District or division of a District in which the offence abetted may be enquired into or determined by any Court which has jurisdiction to try such offence, as if the abetment had been committed at the same place at which the offence abetted was wholly or partly committed; or the abetment may be enquired into or determined in any District or division of a District within which the abettor has done any thing for abetting the commission of such offence.

29. When any offence shall be committed on the boundary or boundaries of two or more Districts, whether subject to the same local Government or not, or of two or

No person exempted from Criminal Procedure by reason of birth or of descent.

Proviso.

Offence to be ordinarily tried in the jurisdiction where it is committed.

Proviso.

May be tried in the jurisdiction where the act is done, or where the consequence ensues.

Abetment.

Offence committed on boundary.

more divisions of a District, or shall be begun in one District or division of a District and completed in another, whether such Districts be subject to the same local Government or not, every such offence may be enquired into or determined in any of such Districts or divisions of a District, in the same manner as if it had been actually and wholly committed therein.

Offence committed during journey, &c.

30. When any offence shall be committed on any person, or on, or in respect of, any property, in or upon any coach, cart or other carriage or conveyance, or upon any beast of burden employed in any journey, or shall be committed on any person, or on, or in respect of, any property on board any vessel employed on any voyage or journey upon any navigable river, canal, or inland navigation, such offence may be enquired into or determined in any District or division of a District, through any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if the offence had been actually and wholly committed in such District or division of a District; and in all cases where the side, middle, or other part of any highway, or the side, bank, middle, or other part of any such river, canal, or navigation, shall constitute the boundary of any two Districts or divisions of a District, such offence may be enquired into or determined in either of such Districts or divisions of a District, through or adjoining to, or by the boundary of any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if it had actually and wholly been committed in such District or division of a District.

Receiving, &c., stolen property.

31. If any person be charged with any offence punishable under Section 411, 412, or 414 of the Indian Penal Code, under the head "Of the receiving of stolen property," such offence may be enquired into or determined in any District or division of a District in which such person shall

have, or shall have had, such stolen property in his possession, or in any District or division of a District in which the offence by which such property came to be stolen property within the meaning of the said Code, may be enquired into or determined.

32. Whenever any person is charged with being a thug, or with murder as a thug, or with dacoity with or without murder, or with having belonged to a gang of dacoits, or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits, the offence may be enquired into in any District in which the accused person is, by any Magistrate competent to commit to a Court of Session, and the accused person may be committed to the Court of Session to which such Magistrate is subordinate.

Being a thug,
&c.

33. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a commutation of such sentence, or shall be charged with any offence punishable under Section 227 of the Indian Penal Code or under Section XII of Act XXIV of 1855 (*relating to Penal Servitude*), the offence may be enquired into or determined, either in the District or division of a District in which such person shall be apprehended and re-taken or in the District or Division of a District in which he was formerly tried, or in the case of an escape from custody, in the District in which he shall have escaped from custody.

Escape from
lawful custody
under sentence.

34. Whenever any doubt shall arise as to the District in which any offence should be enquired into or determined, it shall be lawful for the Sudder Court within whose jurisdiction the offender is apprehended, to decide in which District the offence shall be determined.

Sudder Court to
decide when doubt
arises as to the
jurisdiction where
an enquiry shall
take place.

35. It shall be competent to the Sudder Court to order the transfer of any criminal case or appeal from a Criminal Court subordinate to its authority, to any other such Criminal Court of equal or superior jurisdiction, or to order that any offence shall be enquired into or determined in any District or division of a District, other than that in

Sudder Court
may transfer any
case from one ju-
risdiction to ano-
ther.

which the offence shall have been committed, whenever it shall appear to such Sudder Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses.

Magistrate may withdraw any case from a subordinate Court, and try it himself, or refer it to any other such Court.

36. It shall be competent to the Magistrate of the District, or to a Magistrate in charge of a division of a District, to withdraw any criminal case from any Court subordinate to such Magistrate within his District or division, and to try the case himself, or to refer it for trial to any other such Court competent to try the same.

Commitment for trial before the Supreme Court.

37. It shall be competent to the Magistrate of the District, or to any other Officer exercising the powers of a Magistrate, to hold the preliminary enquiry into any cases triable by a Supreme Court of Judicature, and to commit or hold to bail persons to take their trial before such Court, and to exercise all the powers necessary for such purpose.

Subordinate Magistrate may be empowered to prepare cases for trial before the Court of Session or Supreme Court.

38. The local Government may empower any Subordinate Magistrate of the first or second class not vested with such power by any law for the time being in force, to hold the preliminary enquiry into cases triable by the Court of Session, or by any Supreme Court of Judicature, and may empower such Subordinate Magistrate to commit, or hold to bail, persons to take their trial before such Court of Session or Supreme Court, and to exercise all the powers necessary for such purpose.

Only Justices of the Peace empowered to commit European British Subjects for trial.

39. No person who is not a Justice of the Peace shall commit, or hold to bail, any European British Subject to take his trial before a Supreme Court of Judicature.

Procedure when a European British Subject is charged with an offence triable by Supreme Court.

40. When a European British Subject is charged with an offence triable by a Supreme Court of Judicature, any Magistrate may hear the complaint against such person, and may issue a warrant of arrest, or hold to bail such person, with a view to the complaint being investigated by a Justice of the Peace.

Procedure when a European British Subject is arrested by an Officer not being a Justice of the Peace.

41. When a European British subject has been arrested under a warrant, issued under the last preceding Section by a Magistrate not being a Justice of the Peace, if such

Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or if the offence with which such person is charged is bailable, shall, if sufficient bail be tendered, admit him to bail for his appearance before a Justice of the Peace. When the person accused is brought or appears before a Justice of the Peace, under this Section, such Justice of the Peace shall himself hold the preliminary enquiry into the case, before he commits, or holds to bail, such person for trial before the Supreme Court of Judicature.

42. Nothing in this Chapter shall interfere with the jurisdiction given by the Statute 53 George III. c. 155, s. 105, or Act VII of 1853 (*to extend the jurisdiction of Magistrates under the 53 George III c. 155, s. 105, in cases of assault, forcible entries, and other injuries accompanied by force not being felonies*). Provided that the jurisdiction given by the said Statute and the said Act shall be exercised only by a Justice of the Peace.

Saving of jurisdiction given by 53 Geo. III. c. 155, s. 105.

Proviso.