

## CHAPTER XXVI.

### FINDING, JUDGMENT, AND SENTENCE.

What the judgment is to specify.

381. When the trial in any Criminal Court is concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the Section of the Indian Penal Code under which he is

convicted, or if it be doubtful under which of two Sections the offence falls, shall distinctly express the same, and pass judgment in the alternative, according to Section 72 of the said Code.

382. The finding and sentence shall be recorded in one of the following forms, or to the same effect :—

In trials by Jury :—

When the Jury are unanimous :

The Jury are unanimous in finding that Z is guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code ; and the Court directs that the said Z be [sentence.]

2nd. The Jury are unanimous in finding that Z is not guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code : and the Court directs that the said Z be discharged.

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused guilty :

3rd. A majority (stating the number, consisting of four out of five, or five or six out of seven, or six, seven, or eight out of nine, as the case may be) find that Z is guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be [sentence.]

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused not guilty :

4th. A majority of the Jury (stating the number, as above,) find that Z is not guilty of the offence specified in

Form of finding  
and sentence.

the charge, namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be discharged.

When the Jury, or such a majority as is required by Section 328 of this Act, concur in finding the accused guilty of an offence, but are doubtful under which of two heads of a charge the offence falls:

*5th.* The Jury, or a majority of the Jury (stating the number, as above,) find that Z is guilty either of the offence specified in the first head of the charge, or of the offence specified in the second head of the charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the said Code. The Court directs that, under the provisions of the above-mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence.*]

When a majority less than the number required by Section 328 of this Act find the accused guilty:

*6th.* A majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the charge, namely, that he has committed &c., &c., the Court directs that the Jury be discharged, and that there be a new trial.

A similar form shall be followed if a verdict of not guilty is found by a majority less than is required by Section 328 of this Act.

If the finding be on a second trial, and a majority less than is required by Section 328 of this Act, find the accused guilty:

*7th.* A majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the

charge, namely, that he has committed &c., &c. This being a second trial under Section 351 of the Code of Criminal Procedure, the Court directs that the said Z be discharged.

In trials with Assessors :

9th. The Court, concurring with the Assessors (or one or more of the Assessors) finds that Z is guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be [sentence.]

10th. The Court, differing from the Assessors, finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be discharged.

11th. The Court, concurring with one of the Assessors, finds that Z is guilty either of the offence specified in the first head of charge, or of the offence specified in the second head of charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the Indian Penal Code; and the Court directs that, under the provisions of the above-mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [sentence.]

In trials upon a formal charge, without Jury or the aid of Assessors :

12th. The Court finds that Z is guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be [sentence.]

13th. The Court finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable

under Section 379. of the Indian Penal Code ; and the Court directs that the said Z be discharged.

In trials in which no formal charge has been prepared :

14th. The Court finds that Z has used criminal force and has thereby committed an offence punishable under Section 353 of the Indian Penal Code, and directs that the said Z be [sentence.]

15th. The Court finds that the complaint of assault is not proved, acquits Z, and directs that he be discharged.

Execution of sentence of Court in cases referred to the Sudder Court for confirmation of sentence.

383. In cases referred by the Court of Session for the confirmation of a sentence by the Sudder Court, the proper Officer of the Sudder Court shall, without delay, after the order of confirmation or other order has been made by the Sudder Court, transmit a copy of the order under the seal of the Sudder Court, and attested with his official signature, to the Court of Session, which, if the sentence be confirmed, shall immediately issue a warrant to the Magistrate or other Officer in charge of the jail in which the prisoner is confined to cause the sentence or order to be carried into execution ; or in the case of any other order, shall cause such order to be carried into effect.

Court of Session to direct warrant to District Magistrate.

384. In cases tried by the Court of Session, the Court shall forward a copy of its sentence, together with a warrant for the execution of the same, directed to the Magistrate of the District in which the trial was held or to such other Officer as aforesaid.

Execution of sentence under the two last foregoing Sections.

385. Upon the receipt of a warrant under either of the last two precedings Sections the Magistrate or other Officer as aforesaid shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

Warrant of commitment in cases of imprisonment.

386. In every case of imprisonment under the sentence of the Sudder Court or of a Court of Session, the Magistrate or other Officer as aforesaid shall issue his warrant to the

jailor, stating the offence of which the accused person has been convicted, and the period during which he is to be imprisoned and the nature of the imprisonment. In every case of imprisonment under the sentence of any other Court, the Court passing the sentence shall issue its warrant to the jailor, and the warrant shall contain the same particulars and be to the same effect.

387. The Court of Session shall transmit to the Sudder Court such periodical statements or calendars of trials held by such Court as the Sudder Court shall prescribe, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

Transmission of  
periodical calen-  
dars of trials by  
Court of Session.