

CHAPTER XXIX.

SUDDER COURT AS A COURT OF REVISION.

Revision in cases
of illegal sentence.

402. The Sudder Court, in any case tried by the Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement or calendar, shall annul the sentence, and shall certify to the Court of Session the sentence which may lawfully be passed for such offence; and thereupon the Court of Session shall pass a new sentence according to law, and shall amend the record in accordance therewith.

Revision of
trials.

403. The Sudder Court, in any case tried before a Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that there has been error in the decision

* See Act XV 1862, sec. 2, with regard to extensions of this Act to any Non-Regulation Provinces.

of the Court of Session on a point of law, or that a point of law should be considered by the Sudder Court, may call for the record, or such portion thereof as it may deem necessary, together with a report of the Judge's direction to the Jury, if the case have been tried by a Jury, and upon reviewing the depositions of the witnesses, the direction of the Judge, and the conviction, may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

404. The Sudder Court may, on the report of a Court of Session or of a Magistrate, or whenever it thinks fit, call for the record of any criminal trial or the record of any judicial proceeding of a Criminal Court, other than a criminal trial, in any Court within its jurisdiction, in which it shall appear to it that there has been error in the decision on a point of law, or that a point of law should be considered by the Sudder Court, and may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

General power
of revision by the
Sudder Court

405. It shall be lawful for the Sudder Court to call for and examine the record of any case tried by any Court of Session for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court. If it appear to the Sudder Court that the sentence passed is too severe, the Sudder Court may pass any mitigated sentence warranted by law. If the Sudder Court shall be of opinion that the sentence or order is contrary to law, the Sudder Court shall reverse the sentence or order and pass such judgment, sentence, or order as to the Court shall seem right, or, if it deem necessary, may order a new trial.

Sudder Court
empowered to call
for and examine
records of Court
of Session.

406. Whenever a case shall be revised by the Sudder Court under this Chapter, the Sudder Court shall certify its decision or order to the Court in which the conviction was had or by which the order was passed, and such Court shall thereupon make such orders as are conformable to the decision of the Sudder Court, and if necessary amend the record

Proceedings of a
case revised by
Sudder Court to
be certified to
Court in which
conviction was
had.

Proviso.

in accordance therewith. Provided that, in any case which shall be revised by the Sudder Court under this Chapter, it shall not be competent to the Sudder Court to reverse the verdict of the Jury, or except as provided in this Chapter, to alter or reverse the sentence or order of the Court below.
