

428. Except as provided in Section 405 of this Act, sentences and orders passed by an Appellate Court upon appeal shall be final.

Finality of orders on appeal.

## CHAPTER XXXI.

### GENERAL RULES.

429. Every sentence or final order of a Criminal Court, together with the reasons for making or passing the same, shall be written in the vernacular language of the presiding Officer, and shall be dated and signed by such Officer at the time of his making or passing the same, and the original shall be filed with the record or proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in proceedings before such Officer, shall be incorporated in the record of the sentence or order.

In what language sentence to be written.

430. If the vernacular language of the presiding Officer be not English, and the Officer be sufficiently conversant with the English language to be able to write the sentence or final order in a clear and intelligible manner in that language, and prefer to write the same in that language, the sentence or final order may be written in English.

When it may be written in English.

431. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, such interpreter shall be sworn in the manner provided for witnesses by any law for the time being in force, to interpret truly such evidence or statement, and such interpreter shall be bound to state the truth in his interpretation of such evidence or statement.

Employment of Interpreter.

432. Every person charged before any Criminal Court with an offence may of right be defended by Counsel or authorized agent.

Right of accused to be defended by Counsel.

433. When any person under the age of sixteen years shall be sentenced by any Magistrate or Court of Session to imprisonment for any offence, it shall be lawful for such Magistrate or Court to direct that such offender, instead of

Confinement of youthful offenders in reformatories.

being imprisoned in the Criminal Jail, shall be confined in any reformatory which may be recognised by the local Government as a fit place for confinement, in which there may be means of suitable discipline and of training in some branch of useful industry, and which shall be kept by a person willing to obey such rules as the Government may direct with regard to the discipline and training of persons confined therein. All persons confined under this Section shall be subject to the rules so laid down by Government.

Powers of Court of Session and Magistrate to regulate the proceedings of Subordinate Courts.

434. It shall be at all times lawful for a Court of Session and for a Magistrate to call for and examine the record of any Court immediately subordinate to such Court or Magistrate for the purpose of satisfying themselves as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court. If the Court of Session or Magistrate shall be of opinion that the sentence or order is contrary to law, the Court or Magistrate shall refer the proceedings for the orders of the Sudder Court. It shall not be lawful for any other Court than the Sudder Court to alter any sentence or order of any subordinate Court except upon appeal by parties concerned duly made according to the provisions of Chapter XXX of this Act.

When Court of Session may order commitment of party discharged by Magistrate.

435. In the case of offences not triable by the Magistrate, the Court of Session may order the commitment to the Court of Session of any accused person who may have been discharged by the Magistrate. In the case of such offences the Court of Session may order an enquiry into any complaint which the Magistrate may have dismissed without enquiry.

Power of Court of Session to direct bail.

436. The Court of Session may direct that any accused person shall be admitted to bail or that the bail required by a Magistrate be reduced.

Deposit may be made instead of bail.

437. When any person is required by any Criminal Court to give bail, it shall be lawful to such Court to permit such person to deposit a sum of money or Government Pro-

missory notes to such amount as such Court may fix in lieu of such bail.

438. It shall be lawful for the Court of Session, in any case in which it shall appear proper, to order payment by or on the part of Government of the reasonable expenses of any complaint or witness attending for the purpose of any trial before such Court under this Act.

Expenses of prosecutors and witnesses.

439. No trial held in any Criminal Court shall be set aside, and no judgment passed by any Criminal Court shall be reversed either on appeal or otherwise for any irregularity in the proceedings of the trial, unless such irregularity have occasioned a failure of justice.

No trial, &c., to be set aside for irregularity of procedure.

440. A copy of the final sentence or order passed by any Criminal Court shall be furnished without delay on the application of any party to the case in which such sentence or order was passed. Such copy shall be made at the expense of the party applying for it, unless such party is in confinement under the sentence or order and is desirous of appealing against the same, or unless the Court shall for any special reason see fit to grant such copy free of expense.

Copy of sentence or order to be furnished on application.

441. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure of the Chief Commissioner of Police, the Police Magistrates, or the Police of the Towns of Calcutta, Madras, and Bombay and the Settlement of Prince of Wales' Island, Singapore, and Malacca, except so far as this Act expressly provides for the same.

Act not to take effect in Presidency Towns or Straits Settlement.

442. Nothing in this Act shall be held to alter or affect the jurisdiction, duties, or procedure of landholders specially empowered according to law in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of the Heads of Villages in the Presidency of Fort Saint George, nor to alter or affect the jurisdiction, duties, or procedure of Village Police Officers in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of any Officer duly authorized and appointed under the laws in force in the Presidencies of Fort Saint George and Bombay respectively, for the trial of petty offences in Military

Saving of jurisdiction and procedure of Heads of Villages, Village Police Officers, &c.

Bazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively.

Sudder Court to make general rules for regulating proceedings, &c.

443. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal Courts subordinate to it, and also to frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it shall think necessary that a form should be provided, for keeping all books, entries, and accounts to be kept in such Courts, and for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts, and from time to time to alter any such rule or form, provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed by the Court under this Section shall be published in the *Official Gazette*.

Procedure of this Act to be followed in miscellaneous criminal cases and proceedings.

444. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which, after the passing of this Act, shall be instituted in any Court.

Commencement and operation of Act.

445.\* This Act shall come into operation in the Presidencies of Bengal, Madras, and Bombay on the 1st day of January 1862, but shall not take effect in any part of the territories in British India not subject to the General Regulations of Bengal, Madras, or Bombay, *until the same shall be extended thereto by the Governor General of India in Council or by the local Government to which such territory is subordinate, and until such extension shall have been notified in the Gazette.*

## APPENDIX OF FORMS.

### A.

#### FORM OF SUMMONS (Section 69.)

To A. B., of

Whereas your attendance is necessary to answer to a charge of *(state shortly the offence charged)*: You are hereby required to appear

\* See Act XV, 1862, Sec. I, for the restrictions subject to which this Act may be extended to a Non-Regulation Province.

in person or by authorized Agent, as the case may be, before the  
[Magistrate] of \_\_\_\_\_ on the \_\_\_\_\_  
day of \_\_\_\_\_ Herein fail not.

(Signature and Seal.)

Dated the \_\_\_\_\_ day of \_\_\_\_\_

B.

FORM OF WARRANT (Section 76.)

To \_\_\_\_\_ (name and designation of the person or  
persons who are to execute the warrant).

Whereas \_\_\_\_\_ of \_\_\_\_\_ stands charged with the offence  
of (state the offence). You are hereby directed to apprehend the said  
and to produce him before me. Herein  
fail not.

(Signature and Seal.)

This warrant may be endorsed as follows:—

If the said \_\_\_\_\_ shall give bail, himself in the sum of \_\_\_\_\_  
with one surety in the sum of \_\_\_\_\_ (or two sureties each in the  
sum of \_\_\_\_\_) to appear before me on the \_\_\_\_\_ day of \_\_\_\_\_ he  
may be released.

Dated \_\_\_\_\_ . Signature.

C.

FORM OF WARRANT OF COMMITMENT.

(Section 222.)

To \_\_\_\_\_ Jailer of \_\_\_\_\_

Whereas \_\_\_\_\_ of \_\_\_\_\_ is charged with (state the offence in  
respect of which the prisoner is charged; and the authority of the Com-  
mitting Officer): You are hereby required to receive the said  
into your custody in the said Jail of \_\_\_\_\_ and him there safely to  
keep until he shall be thence delivered by due course of law.

Dated the \_\_\_\_\_ day \_\_\_\_\_

D.

FORM OF BOND TO KEEP THE PEACE.

(Section 284.)

Whereas I \_\_\_\_\_ inhabitant of \_\_\_\_\_ have been called upon  
to enter into a bond to keep the peace for the term of \_\_\_\_\_, I  
hereby bind myself not to commit a breach of the peace or do any act  
that may probably occasion a breach of the peace during the said term;

and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of \_\_\_\_\_ Rupees.  
Dated \_\_\_\_\_

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said \_\_\_\_\_ that he shall not commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of \_\_\_\_\_ Rupees.  
Dated \_\_\_\_\_

E.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

(Sections 158 and 232.)

I \_\_\_\_\_ of \_\_\_\_\_ do hereby bind myself to appear at \_\_\_\_\_ in the Court of \_\_\_\_\_ at \_\_\_\_\_ o'clock on the \_\_\_\_\_ day of \_\_\_\_\_ next, and then and there to prosecute (or, as the case may be, to prosecute and give evidence or to give evidence) in the matter of a charge of \_\_\_\_\_ against one A. B.; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of \_\_\_\_\_ Rupees.

F.

FORM OF BOND FOR GOOD BEHAVIOUR (Section 300.)

Whereas I \_\_\_\_\_ inhabitant of \_\_\_\_\_ have been called to enter into a bond to be of good behaviour to Her Majesty the Queen, and to all her subjects, for the term of \_\_\_\_\_, I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein I bind myself to forfeit to Her Majesty the sum of \_\_\_\_\_ Rupees.  
Dated \_\_\_\_\_

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said \_\_\_\_\_ that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of \_\_\_\_\_ Rupees.