

268. Any person convicted by any Civil, Criminal, or Revenue Court, under Chapter XXXII of this Act, may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, whatever may be the amount of the sentence passed, subject to the rules provided in sections two hundred and seventy-five, two hundred and seventy-seven, two hundred and seventy-eight, two hundred and eighty, two hundred and eighty-one, and two hundred and eighty-two.

1872
Act X.

An appeal from such conviction by a Small Cause Court may be made to the Court of Session within whose Sessions Division such Court is situate.

269. Any person convicted on a trial held by the Magistrate of the District or other Magistrate of the 1st class, or any person sentenced under section forty-six by a competent Magistrate of the 1st class, may appeal to the Court of Session.

The appellant shall in every case give notice of appeal to the Magistrate of the District, who shall, if necessary, instruct the Public Prosecutor, Government Pleader, or other officer empowered by Government or by the Magistrate of the District to prosecute the case.

270. Any person, convicted on a trial held by any officer invested with the power described in section thirty-six, may appeal to the High Court, if it appear from the sentence awarded that such officer was in such trial exercising such special powers. No appeal in such case shall lie to the Court of Session.

Any person convicted by an Assistant Sessions Judge may appeal to the Sessions Judge if the sentence appealed against does not exceed three years' imprisonment.

A sentence of an Assistant Sessions Judge confirmed, under section eighteen, by the Sessions Judge may be appealed to the High Court.

Appeals from convictions of Assistant Sessions Judges.

271. Any person convicted on a trial held by a Sessions Judge may appeal to the High Court.

Appeals by persons convicted by Session Court.

1872

Act X.

The appeal may be on a matter of fact as well as on a matter of law.

If the conviction was in a trial by jury, the appeal shall be admissible on a matter of law only.

If such person be sentenced to death, the Sessions Court shall inquire whether he wishes to appeal, and if he signifies his intention to appeal, the Court shall inform him that his appeal must be made within seven days, and shall delay the transmission of the reference, hereinafter required, for a reasonable time, not exceeding seven days, to allow of the appeal and reference being made at the same time.

When it appears that the execution of the sentence should not be delayed, the Sessions Court may record its reasons and forward the reference at once.

In no case requiring confirmation shall the High Court grant a longer delay than is herein allowed for the presentation of an appeal.

Where the reasons given by the Sessions Court for forwarding the reference at once are sufficient, the High Court shall decide the case in the absence of an appeal.

When, under the provisions of the law in force, judgments or orders made or passed by the High Court are made or passed, either in appeal, reference or revision, by a Court consisting of more than one Judge, any difference of opinion shall be settled by adding, when the High Court is composed of more than two Judges, and the Court is equally divided, one or more Judges, and in such event the judgment or order shall follow the opinion of the majority of the Judges.

272. The Local Government may direct an appeal by the Public Prosecutor or other officer, specially or generally appointed in this behalf, from an original or appellate judgment of acquittal; but in no other case shall there be an appeal from a judgment of acquittal passed in any Criminal Court.

Such appeal shall lie to the High Court, and the rules of limitation shall not apply to appeals presented under this section.

The High Court may in any case so appealed direct a new

No appeal in case of acquittal, except on behalf of Government.

trial by another Court, or may pass such judgment, sentence or order as may be warranted by law.

1872

ACT X.

273. There shall be no appeal in cases in which a Court of Session, or the Magistrate of a District or other Magistrate of the 1st class, passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

No appeal in petty cases. There shall be no appeal from a sentence of imprisonment passed by such Court or officer in default of payment of fine when no substantive sentence of imprisonment has been passed.

Where an accused person has been convicted on his own plea, whether on a trial with assessors or by jury, there is no appeal, except as to the extent or legality of the sentence.

274. There shall be no appeal in cases tried summarily in which a Magistrate of the District, or a Magistrate or Bench of Magistrates invested with the powers of a Magistrate of the 1st class, empowered to act under section two hundred and twenty-two, two hundred and twenty-three, or two hundred and twenty-four, passes sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

An appeal may be brought against any sentence referred to in section two hundred and seventy-three or two hundred and seventy-four, by which any two or more of the punishments therein mentioned are combined, but not against a sentence in which imprisonment is awarded in default of payment of fine and in addition thereto.

Not against any sentence which would not otherwise be liable to appeal because the person convicted is ordered to find security to keep the peace.

The provisions of this and the last preceding section shall not apply to appeals from orders passed on European British subjects under section seventy-four or seventy-six.

Saving of sentences on European British subjects.

275. Every petition of appeal shall be accompanied by a copy of the judgment or order appealed against.

Copy of sentence to accompany petition.

1872
Act X.

276. A copy of the judgment or other order passed by any Criminal Court, and, in cases tried by jury, of the Judge's charge to the jury, shall be furnished without delay on the application of any person affected by such sentence or order.

Such copy shall be made at the expense of the person applying for it, unless he is in jail, or unless the Court, for some special reason, sees fit to grant such copy free of expense.

277. If the party appealing be in jail, he shall be at liberty to present his petition of appeal and the copy of the judgment or order appealed against to the Magistrate or other officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

278. The Appellate Court shall fix a reasonable time within which the appellant or his counsel or authorized agent may appear, and it may reject the appeal if, on a perusal of the petition of appeal and the copy of the judgment or order appealed against, and after hearing the appellant or his counsel or authorized agent, if he appears, it considers that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against.

Before rejecting the appeal, the Court may call for and peruse all or any part of the proceedings of the lower Court, but shall not be bound to do so.

279. If the Appellate Court decide to hear the appeal, it shall cause notice to be given to the appellant, and, if the appeal be to the Session or High Court, shall also give notice to the Magistrate of the District, who shall inform, if necessary, the Public Prosecutor, Government Pleader, or other officer empowered by Government on that behalf, of the day on which such appeal will be heard.

280. The Appellate Court, after perusing the proceedings of the lower Court, and after hearing the appellant, his counsel or agent, if they appear, and the Public Prosecutor, Government Pleader or other officer empowered

Appellate Court may alter or reverse finding and sentence, or enhance a sentence.

by Government or by the Magistrate of the District in that behalf, if he appears, may alter or reverse the finding and sentence or order of such Court, and may, if it see reason to do so, enhance any punishment that has been awarded :

1872
Act X.

Provided that if the appeal is from the sentence of a Magistrate of any class, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class.

281. In any case, in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may order that he be released on bail.

Suspension of sentence pending appeal.

Release of appellant on bail.

The period during which the sentence is suspended shall be omitted in reckoning the completion of the punishment.

282. In any case, in which an appeal has been allowed, the Appellate Court, if it thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may either make such further inquiry and take such additional evidence itself, or may direct such inquiry to be made and additional evidence to be taken.

Appellate Court may make or direct further inquiry.

If the Appellate Court takes further evidence and passes judgment and sentence, no fresh right of appeal arises in respect of such sentence.

When the evidence has not been taken before itself, the result of the further inquiry and the additional evidence shall be certified to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the Appellate Court otherwise directs, the presence of the appellant may be dispensed with when the further inquiry is made or evidence taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this section.

1872

Act X.

283. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings on or before trial, or on account of the improper admission or rejection of any evidence, or by any misdirection in any charge to a jury, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the prisoner in his defence.

No irregularity in the proceedings up to trial is a sufficient ground for reversing any judgment, sentence or order made or passed in a trial properly held.

In case the accused person has been sentenced to a larger amount of punishment than could have been awarded for the offence, which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

284. When any Court has convicted a person of an offence not triable by such Court, the Appellate Court shall annul the conviction and sentence of such Court, and direct the trial of the case by a Court of competent jurisdiction.

285. Judgments, sentences and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in sections two hundred and seventy-two and two hundred and ninety-seven.

286. No appeal shall lie from any judgment, sentence or order of a Criminal Court, except in the cases provided for by this Act or by any law for the time being in force.

Illustrations.

(a.) There is no appeal against an order refusing to grant compensation, or to grant an enhanced award.

(b.) There is no appeal against an order of a competent Magistrate dismissing a complaint.

(c.) There is no appeal against an order requiring a person to furnish security to keep the peace.

1872

ACT X.

(d.) There is no appeal against an order requiring a person to furnish security to be of good behaviour, when such order is passed by the Magistrate of the District.

(e.) There is no appeal against an order passed under Chapter XXXIX; nor against a report by a jury under that chapter.

(f.) There is no appeal against an order of maintenance.

(g.) There is no appeal against an order placing a name on the jury list.

(h.) There is no appeal against an order by a Court of Session fining a juror or an assessor for non-attendance.

(i.) There no appeal against the order of a competent Court refusing to order a commitment.

(j.) There is no appeal against an interlocutory order such as a claim to appear by agent.

(k.) There is no appeal from an order to pay compensation under section 22 of Act I of 1871 (*An Act to consolidate and amend the law relating to trespasses by cattle*).

CHAPTER XXI.

REFERENCE.

287. If the Court of Session pass sentence of death, the proceedings shall be referred to the High Court, and the sentence shall not be executed without its confirmation by the High Court.

Sentence of death.

If the accused person is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall, in its judgment, state the reason why sentence of death was not passed.

288. In any case so referred, whether tried with assessors or by jury, the High Court may either confirm the sentence, or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge, or may acquit the accused person.

Power of High Court to confirm sentence or annul conviction.

289. If the High Court think further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, it may direct such inquiry to be made, or such additional evidence to be taken.

Power to direct further inquiry, &c.

1872
ACT X.

Unless the Court of Reference otherwise directs, the presence of the convicted person may be dispensed with when the further inquiry is made or evidence taken, and neither under this section nor under section two hundred and eighty-two is such inquiry to be made or evidence taken in the presence of jurors or assessors.

The result of the further inquiry and the additional evidence shall be certified to the High Court, and the High Court shall thereupon proceed to pass judgment of acquittal, or to confirm the sentence, or to pass such sentence as it thinks fit.

290. In every case so referred to the High Court, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such High Court consists of two or more Judges, be determined and signed by at least two Judges of such Court.

Confirmation or new sentence to be signed by two Judges.

291. When a High Court of reference, revision, or appeal, consists of a single Judge, such Judge shall have all the powers conferred upon two or more Judges of the High Court by this chapter.

When High Court consists of one Judge.

CHAPTER XXII.

SUPERINTENDENCE AND REVISION.

Power of High Court to make rules.

292. The High Court may make and issue general rules—

for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and

for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts;

and may also frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it thinks that a form should be provided,

and from time to time may alter any such rule or form:

and, with the concurrence of the local Government, may make and issue general rules for regulating the practice and proceedings of all Criminal Courts subordinate to it, and, with the like sanction, may alter any such rule:

and a High Court not established by Royal Charter may, with the concurrence of the local Government, make and issue rules for regulating the practice and proceedings of that Court, and, with the like sanction, may alter any such rule :

1872
Act X.

Provided that such rules and forms be not inconsistent with the provisions of this Act, or of any other law in force for the time being.

All rules framed by the Court and all repeals and alterations thereof under this section, shall be published in the official Gazette.

293. All Subordinate Courts shall send to the High Court such periodical statements or calendars, of Calendars of trials by Subordinate Courts. trials held by such Courts, as the High Court prescribes, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

294. The High Court may call for and examine the record of any case tried by any Subordinate Court 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. Power to call for records of Subordinate Courts.

295. Any Court of Session or Magistrate of the District may, at all times, call for and examine the record of any Court subordinate to such Court or Magistrate, for the purpose of satisfying itself or himself as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such Subordinate Court. Powers of Court of Session and Magistrate to call for record of Subordinate Courts.

For the purposes of this section, every Magistrate in a Sessions Division shall be deemed to be subordinate to the Sessions Judge of the Division.

296. If the Court of Session or Magistrate of the District is of opinion that the judgment or order is contrary to law, or that the punishment is too severe or is inadequate, such Court or Magistrate may report the proceedings for the orders of the High Court : Report to High Court.

1872
ACT X.

Provided that in session cases if a Court of Session or Magistrate of the District considers that a complaint has been improperly dismissed or that an accused person has been improperly discharged by a Subordinate Court, such Court or Magistrate may direct the accused person to be committed for trial.

297. If, in any case either called for by itself or reported for orders, or which comes to its knowledge, it appears to the High Court that there has been a material error in any judicial proceeding of any Court subordinate to it, it shall pass such judgment, sentence or order thereon as it thinks fit.

If it considers that an accused person has been improperly discharged, it may order him to be tried, or to be committed for trial ;

If it considers that the charge has been inconveniently framed, and that the facts of the case show that the prisoner ought to have been convicted of an offence other than that of which he was convicted, it shall pass sentence for the offence of which he ought to have been convicted :

Provided that if the error in the charge appears materially to have misled and prejudiced the accused person in his defence, the High Court shall annul the conviction and remand the case to the Court below with an amended charge, and the Court below shall thereupon proceed as if it had itself amended such charge.

If the High Court considers that any person convicted by a Magistrate has committed an offence not triable by such Magistrate, it may annul the trial and order a new trial before a competent Court.

If it considers that the sentence passed on the accused person is one which cannot legally be passed for the offence of which the accused person has been convicted, or might have been legally convicted upon the facts of the case, it shall annul such sentence and pass a sentence in accordance with law.

If it considers that the sentence passed is too severe, it may pass any lesser sentence warranted by law; if it considers that the sentence is inadequate, it may pass a proper sentence.

The High Court may, whenever it thinks fit, order that the sentence, in any case coming before it as a Court of Revision, be suspended; and that any person imprisoned under such sentence be released on bail, if the offence for which such person has been imprisoned be bailable.

Except as provided in sections three hundred and twenty-eight and three hundred and ninety-eight, no Court, other than the High Court, shall alter any sentence or order of any Subordinate Court except upon appeal by the parties concerned.

No person has any right to be heard before any High Court, in the exercise of its powers of revision, either personally or by agent, but the High Court may, if it thinks fit, hear such person either personally or by agent.

298. The High Court, the Court of Session or the Magistrate of the District may order any Subordinate Court to inquire into any complaint which has been dismissed under section one hundred and forty-seven.

299. When a case is revised by the High Court under this chapter, it shall certify its decision or order to the Court in which the conviction was had or by which the order was passed; or if the conviction or order was passed by a Magistrate other than the Magistrate of the District, to the Magistrate of the District.

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court, and, if necessary, the record shall be amended in accordance therewith:

In cases revised by the High Court under this chapter, the High Court shall not alter or reverse the sentence or order of the Court below, except as herein provided, nor shall it

Suspension of sentence.

Powers of revision confined to High Court.

Optional with Court to hear parties.

Courts may order inquiry.

Order on revision to be certified to lower Court or District Magistrate.

1872
Act X.

reverse or set aside the verdict of a jury, unless it is of opinion that the jury was misdirected by the Judge. In that case it may set aside the verdict and direct a new trial, if it think fit to do so.

Provisions of section
283 to apply.

300. The provisions of section two hundred and eighty-three shall apply to revision orders under this chapter.

PART VII.

EXECUTION.

CHAPTER XXIII.

301. In cases referred by the Court of Session for the confirmation of a sentence of death by the High Court, the proper officer of the High Court shall without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court, and attested with his official signature, to the Court of Session.

Such Court shall, if the sentence be confirmed or commuted, issue a warrant to the 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 orders, shall cause such orders to be carried into effect.

Court of Session to send
copy of finding and sen-
tence to District Magis-
trate.

302. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence to the Magistrate of the District in which the trial was held.

If the accused person is sentenced to transportation, imprisonment or whipping, the Court shall forthwith forward him, with a warrant for the execution of the sentence, to the officer in charge of the jail of the district in which the trial was held.

The warrant shall state the offence of which the accused person has been convicted and the period during which he is to be transported or imprisoned and the nature of the imprisonment or other punishment.

In cases tried by any Court inferior to a Court of Session, the Court passing the sentence shall forthwith forward the accused person, with a similar warrant for the execution of the sentence, to the officer in charge of the jail of the district in which the trial was held.

1872
Act X.

303. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor or other officer or person having authority to receive and keep prisoners, and shall be in the Form (C or D as the case may be) given in the second schedule to this Act or to the like effect.

304. The warrant of commitment shall be lodged with the jailor, if he be in the jail; and if he be not in the jail, with his deputy.

If the jailor has no deputy, the warrant may be lodged with any officer of the jail then being in the jail.

305. Upon the receipt of a warrant under section three hundred and one or three hundred and two, the officer in charge of the jail 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.

306. If a woman sentenced to death be found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence.

307. Whenever an offender is sentenced to pay a fine, the Court which sentences him may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Court that issued it, and it shall authorize the distress and sale

1872
Act X.

of any moveable property belonging to the offender without the jurisdiction of the said Court, when endorsed by the Magistrate of the District in which such property is situated.

This section shall not apply to cases in which any special procedure is laid down by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

The warrant may be issued either by the Judge or Magistrate who passes the sentence or by his successor in office.

308. Whenever a Criminal Court imposes a fine under any law in force for the time being, or confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms a part, the Court may order the whole or any part of the fine to be paid in compensation,

- (1) for expenses properly incurred in the prosecution,
- (2) for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made, as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

In any subsequent civil proceedings relating to the same matter, the Court shall take into account any sum which may have been awarded under this section.

309. In every case punishable, under any law in force for the time being, with imprisonment as well as fine, in which the offender is sentenced

Imprisonment in default of payment of fine.

to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of sections sixty-four and sixty-five of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine :

1872
ACT X.

Provided that, in no case decided by a Magistrate, where imprisonment shall have been awarded as part of the substantive sentence, shall the period of imprisonment, awarded in default of payment of the fine, exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Where a person is sentenced to fine only, the Magistrate may award such term of imprisonment in default of payment of fine as is allowed by law, provided the amount does not exceed the Magistrate's powers under this Act.

310. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the Appellate Court confirming the sentence.

311. In the case of person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode and on such part of the person as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school discipline with a light ratan.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes.

1872
Act X.

The punishment shall be inflicted in the presence of a Magistrate, and also, unless the Court which passed the sentence otherwise orders, in the presence of a Medical Officer.

312. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or, if there is not a Medical Officer present, unless it appears to the Magistrate present, that the offender is in a fit state of health to undergo the punishment.

If during the execution of a sentence of whipping; a Medical Officer certifies, or it appears to the Magistrate present, that the offender is not in a fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

No sentence of whipping shall be executed by instalments.

313. In any case in which, under section three hundred and twelve, a sentence of whipping is, wholly or partially, prevented from being carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either order the discharge of such offender, or sentence him, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not carried out, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the said Court is competent to award.

314. When a person is convicted at one trial of two or more offences punishable under the same or different sections of any law for the time being in force, the Court may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such enactment or enactments, which such Court is competent to inflict; such penalties when

Punishment not to be inflicted if offender not in fit state of health.

Stay of execution.

Not to be executed by instalments.

Procedure if punishment cannot be inflicted under the last section.

Sentence in cases of simultaneous conviction of several offences.

consisting of imprisonment or transportation, to commence one after the expiration of the other.

1872
Act X.

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided that in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

Maximum term of imprisonment.

Provided also that, if the case be tried by a Magistrate (other than a Magistrate acting under section thirty-six) the punishment shall not in the aggregate exceed twice the amount of punishment which he is by his ordinary jurisdiction competent to inflict.

315. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate considers him an habitual offender, be committed to the Court of Session:

Trial of previously convicted persons.

Provided that, in districts in which the Magistrate of the District has been invested with powers under section thirty-six, the accused person may be placed on his trial before such Magistrate of the District.

Proviso.

316. When sentence is passed on an escaped convict for such escape or for any other offence, the Court may direct the sentence to take effect immediately, or after such convict has suffered imprisonment or transportation, as the case may be, for a further period, equal to that which remained unexpired of his former sentence at the time of his escape.

Currency of sentence on escaped convicts.

1872

ACT X.

317. When sentence is passed on a person already under sentence of imprisonment or transportation, and the sentence is for imprisonment or transportation, the Court shall direct that such imprisonment or transportation shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced,

or, if he is undergoing a sentence of imprisonment, and the sentence, on such subsequent conviction, be for transportation, the Court may direct that the sentence shall commence immediately, or at the expiration of the imprisonment to which such person has been previously sentenced :

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such

former or subsequent conviction.

318. When any person, under the age of sixteen years, is sentenced by any Criminal Court to imprisonment for any offence, such Court may direct that such offender, instead of being imprisoned in the criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed by Government.

319. The Governor-General of India in Council may, from time to time, appoint a place or places within British India to which persons sentenced to transportation shall be sent: the Local Government, or some officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed; and no sentence of trans-

Confinement of youthful offenders in reformatories.

Proviso.

Governor-General in Council to appoint places to which persons sentenced to transportation may be sent.

Local Government to direct removal of such persons to places appointed.

portation shall specify the place to which the person sentenced is to be transported.

1872
Act X.

320. When sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the Local Government to order his removal from the place in which he is so undergoing transportation.

Person sentenced to transportation while undergoing transportation under previous sentence need not be removed.

321. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of death.

322. When any person has been sentenced to punishment for an offence, the Governor-General of India in Council, or the Local Government, may, at any time, without conditions, or upon any conditions which the person sentenced accepts, remit the whole or any part of the punishment to which he has been sentenced.

Power to remit punishment.

If the person, to whom a pardon has been given, fails to fulfil the conditions prescribed by the Governor-General of India in Council, or the Local Government, the Governor-General of India in Council or the Local Government, as the case may be, may withdraw such pardon, whereupon such person shall be remanded to undergo the unexpired portion of his sentence.

The Governor-General of India in Council, or the Local Government, may also, without the consent of the person sentenced, in substitution for the sentence passed according to law, commute any one of the following sentences for any other mentioned after it—
death, transportation, penal servitude, imprisonment.

Power to commute punishment.

PART VIII.

EVIDENCE.

CHAPTER XXIV.

SPECIAL RULES OF EVIDENCE IN CRIMINAL CASES.

323. The examination of a Civil Surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in

Evidence of medical witness.

1872

Act X.

any criminal trial although the person examined is not called as a witness.

The Court may summon such Civil Surgeon or other medical witness, if it sees sufficient cause for doing so.

Court may summon medical witness.

324. If an accused person admits the commission of an offence before a Court competent to try him for such offence, such Court may convict him on his own admission.

Accused may be convicted on his own plea.

325. Any document purporting to be a report from the Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any criminal trial, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any criminal trial.

Report of Chemical Examiner.

The Court may presume that the signature of any such document is genuine and that the person signing it held the office which he professed to hold at the time when he signed it.

Genuineness of signature may be presumed.

326. Where a previous conviction or acquittal is to be proved against an accused person, application shall be made to the officer in whose custody the records of such trial may be. It shall not be necessary to produce the record of the conviction or acquittal of such accused person, or a copy thereof, but an extract may be produced in proof of such conviction or acquittal if certified, under the hand of the Clerk of the Court or other officer having the custody of the records of the Court in which such conviction or acquittal was had or by the Deputy of such Clerk or officer, to be a copy of the charge, finding, and sentence, as the case may be.

Previous conviction or acquittal how proved.

327. If an accused person abscond, and after due pursuit cannot be arrested, any Court, competent to try or to commit such accused person for trial for the offence complained of, may, in his absence, record the statements of the persons acquainted with the facts; and such depositions may, on the arrest of such person, be put

Record of evidence in the absence of the accused.

in on his trial for such offence, if it is not practicable to procure the attendance of such witnesses.

1872

ACT X.

328. Whenever any Magistrate, after having heard part of the evidence in a case, ceases to exercise jurisdiction in such case and is succeeded by another Magistrate who has and who exercises jurisdiction in such case, such last-named Magistrate may decide the case on the evidence partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and commence afresh :

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses shall be re-summoned and re-heard, in which case the trial shall be commenced afresh :

Provided also that any Court of Appeal or Revision, before which the case may be brought,

or, in cases tried by Magistrates subordinate to the Magistrate of the District, the Magistrate of the District, without appeal,

may set aside any conviction, passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court or Magistrate is of opinion that the accused person has been materially prejudiced thereby; and may order a new trial.

329. Whenever, from any cause, a Magistrate making an inquiry, under Chapter XV of this Act, is unable to complete the proceedings himself, any other Magistrate having jurisdiction to inquire and to commit may complete the case and proceed as if he had recorded all the evidence himself.

330. Whenever it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, it shall be competent to a Court of Session or to a High Court to dispense with the personal attendance of such witness.

Convictions on evidence partly recorded by one Magistrate and partly by another.

Commitments on evidence partly recorded by one officer and partly by another, valid.

When a commission may issue.

1872

Act X.

Such Court of Session or High Court may direct a commission to the Magistrate of the District, or to a Magistrate of the 1st class, in whose jurisdiction such witness may be. The Magistrate to whom the commission is directed shall proceed to the place where such witness is, or shall summon such witness before himself. Such Magistrate shall take the evidence of such witness in the same manner, and shall have for this purpose and may exercise the same powers, as in trials of warrant cases.

The prosecutor and the accused person may forward interrogatories to which the officer to whom the commission is directed shall cause a return to be made, or the prosecutor may appear personally before the Magistrate to whom the commission is directed, or the prosecutor or accused person may so appear by authorized agent.

Whenever, in the course of a trial before a Magistrate, it shall appear that a commission ought to be issued for the examination of a witness whose evidence is necessary in such trial, such Magistrate shall apply to the Court of Session to which he is subordinate, stating the reasons for the application: and such Court may either issue a commission in the manner hereinbefore provided, or may reject the application.

Procedure when commission is required in Magistrate's cases.

Mode of issuing commission.

Prosecutor and accused may examine witness.

CHAPTER XXV.

EVIDENCE HOW TAKEN.

331. In all Criminal Courts, complainants and witnesses shall be examined upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Examination of complainants and witnesses.

332. In inquiries and trials (other than summary trials) under this Act, the evidence of the witnesses shall be recorded by the Magistrate or Sessions Judge, as the case may be, in the following manner.

Manner of recording evidence.

333. In summons cases tried before Magistrates, and in cases of the kind referred to in section two hundred and twenty-two when tried by a Magistrate of the 1st or 2nd class, otherwise than at a summary trial, the Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds.

Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

334. In all other cases before Magistrates and in all proceedings before Courts of Session, the evidence of each witness shall be taken down in writing in the language in ordinary use in the district in which the Court is held, by or in the presence and hearing and under the personal direction and superintendence of the Magistrate or Sessions Judge, and shall be signed by the Magistrate or Sessions Judge.

When the evidence of a witness is given in English the Magistrate or Sessions Judge may take it down in that language with his own hand and an authenticated translation of the same, in the language in ordinary use in the district in which the Court is held, shall form part of the record.

If the accused person be a European British subject or be familiar with the English language, no translation shall be necessary.

In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes and such memorandum shall be written and signed by the Magistrate or Sessions Judge, with his own hand, and shall form part of the record.

Memorandum when
evidence not taken down
in writing.

In all other cases before
Magistrates and in
all proceedings before
Courts of Session.

In summons cases and
in trials by Magistrates
of the 1st and 2nd classes
of certain offences.

1872
ACT X.

If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

335. The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of complainants or witnesses shall be taken down by the Sessions Judge or Magistrate with his own hand in the vernacular language of the Sessions Judge or Magistrate, unless the Sessions Judge or Magistrate be prevented by any sufficient reason from taking down the evidence of any complainant or witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record :

Provided that, if the vernacular language of the Sessions Judge or Magistrate be not English or the language in ordinary use in the district in which the Court is held, the Local Government may direct him to take down the evidence in the English language, or in the language in ordinary use in the district in which the Court is held, instead of his own vernacular.

336. In cases of the kind referred to in sections three hundred and thirty-three, tried before Magistrates, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section three hundred and thirty-four, or, if, within the jurisdiction of such Magistrate, the Local Government has made the order referred to in section three hundred and thirty-five, in the manner provided in section three hundred and thirty-five.

337. The Local Government may determine what, for the purposes of this Act, shall be held to be the language in ordinary use in any district in which a Court is held.

Local Government may direct evidence to be recorded by Sessions Judge or Magistrate himself in his vernacular ;

or in English or in language in ordinary use in district.

In cases referred to in section 333, Magistrate may record as provided in section 334 or section 335.

Local Government to decide what language is to be held to be in ordinary use.

338. The evidence taken under section three hundred and thirty-four shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

Form of record of evidence.

It shall be in the discretion of the Magistrate or Sessions Judge to take down, or cause to be taken down, any particular question and answer, if there appears any special reason for so doing, or if any person who is a prosecutor or a person accused, or his counsel or agent, requires it.

339. As the evidence of each witness, taken under section three hundred and thirty-four, is completed, it shall be read over to the witness in the presence of the accused person, if in attendance, or of his agent, when his personal attendance is dispensed with and he appears by agent, and shall, if necessary, be corrected.

Procedure in regard to evidence when completed.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

340. In all cases whatever, when the evidence is given in a language not understood by the accused person, it shall be interpreted to him in open Court in a language understood by him, where he is present in person.

Interpretation of evidence to accused or his agent.

If he appears by agent, and the evidence is given in a language other than the language in ordinary use in the district in which the Court is held, it shall be interpreted to such agent in that language.

In cases in which documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

1872
Act X.

341. Every Sessions Judge or Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

Remarks respecting
demeanour of witness.

OF THE EXAMINATION OF ACCUSED PERSONS.

342. In all inquiries and trials a Criminal Court may, from time to time and at any stage of the proceedings,

Accused may be questioned.

put any questions to the accused person which such Court may think proper.

343. The accused person shall not be liable to any punishment for refusing to answer, or for answering falsely, questions asked under section three hundred and forty-two, but the Court shall draw such inferences as seems just from such refusal.

Accused not punishable for refusal to answer.

344. Except as is provided in section three hundred and forty-seven, no influence, by means of any promise of threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

345. No oath or affirmation shall be administered to the accused person.

Accused not to be sworn.

346. Whenever an accused person is examined, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

Examination of accused how recorded.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate or Sessions Judge, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

In cases in which the examination of the accused person is not recorded by the Magistrate or Sessions Judge himself, he shall be bound, as the examination proceeds, to make a memo-

randum thereof in the vernacular of the district, or in English, if he is sufficiently acquainted with that language; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall be annexed to the record. If the Magistrate or Sessions Judge is precluded from making a memorandum as above required, he shall record the reason of his inability to do so.

1872
Act X.

The accused person shall sign or attest by his mark such record.

If the examination be taken in the course of a preliminary inquiry, and the Court of Session find that the provisions of this section have not been fully complied with, it shall take evidence that the prisoner duly made the statement recorded: Provided that if the error does not prejudice the prisoner, it shall not be deemed to affect the admissibility of the statement so recorded.

347. The Magistrate of the District, any Magistrate of the 1st class inquiring into the case, or Magistrate may tender pardon to accomplice. with the sanction of the Magistrate of the District, any Magistrate duly empowered to commit to the Court of Session, may, after recording his reason for so doing, tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in column seven of the fourth schedule hereto annexed as triable exclusively by the Court of Session, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances, within his or their knowledge, relative to the crime committed, and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section shall be examined as a witness in the case under the rules applicable to the examination of witnesses.

Such person, if not on bail, shall be detained in custody pending the termination of the trial.

A Magistrate, having tendered a pardon under this section and examined the accused person, is precluded from trying the case himself.

1872

ACT X.

348. The High Court as a Court of revision, and the Court of Session after committal but before the commencement of a trial, may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, instruct the committing Magistrate to tender a pardon on the same condition to such person or persons.

High Court or Court of Session may direct tender of pardon.

The Court of Session, in like manner and on the same condition, may, at any time before judgment is passed, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, tender a pardon to such person or persons.

349. When a pardon has been tendered under section three hundred and forty-seven or section three hundred and forty-eight, if it appears to the Magistrate before the trial, or to the Court of Session before judgment has been passed, or to the High Court as a Court of reference or revision, that any person, who has accepted such offer of pardon, has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence, such Magistrate or Court may commit or direct the commitment of such person for trial for the offence in respect of which the pardon was so tendered.

When Magistrate, Court of Session or High Court may direct commitment of person to whom pardon has been tendered.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

CHAPTER XXVI.

OF SECURING THE ATTENDANCE OF WITNESSES.

350. The following procedure shall be pursued in order to obtain the attendance of witnesses before a Magistrate or Criminal Court.

Procedure for obtaining attendance of witnesses.

1872

ACT X.

351. Any Court or Magistrate may, at any stage of any proceeding, inquiry or trial, summon, in the manner provided by Chapter XII, any witness, or examine any person in attendance though not summoned as a witness, and it shall be its or his duty to do so if the evidence of such person appear essential to the just decision of the case.

352. If a Court or Magistrate has reason to believe that any witness, whose attendance is required, will not attend to give evidence without being compelled to do so, it or he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

353. If such warrant cannot be executed and the Court or Magistrate considers that the witness absconds or conceals himself for the purpose of avoiding the service thereof, it or he may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of such witness' ordinary place of abode.

If the witness does not attend at the time and place named in such proclamation, the Court or Magistrate may order the attachment of any moveable property belonging to such witness to such amount as seems reasonable, not being in excess of the amount of costs of attachment and of any fine to which the witness may be liable under the provisions of the following section.

Such order shall authorize the attachment of any moveable property within the jurisdiction of the Court or Magistrate by whom it was made; and it shall authorize the attachment of any moveable property without the jurisdiction of the said Court or Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

354. If the witness appears and satisfies such Court or Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not notice of the proclamation in

Power to summon material witness or examine person present.

When warrant of arrest may issue in first instance.

Procedure when warrant cannot be served.

Release of attached property of witness appearing and satisfying Court or Magistrate.

1872
Act X.

time to attend at the time and place named therein, the Court or Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as to such Court or Magistrate seems fit.

If such witness does not appear, or appearing, fails to satisfy the Court or Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not such notice of the proclamation as aforesaid, the Court or Magistrate may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which may be imposed upon such witness under the provisions of section one hundred and seventy-two of the Indian Penal Code.

If the witness pays to such Court or Magistrate the costs and fine as aforesaid, his property shall be released from attachment.

355. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Court or Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand and seal, to bring such person before him to testify as aforesaid.

356. If any person summoned or brought before a Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may, by warrant under his hand and seal, commit him to custody for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of sections four hundred and thirty-five or four hundred and thirty-six.

INQUIRIES.

1872

ACT X.

357. In inquiries preliminary to commitment to a Court of Session or High Court, the Magistrate shall procure the attendance of the witnesses for the prosecution as in cases usually tried upon warrant; and it shall be in his discretion to summon any witness offered on behalf of the accused person to answer or disprove the evidence against him. If the Magistrate refuses to summon a witness so offered he shall record his reasons for such refusal.

In inquiries preliminary to commitment.
The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial, and bind them over to appear and give evidence. Such examination shall, if possible, be taken in the presence of the accused person, and, in every case, a copy of the examination of such witnesses shall be given him free of cost.

Power to summon supplementary witnesses.
358. In such inquiries, when the person accused is to be committed for trial and has given in the list of witnesses mentioned in section two hundred, the Magistrate shall summon the witnesses to appear before the Court before which the accused person is to be tried.

When accused person is to be committed.
359. If the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material.

Refusal to summon unnecessary witness, unless deposit made.
If the Magistrate be not so satisfied, he shall not be bound to summon the witness; but, in doubtful cases, he may summon such witness, if such a sum is deposited with the Magistrate as he thinks necessary to defray the expense of obtaining the attendance of the witness.

Recognizances of prosecutors and witnesses.
360. Prosecutors and witnesses for the prosecution and defence, whose attendance is necessary before the Court of Session or High Court, shall execute before the Magistrate recognizances, in the Form (F)

1872
Act X.

given in the second schedule to this Act, or to the like effect, to be in attendance, when called upon at the Court of Session or High Court, to prosecute or to give evidence, as the case may be.

If any prosecutor or witness refuses to attend before the Court of Session or High Court, or to execute the recognizance above directed, the Magistrate may detain him in custody until he executes such recognizance, or until the time when his attendance at the Court of Session or High Court is required, when the Magistrate shall send him under custody to the Court of Session or High Court.

Detention in custody in case of refusal to attend or to execute recognizance.

SUMMONS CASES.

361. In summons cases, the Magistrate may summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused.

In summons cases.

Ordinarily it shall be the duty of the complainant and accused, in non-recognizable cases, to produce their own witnesses.

In such cases it shall be in the discretion of the Magistrate to summon any witnesses named by the complainant or the accused; and he may require, in such cases, a deposit of the expenses of a witness before summoning him.

WARRANT CASES.

362. In warrant cases, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall summon such of them to give evidence before him as he thinks necessary.

In cases tried upon warrant.

The Magistrate shall also, subject to the provisions of section three hundred and fifty-nine, summon any witness and examine any evidence that may be offered in behalf of the accused person to answer or disprove the evidence against him, and may for that purpose, at his discretion, adjourn the trial from time to time. If the Magistrate refuse to summon a witness named by

the accused person, he shall record his reasons for such refusal, and the accused person shall be entitled to appeal to the Court of Session against such refusal.

1872
Act X.

SESSIONS TRIALS.

363. The accused person shall be allowed to examine any witness not previously named by him, if such witness be in attendance; but he shall not, except as provided in section four hundred and forty-eight, be entitled of right to have any witness summoned other than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial.

Right of accused as to examination and summoning of witness.

364. If a witness before a Court of Session refuses to answer any question which is put to him, and does not offer any just excuse for such refusal, the Court may commit him to custody for such reasonable time as it deems proper, unless in the meantime he consents to be examined and to answer.

Procedure in case of witness refusing to answer.

In the event of such witness persisting in his refusal, he may be dealt with according to the provisions of section four hundred and thirty-five or four hundred and thirty-six.

OF SECURING DOCUMENTARY EVIDENCE.

365. Whenever an officer in charge of a Police-station or any Court considers that the production of any document is necessary or desirable for the purposes of any investigation or judicial proceeding, such officer or Court may issue a summons to the party, in whose keeping such document is believed to be, requiring him to attend and produce such document at the time and place stated in the summons.

Procedure for obtaining production of document required as evidence.

366. If there appears reason to believe that the person, to whom the summons is addressed, will not produce it as directed in the summons, such officer or Court may issue a search-warrant for the document in the first instance.

When warrant for search for documents may issue.

1872

Act X.

367. Any Court may, if it thinks fit, impound any document produced before it, or may, at the conclusion of the proceedings, order such document to be returned to the person who produced it.

Power to impound document produced.

CHAPTER XXVII.

OF SEARCH-WARRANTS.

368. When a Magistrate considers that the production of anything is essential to the conduct of an inquiry into an offence known or suspected to have been committed, or to the discovery* of the offender,

Search-warrant when grantable.

or when he considers that such inquiry or discovery will be furthered by the search or inspection of any house or place,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any house or place within the jurisdiction of the Magistrate of the District.

The Magistrate, issuing such warrant, may, if he see fit, specify in his warrant the house or place, or part thereof, to which only the search or inspection shall extend; and the officer, charged with the execution of such warrant, shall then search or inspect only the house, place, or part so specified.

369. The last preceding section shall not authorize any Magistrate, other than the Magistrate of the District, to grant a search-warrant for a letter in the custody of the Postal Department;

Procedure as to letter in custody of Postal Department.

but if any such letter is wanted for the purpose of any criminal proceeding, any Magistrate or District Superintendent of Police may give notice to the Postal authorities to cause search to be made for and to detain any such letter, pending the orders of the Magistrate of the District; and the Magistrate of the District may, if he thinks fit, direct the Postal authorities to deliver up any such letter.

370. A search-warrant shall ordinarily be directed to a Police officer; but the Magistrate issuing the warrant may, after recording his reasons, if immediate search is necessary and no Police officer be immediately available, direct it to any other person.

371. A search-warrant directed or endorsed to a Police officer may, if he is not able to proceed in person, be executed by any other Police officer.

In such case the name of such Police officer shall be endorsed upon the warrant by the officer to whom it is directed or endorsed.

372. When it is necessary for a search-warrant to be executed out of the district in which it was issued, any Magistrate, within whose local jurisdiction the warrant is to be executed, shall endorse his name thereon.

Such endorsement shall be sufficient authority for the Police officer charged with the execution of the warrant to execute the same within the said jurisdiction.

Or the search-warrant may be directed to the Magistrate, within whose local jurisdiction the search is to be made; and he shall thereupon endorse his name on such warrant and enforce its execution in the same manner as if it had been issued by himself.

373. Whenever there is reason to believe that the delay, occasioned by obtaining the endorsement of the Magistrate in whose District the warrant is to be executed, will prevent the discovery of the thing for which search is to be made, the Police officer charged with the execution of the warrant may execute the same in any place beyond the district in which it was issued without the endorsement of the Magistrate in whose local jurisdiction that place is situate.

If the thing, for which search is made, is found in such place, it shall, when the place where the thing is found is nearer to the Magistrate having jurisdiction in such place than to the

1872

Act X.

Direction of search-warrant.

Warrant to Police officer may be executed by his subordinate.

Endorsement.

Execution of search-warrant out of district in which issued.

Search-warrants may in emergency be executed without endorsement.

Thing found to be taken to Magistrate within whose jurisdiction it is found.

1872
Act X.

Magistrate who issued the warrant, be immediately taken before the Magistrate in whose local jurisdiction it is found ; and unless there be good cause to the contrary, such Magistrate shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Order thereon.

If the thing be not found after such search, the Police officer making the same shall, in addition to the return made to the Magistrate who issued the warrant, report the fact to the Magistrate in whose local jurisdiction the search was made.

374. If the thing searched for be found within a Presidency town, it shall be taken to the Commissioner of Police or to a Police Magistrate; and such Commissioner or Magistrate shall act in the manner prescribed in section three hundred and seventy-three.

Procedure in such cases within Presidency town.

375. Whenever it appears necessary, a Magistrate may, by his warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made.

Magistrate may issue search-warrant to be executed in jurisdiction of another Magistrate.

When a Magistrate issues a warrant under this section, he shall inform the Magistrate within whose local jurisdiction the house or place to be searched is situate, or if the house or place be situate within a Presidency town he shall inform the Commissioner of Police, of the issue of such warrant.

376. A Magistrate issuing a search-warrant to be executed in any house or place out of the jurisdiction of the Magistrate of the District, or out of his own division, may direct the warrant to any Magistrate within whose local jurisdiction such house or place is situate, and may send the same by post.

Magistrate may send search-warrant by post to Magistrate of another District or division of District.

On receipt of such warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if it had been originally issued by himself.

Endorsement and execution by such Magistrate.

If the warrant is to be executed within a Presidency town it shall be addressed to the Commissioner of Police or to a Police Magistrate.

Direction of warrant to be executed in Presidency town.

1872
Act X.

In such case any property found on search made may be dealt with as provided in sections three hundred and seventy-three and three hundred and seventy-four.

377. If the Magistrate of the District, or a Magistrate of a division of a District, or a Magistrate of the 1st class, upon information and after such inquiry as he thinks necessary, has reason to believe that any house or place is used as a place for the deposit or sale of stolen property,

Search of house suspected to contain stolen property or forged documents.

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging are kept or deposited in any house or place,

he may by his warrant authorize any Police officer above the rank of a constable to enter, with such assistance as may be required, and by force, if necessary, any such house or place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps seals, or coins, therein found, which he reasonably suspects to be stolen, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid.

378. The Magistrate, by whom a search-warrant is issued, may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate may attend personally.

The Magistrate may also direct a search to be made in his presence of any house or place for the search of which he is competent to issue a search-warrant.

Magistrate may direct search in his presence.

1872

ACT X.

379. Whenever an officer in charge of a Police-station, or a Police officer making an investigation, considers that the production of anything is necessary to the conduct of an investigation into any offence which he is authorized to investigate, he may search or cause search to be made for the same, in any house or place within the limits of the station of which he is in charge or to which he is attached.

In such case, the officer in charge of the Police-station or Police officer making investigation shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, the officer in charge of the Police-station, or Police officer making investigation, may require any officer subordinate to him to make the search; and he shall deliver to such subordinate officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and such subordinate officer may thereupon search for such property in such house or place.

The provisions of sections three hundred and eighty-two to three hundred and eighty-five (both inclusive), relating to search-warrants, shall be applicable to a search made, under this section, by or under the direction of an officer in charge of a Police-station, or by a Police officer making an investigation.

380. An officer in charge of a Police-station may require an officer in charge of another Police-station, whether subordinate to the same Magistrate as himself or to a Magistrate of another District, to cause a search to be made in any house or place in any case in which the former officer might cause such search to be made within the limits of his own station.

Such officer, on being so required, shall proceed according to the provisions of section three hundred and seventy-nine, and shall forward the thing found, if any, to the officer at whose request the search was made.

When officer of Police-station may require another to issue search-warrant.

381. An officer in charge of a Police-station may, without a warrant, enter any shop or premises within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing used or kept therein, whenever he has reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false.

If such officer finds in such shop or premises any weights, measures, or instruments that are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

382. Whenever any house or place liable to search or inspection, under this chapter, is closed, any person residing in or being in charge of such house or place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

383. A Police officer, or other person authorized by a warrant to search any house or place, may break open any outer or inner door or window of such house or place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

384. If the place ordered to be searched is an apartment in the actual occupancy of a woman, who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall give notice to such woman in such apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

1872

Act X.

385. Before conducting a search under this chapter, the officer conducting it shall call upon two or more respectable inhabitants of the place in which the house or place to be searched is situate, to attend and witness the search.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless specially summoned by him.

The occupant of the house or place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

386. Whenever it is necessary to cause a woman to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

387. Whenever a person is arrested by the Police under a warrant which does not provide for the taking of bail,

or under a warrant which provides for the taking of bail, but the arrested person cannot furnish bail,

or is arrested without warrant and is not admitted to bail,

it shall be the duty of the arresting officer to search such person and to place in safe custody all articles, other than necessary articles of apparel, found on such persons.

A list of such articles shall be forwarded with the daily diary or with the final report in the case.

PART IX.

PROCEDURE INCIDENTAL TO INQUIRY AND TRIAL.

CHAPTER XXVIII.

BAIL.

388. When any person appears or is brought before a Magistrate accused of any bailable offence, he shall be admitted to bail.

When bail shall be taken.

389. When any person, accused of any non-bailable offence, appears or is brought before a Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

If the evidence, given in support of the accusation, is, in the opinion of the Magistrate, not such as to raise a strong presumption of the guilt of the accused person,

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt, but there appears to the Magistrate in either of such cases to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

390. The Court of Session may, in any case, whether there be an appeal on conviction or not, direct that an accused person shall be admitted to bail, or that the bail required by a Magistrate be reduced.

391. When a Magistrate admits to bail any person accused or suspected of any offence, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance and shall continue to attend until otherwise directed by the Court, and if required, shall appear when called upon at the Court of Session or other Court, as the case may be, to answer the charge.

392. If through mistake or fraud insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to give sufficient bail or to find sufficient sureties and, in default, may be committed to prison.

393. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

1872

Act X.

394. After the recognizances have been duly entered into, the Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him ; and in case he is in some prison or other place of confinement, shall issue a warrant of release to the jailor or other person having him in his custody, and such jailor or other person shall thereupon release him.

395. Any one or more of the sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements.

On such an application being made, the Magistrate shall issue his warrant of arrest, directing that such person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and, in default, may order him to be committed to prison.

396. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the District. Such warrant may be executed within the jurisdiction of the Magistrate of the District, and it shall authorize the distress and sale of any moveable property belonging to the accused person without the jurisdiction of the said Magistrate when endorsed by the Magistrate of the District in which such moveable property is situated.

397. Whenever, by reason of default of appearance by the person bailed, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to

the surety or sureties to pay the same, or to show cause why it should not be paid.

1872
ACT X.

If such penalty be not paid and if no sufficient cause for its non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by issuing a warrant for the attachment and sale of any moveable property belonging to him or them which may be found within the jurisdiction of the Magistrate of the District. Such warrant may be executed within the jurisdiction of the Magistrate of the District; and it shall authorize the distress and sale of any moveable property belonging to the surety or sureties without the jurisdiction of the said Magistrate when endorsed by the Magistrate of the District in which such moveable property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the Civil jail, during a period not exceeding six months.

398. The powers given by sections three hundred and ninety-six and three hundred and ninety-seven may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail.

In what cases the powers given by sections 396 and 397 may be exercised.

Provided that the Magistrate or Court may, at his or its discretion, remit any portion of the penalty mentioned in the recognizance of the or of the surety or sureties, and enforce payment

by any Magistrate, other than the Magistrate of the District, under this section or section three hundred and ninety-six or ninety-seven, shall be appealable to the Court, or, if not so appealed, may be

1872
Act X.

A High Court or a Court of Session may direct any Magistrate to levy the amount due on a forfeited bail-bond executed in respect of attendance before such High Court or Court of Session.

High Court or Court of Session may direct Magistrate to levy sum forfeited.

399. When any person is required by any officer or Criminal Court to give bail, except in cases coming under Chapter XXXVIII, such officer or Court may permit such person to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

Deposit may be made instead of bail.

CHAPTER XXIX.

FORMATION OF LISTS OF JURORS AND ASSESSORS AND THEIR ATTENDANCE.

400. The Sessions Judge and the Collector of the District, or such other officer as the Local Government from time to time appoints in this behalf, shall prepare and make out in alphabetical order a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the Local Government thinks fit to direct, who are, in the judgment of the Sessions Judge and Collector or other officer as aforesaid, qualified from their education and character to serve as jurors or as assessors respectively.

List of jurors and assessors.

The list shall contain the name, place of abode, and quality or business of every such person; and if the person is a European or an American, the list shall mention which he belongs.

401. Copies of such list shall be stuck up at the Collector or other officer and in the Court-houses of the District and of the Chief Civil Court in conspicuous place in the town or towns near which the persons named in the list reside.

Publication of list.

To every such copy shall be subjoined objections to the list will be heard and

sions Judge and Collector or other officer as aforesaid at the Sessions Court-house, and at a time to be mentioned in the notice.

1872
Act X.

402. For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may avail himself of the exemption from service given by section four hundred and six; and insert the name of any person omitted from the list whom they deem qualified for such service.

Revision of list.

In the event of a difference of opinion between the Collector or other officer as aforesaid and the Sessions Judge, the name of the proposed juror or assessor shall be omitted from the list.

A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

403. The list so prepared and revised shall be again revised once in every year.

Annual revision of list.

The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

404. All male persons between the ages of twenty-one and sixty, resident within the local limits of the jurisdiction of the Court of Session, except those hereinafter mentioned, shall be deemed capable of serving as jurors and assessors, and shall be liable to be summoned accordingly.

Jurors and assessors.

405. The following persons are incapable of serving as jurors or as assessors, namely :—

Disqualifications.

Persons who held any office in or under the said Court.

1872
Act X.

Persons executing any duties of Police or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Sessions Judge and Collector, renders them unfit to serve on the jury.

Persons afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

Exemptions.

406. The following persons are exempt from the liability to serve as jurors or as assessors, namely :—

All officers in civil employ superior in rank to a Magistrate of the District.

Judges and other Judicial officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty.

Chaplains and others employed in religious offices.

All persons in the Military Service, except when, by any law in force for the time being, such persons are specially made liable to serve.

Surgeons and others who openly and constantly practise in the profession of physic.

Persons employed in the Post Office and Electric Telegraph Departments.

Persons actually officiating as priests in their respective religions.

All persons exempted by the local Government; and persons exempted by Government from personal appearance in Court under the provisions of the Code of Civil Procedure, section twenty-two.

Person exempted is not bound to avail himself of his right of exemption.

The exemption from service given by this section is a right of which each person exempted may avail himself or not.

Nothing contained in this section shall be construed to disqualify any such person, if he is willing to serve as a juror or as an assessor.

1872

Act X.

The Sessions Judge may issue a summons to any exempted person to serve as an assessor or juror on the trial of a European British subject.

407. The Court of Session shall ordinarily, three days at the least before the time fixed for the holding of the sessions, send a precept to a Magistrate directing him to summon as many persons, named in the said revised list, as seem to the Court to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any case about to be tried at such sessions.

Court to summon jurors.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them; the names so drawn shall be specified in the precept to the Magistrate.

408. When a trial is to be held in which the accused person or one of the accused persons is entitled to be tried by a jury constituted under the provisions of section two hundred and thirty-four, the Court of Session shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinafter prescribed, as many European and American jurors as are required for the trial, if there be so many on the jury-list of the District in which the trial is to be held.

Summoning and empanelling jurors under section 234.

The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been already summoned for jury trials at that session.

From the whole number of persons returned, the jurors, who are to constitute the jury, shall be taken by lot in the manner prescribed in section two hundred and forty until a jury containing the proper number of Europeans or Americans, or a

1872
 Act X. number approaching thereto as nearly as possible, has been obtained.

If a jury containing the requisite number of Europeans and Americans is not obtained, the accused person may elect to be tried by the Judge with the aid of assessors; otherwise he shall be tried by the jury obtained by the means aforesaid.

409. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor at a time and place to be therein specified.

Form and service of summons.

The summons or a copy thereof shall be served on every juror or assessor personally.

If the juror or assessor summoned be absent from his usual place of abode, the summons may be left for him there with some adult male member of his family residing with him.

410. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section four hundred and seven, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever it is found to be necessary.

Power to summon another set of jurors or assessors.

411. If any person summoned to serve as a juror or assessor or be in the service of Government or of a Railway Company, the summons shall be sent to him through the head officer of the office in which he is employed; and the Court may excuse the attendance of such person if it appear, on the representation of such head officer, that the person summoned cannot serve as a juror or assessor without inconvenience to the public service.

Service of summons on officer of Government.

412. The Court of Session may excuse any juror or assessor from attendance for reasonable cause.

Court may excuse attendance of juror or assessor.

413. At each session the Court shall cause to be made a list of the names of those who serve as jurors or assessors at such session.

List of juror or assessors attending.

Such list shall be kept with the revised list of the jurors and assessors prepared under section four hundred and two.

1872
Act X.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

414. Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

Such fine shall be levied by the Magistrate of the District by attachment and sale of any moveable property belonging to such juror or assessor within the jurisdiction of the Sessions Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may be imprisoned in the civil jail for the space of fifteen days, if the fine be not sooner paid.

CHAPTER XXX.

MISCELLANEOUS PROVISIONS.

415. The seizure by any Police officer of property alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order respecting the custody and production of such property as he thinks proper.

If such property is of a perishable nature, or if it appears to the Magistrate that its sale would be for the benefit of the owner, such Magistrate may at any time direct it to be sold, and shall hold the proceeds of such sale in trust for the owner, subject to the provisions contained in sections four hundred and sixteen and four hundred and seventeenth.

1872

ACT X.

416. When the owner of any such property is unknown, the Magistrate may detain it, or the proceeds thereof, if sold, and, in case of such detention, shall issue a proclamation, specifying the articles of which such property consists or consisted, and requiring any person, who may have a claim thereto or to the proceeds thereof, to appear before him and establish his claim within six months from the date of such proclamation.

417. If no person within such period establishes his claim to such property or proceeds, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District, or a Magistrate of a Division of a District, or if duly authorized, a Magistrate of the 1st class; or, if it has been already sold by the Magistrate, the proceeds thereof shall be at the disposal of the Government.

An appeal shall be allowed, to the Court to which appeals against sentences would lie, in the case of every order passed under this section.

418. When the trial in any Criminal Court is concluded, the Court may make such order as appears right for the disposal of any property, produced before it, regarding which any offence appears to have been committed.

419. Any Court of appeal, reference or revision may direct any such order passed by a Court subordinate thereto to be stayed, and may in alter or annul it.

420. The order, passed by any Court under section hundred and eighteen or four hundred and nineteen, may be in the form of an order of the property to the Magistrate of the District, or to a Magistrate of a Division of a District, who shall in such cases deal with it as if the property seized by the Police and the seizure had been reported in the manner hereinbefore mentioned.

421. Subject to any rules that may be passed by the Local Government, with the previous sanction of the Governor-General of India in Council, the Criminal Courts may order payment on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

1872

Act X.

422. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Interpreter to be bound to interpret truthfully.