

CHAPTER XXXI.

LUNATICS.

423. When any person charged with an offence before a

Procedure in case of
accused being lunatic.

Magistrate, competent to try the case, appears to such Magistrate to be of unsound mind and incapable of making a defence, such Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District, or some other medical officer, and thereupon shall examine such Civil Surgeon or other medical officer, as a witness, and shall reduce the examination into writing.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

424. When, from the evidence given before a Magistrate,

When accused appears
to have been insane.

there appears to be sufficient ground for believing that the accused person committed an act which, if he had been of sound mind, would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, such accused person shall, if he appears to be sane at

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the time of inquiry, be sent for trial by the Magistrate before the Court of Session :

If such accused person is a European British subject, the Magistrate shall follow the procedure prescribed in Chapter VII.

If an accused person appears to be insane at the time of inquiry, the Magistrate shall act in the manner provided in the last preceding section.

425. If any person, committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of making his defence, the Court shall in the first instance try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence ; and thereupon the trial shall be postponed.

Procedure in case of person committed before a Court of Session being lunatic.

426. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence of which such person is accused be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

Release of lunatic pending investigation or trial.

If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the Local Government to which the case shall be reported shall direct.

Custody of lunatic.

427. Whenever an inquiry or trial is postponed under section four hundred and twenty-three or section four hundred and twenty-five, the Magistrate or Court of Session, as the case may be, may, at any time, resume the inquiry or trial, and require the accused person, if detained in custody, to be brought before such Magistrate or Court ; or if the accused person has been released on security, may require his appearance.

Resumption of inquiry or trial.

The surety of such person shall be bound, at any time, to produce him to any officer whom the Magistrate or Court of Session appoints to inspect him ; and the certificate of such

officer shall have the same effect as the certificate of an Inspector-General of Prisons or the Visitors of Lunatic Asylums, granted under section four hundred and thirty-two.

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428. If, when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it appears to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the inquiry shall proceed, or the accused person shall be put on his trial, as the case may require.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of section four hundred and twenty-three or section four hundred and twenty-five.

429. Whenever any person is acquitted upon the ground that, at the time at which he is charged with having committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether such person committed the act or not.

430. Whenever such finding states that the accused person committed the act charged, the Magistrate or Court of Session, before whom the trial was held, shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session seems fit, and shall report the case for the order of the Local Government.

The Local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

431. When any person is confined under the provisions of section four hundred and twenty-six or section four hundred and thirty, the Inspector-General of Prisons, if such person is confined in a jail, or the Visitors of the Lunatic Asylums or

Procedure on accused appearing before Magistrate or Court of Session.

Finding in case of acquittal on ground of being lunatic.

Person so acquitted to be kept in safe custody.

Lunatic prisoners to be visited by Inspector-General.

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any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind ; and he shall be visited once at least in every six months by such Inspector-General or by two of such Visitors as aforesaid ; and such Inspector-General or Visitors shall make a special report to the Local Government as to the state of mind of such person.

432. If such person is confined under section four hundred and twenty-six, and such Inspector-General or Visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session appoints ; and such Magistrate or Court shall deal with such person under the provisions of section four hundred and twenty-eight ; and the certificate of such Inspector-General or Visitors as aforesaid shall be receivable as evidence.

433. If such person is confined under the provisions of section four hundred and thirty, and such Inspector-General or Visitors as aforesaid certify that in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged ; or to be detained in custody ; or to be transferred to a public Lunatic Asylum, if he has not been already sent to such an Asylum ; and may appoint a commission, consisting of a judicial officer not below the grade of a Sessions Judge, and two medical officers, whereof the chief medical officer attached to the Lunatic Asylum shall be one.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government who may order his discharge, or detention as to it may seem fit.

434. Whenever any relative or friend of any person detained under the provisions of section four hundred and thirty is desirous that he shall be delivered over to his care and custody, the Local Government,

Procedure where lunatic confined under section 430 is declared capable of being discharged.
Delivery of lunatic to care of relative.

upon the application of such relative or friend and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that such person may be delivered to such relative or friend.

Whenever such person is so delivered over, it shall be upon condition that he shall be subject to the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections four hundred and thirty-one, and four hundred and thirty-three shall apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector-General of Prisons, or the Visitors of Lunatic Asylums under the said sections.

CHAPTER XXXII.

CONTEMPTS OF COURT.

435. When any such offence as is described in sections one hundred and seventy-five, one hundred and seventy-eight, one hundred and seventy-nine, one hundred and eighty, or two hundred and twenty-eight of the Indian Penal Code is committed in the view or presence of any Civil, Criminal, or Revenue Court, the Court may cause the offender, whether he be a European British subject or not, to be detained in custody; and, at any time before the rising of the Court on the same day, may take cognizance of the offence; and adjudge the offender to punishment by fine not exceeding two hundred rupees, and in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

In every such case the Court shall record the facts constituting the offence, with any statement the offender may make, as well as the finding and sentence.

If the offence is under section two hundred and twenty-eight of the Indian Penal Code, the record must show the nature and

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stage of the judicial proceeding in which such public servant was sitting, and the nature of the interruption or insult offered—

436. If the Court, in any case, considers that a person, accused of any such offence, should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Court, after recording the facts constituting the offence, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Magistrate of the first class who is a Justice of the Peace and a European British subject; and shall cause bail to be taken for the appearance of such accused person before such Magistrate, or, if sufficient bail be not tendered, shall cause such person to be forwarded under custody to such Magistrate.

If the case be forwarded to a Magistrate, he shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate; and such Magistrate may adjudge the offender to punishment, as provided in the section of the Indian Penal Code under which he is charged.

If, in the case of a European British subject, the Magistrate to whom he is forwarded considers the offence to require a more severe punishment than he is competent to award under Chapter VII of this Act, he may commit the offender to the Sessions Court.

In no case tried under this section shall any Magistrate adjudge imprisonment or a fine exceeding two hundred rupees for any contempt committed in his own presence against his own Court.

437. When any Court has adjudged an offender to punishment, or forwarded him to a Magistrate for trial for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Discharge of offender
on submission or apology.

438. When any such offence as is described in Chapter X of the Indian Penal Code (except sections one hundred and seventy-five, one hundred and seventy-eight, one hundred and seventy-nine, one hundred and eighty, and two hundred and twenty-eight) is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court by a European British subject, such offence shall be cognizable only by a Magistrate of the 1st class who is a Justice of the Peace and a European British subject; and such Magistrate may deal with the offender on conviction in the same manner as is provided in that behalf in section seventy-four.

If such Magistrate considers the offence to require a more severe punishment than he is competent to award under the said section, he may commit the offender to the Sessions Court.

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PART X.

CHARGE, JUDGMENT, AND SENTENCE.

CHAPTER XXXIII.

OF THE CHARGE.

FORM OF CHARGES.

439. The charge shall state the offence with which the accused person is charged. If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the prisoner notice of the matter with which he is charged.

The Act and section or sections of the Act against which the offence is said to have been committed must be referred to in the charge.

Procedure when offender is a European British subject.

Charge to state offence.

If the law which

Specific name of offence, sufficient statement.

If the law which

How offence stated where has no specific name.

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The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

What implied in charges.
The charge may be written either in English or in the language of the district. If not written in a language understood by the prisoner, it must be read to him in a language which he understands.

Language of charge.
If the accused person has been previously convicted of any offence, and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If it is omitted, it may be added at any time before sentence is passed, but not afterwards.

Previous conviction to be set out in charge.

Illustrations.

(a.) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception 1, one or other of the three provisos to that exception applied to it.

(b.) A is charged under section 326 of the Indian Penal Code with voluntarily causing grievous hurt to B, by means of an instrument for shooting: this is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(c.) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to on the charge.

(d.) A is charged under section 184 of the Indian Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

440. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom it was committed, as

Particulars as to time, place and person.

are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

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441. When the nature of the case is such that the particulars mentioned in sections four hundred and thirty-nine and four hundred and forty do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

When manner of committing offence must be stated.

Illustrations.

(a.) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b.) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c.) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d.) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e.) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f.) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

442. The charge may be in the form given in the third schedule to this Act or to the like effect.

443. No error either in the way in which the offence is stated or in the particulars required to be stated in section four hundred and forty-one, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Effect of errors.

Illustrations.

(a.) A is charged under section 242 of the Indian Penal Code with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit." The word "fraudu-

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lently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was in this case a material error.

(d.) A is charged with the murder of Khuda Baksh on the 21st January. In fact the murdered person's name was Haidar Baksh and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e.) A was charged with murdering Haidar Baksh on the 20th January and Khuda Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh he was tried for the murder of Khuda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

444. Any accused person may apply to the Court by which he is tried for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Court shall take into account the fact that he did or did not make such an application.

445. Any Court may, either upon the application of the accused person, or upon its own motion, amend or alter any charge at any stage of the proceedings before judgment is signed, or, in cases of trials before a Court of Session, before the verdict of the jury is delivered or the opinion of the assessors is expressed. Such amendment shall be read and explained to the accused person.

446. If a prisoner is committed to the Court of Session, either without any charge at all, or upon a charge which the Court, upon reference to the proceedings before the committing Magistrate, considers improper, the Court of Session may draw up a charge for any offence,

which it considers to be proved by the evidence taken before the committing Magistrate. A copy of such charge shall be given to the accused person.

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447. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making such amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

When trial may proceed immediately after amendment.

448. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and, after hearing his defence, the Court may further adjourn the trial, to admit of the appearance of any witness, whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

When new trial may be directed or trial suspended.

449. In all cases of amendment or alteration of a charge, the prosecutor and accused person shall be allowed to recall and examine any witness who may have been examined.

Prosecutor and accused person may recall witnesses.

450. If the offence stated in the new charge be one for which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained; unless sanction has been obtained for a prosecution on the same facts as those on which the new charge was based.

sanction to be obtained if offence requires it.

(sic.)

by Appellate Court, or the High Court in the exercise of its powers of revision, is of opinion that any person, convicted of an offence, has been misled in his defence by an error in the law, or that a new trial to be had upon a charge in any manner it thinks proper.

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If such Court is of opinion that the facts of the case are such that no valid charge could be preferred against the person accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence under section 188 of the Indian Penal Code upon a charge which omits to state that A knew that he was directed to abstain from a certain act by an order promulgated by a public servant lawfully empowered to promulgate such order. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

JOINDER OF CHARGES.

452. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately except in the cases hereinafter excepted.

Separate charges for distinct offences.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

453. When a person is accused of more offences than one of the same kind committed within one year of each other, he may be charged and tried at the same time for any number of them not exceeding three.

More offences than one of same kind may be charged within a year of each other.

EXPLANATION.—Offences are said to be of the same kind under this section if they fall within the provisions of section four hundred and fifty-five.

454. I.—If in one set of facts so connected as to form the same transaction more than one offence is committed, he may be charged with and tried for every one of them at the same time.

I.—Trial of more than one offence.

II.—If a single act falls within the provisions of any law, in force at the time of the commission of which offence is committed by a person who

II.—One offence falling within two definitions.

each of the offences so committed, but he must not receive a more severe punishment than could be awarded, by the Court which tries him, for either.

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III.—If several facts, of which one or more than one would by itself constitute an offence, form, when combined, an offence under the provisions of any law in force for the time being, by which offences are defined or punished, a person who does them may be charged with every offence which he may have committed, but he must not receive for such offences, collectively, a punishment more severe than that which might have been awarded, by the Court trying him, for any one of such offences, or for the offence formed by their combination.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

Illustrations.

To paragraph I.

(a.) A rescues B, a person in lawful custody, and causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of and punished for offences under sections 225 and 333, Indian Penal Code.

(b.) A has in his possession several counterfeit seals with the intention of committing several forgeries. A may be separately charged with, convicted of and punished for the possession of each seal for a distinct forgery, under section 473, Indian Penal Code.

(c.) A, with intent to cause injury to B, institutes proceedings against him, knowing there is no just or lawful ground for such proceedings. A also falsely charges B with having committed an offence. A may be separately charged with, convicted of and punished for two offences under section 211, Indian Penal Code.

with intent to injure B, brings a false charge against him of having committed an offence. On the trial, A gives false evidence against B. A may be separately charged with, convicted of and punished for offences under sections 194 or 195, Indian Penal Code.

knowing that B, a female minor, has been kidnapped, wrongfully detains her as a slave. A may be separately charged with, convicted of and punished for offences under section 368 (read with 367) and section 369, Indian Penal Code.

A, who has procured others, commits the offences of rioting, grievous hurt and kidnapping, and a servant engaged in suppressing the riot. A may be separately charged with, convicted of and punished for offences under sections 147, 148, 149, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, Indian Penal Code.

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(g.) A criminally intimidates B, C and D at the same time. A may be separately charged with, convicted of and punished for each of the three offences under section 506, Indian Penal Code.

(h.) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of and punished for three offences under section 302, Indian Penal Code.

To paragraph II.

(i.) A commits mischief by cutting down a tree in a Government forest. The tree overhangs the bank of a river and falls into the stream. A commits theft by having severed the tree and by floating it down the river to his village, where he sells it. A may be separately charged with and convicted of offences under sections 426 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 379 only.

(j.) A wrongfully strikes B with a cane. A may be separately charged with and convicted of offences under sections 352 and 323 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 323 only.

(k.) A wrongfully kills a buffalo worth sixty rupees, belonging to B, and then takes away the carcase in a manner amounting to theft. A may be separately charged with and convicted of offences under sections 429 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 429 only.

(l.) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with and convicted of offences under sections 411 and 414, Indian Penal Code, but the Court which tries them may not inflict a severer sentence than if it had convicted them under one of those sections only.

(m.) A uses a forged document in evidence in order to convict a servant, of an offence under section 167. A may be separately charged with and convicted of offences under sections 471 (read with 466) and Indian Penal Code; but the Court which tries him may not inflict a sentence than if it had convicted him under one of those sections.

To paragraph III.

(n.) A commits house-breaking by day with intent to commit a crime and commits, in the house so entered, adultery with B's wife. A may be separately charged with and convicted of offences under sections 449 and 497, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 497 only.

(o.) A robs B, and, in doing so, voluntarily causes hurt to B. A may be separately charged with and convicted of offences under sections 379 and 394 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 394 only.

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(p.) A entices B, the wife of C, away, and then commits adultery with her. A may be separately charged with and convicted of offences under sections 498 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

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455. If a single act or set of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed any such offence; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustration.

A is accused of an act which may amount to either theft, receiving stolen property, criminal breach of trust, or cheating. He may be charged separately with theft, criminal breach of trust, and cheating, or he may be charged with having committed either theft or criminal breach of trust or cheating.

456. If in the case mentioned in the last section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, though he was not charged with it.

When a person charged with one offence he can be convicted of another.

Illustration.

A is charged with theft. It appears that he committed criminal breach of trust in receiving stolen goods. He may be convicted of criminal breach of trust in receiving stolen goods, though he was not charged with it.

When a person is charged with an offence and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence proved to have committed, though he was not charged with it.

When a charge is not proved, but the part which is proved amounts to a different offence.

Illustrations.

A is charged under section 407, Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he committed criminal breach of trust under section 406 in respect of property which was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

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(b.) A is charged with murder. He may be convicted of culpable homicide or of causing death by negligence.

458. When more persons than one are accused of the same offence, or of different offences, committed in the same transaction, or when one person is accused of committing any offence and another of abetment of or attempt to commit such offence, they may be charged and tried together or separately, as the Court thinks proper, and the provisions hereinbefore contained shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(a.) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(b.) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(c.) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

459. In trials before a Court of Session or High Court, when more charges than one are preferred against the same person, and a conviction has been had on one of them, the Government Pleader or other officer conducting the prosecution may, with the consent of the Court, with the Court of its own accord may suspend, the inquiry into the remaining charge or charges.

Withdrawal of remaining charges on conviction on one of several charges.

PREVIOUS ACQUITTALS OR CONVICTIONS

460. A person who has once been tried for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again on the same facts for the same offence, or for any offence which is an offence in law as well as in fact, or for which a different charge from the one for which he might have been made under section four hundred and fifty-six.

Person once convicted or acquitted not to be tried for same offence.

A person, convicted or acquitted of any offence, may be afterwards tried for any offence, for which a separate charge might have been made against him on the former trial under section four hundred and fifty-four, paragraph I.

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A person acquitted or convicted of any offence in respect of any act causing consequences which, together with such act, constituted a different offence from that for which such person was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence in respect of any facts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence which he may have committed in respect of the same facts, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(a.) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged upon the same facts either with theft as a servant, with theft simply, or with criminal breach of trust.

A is tried upon a charge of murder and acquitted. There is no robbery; but it appears from the facts that A committed robbery when the murder was committed; he may afterwards be charged with robbery.

A is tried upon a charge of assault and convicted. The person afterwards dies, and A is tried for culpable homicide.

A is tried upon a charge of spreading a disease dangerous to the public health under section 270 of the Indian Penal Code, for maliciously spreading the infection of a disease dangerous to the public health.

The act so done afterwards causes a person permanent injury. A may be charged under section 325 with voluntary hurt to that person.

A is tried before the Court of Session and convicted of the culpable homicide. A may not afterwards be tried for the murder of B on the same facts.

A is tried before a Magistrate of the first class with, and convicted of, voluntarily causing hurt to B. A may not afterwards be tried for the murder of B on the same facts, unless the case

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(g.) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with and tried for robbery on the same facts.

(h.) A, B, and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B, and C may afterwards be charged with and tried for dacoity on the same facts.

CHAPTER XXXIV.

OF THE JUDGMENT, ORDER, AND SENTENCE.

461. When the trial in any Criminal Court is concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the section of the Indian Penal Code or other law under which, he is convicted;

or if it be doubtful under which of two sections, or under which of two parts of the same section such offence falls, the Court shall distinctly express the same, and pass judgment in the alternative, according to section seventy-two of the said Code.

462. In trials with assessors, when the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment shall be pronounced in open Court either on some future day, of which due notice shall be given to the parties or their pleaders.

463. The judgment or be written by the president of the Court in English or the district.

If the language of the Judge be not English, the judgment shall not be written in the vernacular language unless the Judge be sufficiently familiar with that language to be able to write the decision in that language.

464. The judgment or final order shall contain the points for determination upon, and the reasons therefor.

shall be dated and signed by the Judge in open Court at the time of pronouncing it. When a judgment or final order has been so signed, it cannot be altered or reviewed by the Court which gives such judgment or order. It shall specify the offence of which the accused person is convicted, and the punishment to which he is sentenced; or, if it be a finding of acquittal, it shall direct that he be set at liberty.

The judgment or order shall be explained to the accused person, or person affected by it; and a copy shall be given him in his own language as soon as possible.

The original shall be filed with the record of proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in the district, shall be incorporated in the record of the case.

Judgment to be translated.

In trials by Jury the Court need not state its reasons for its judgment, but shall record the heads of the charge to the Jury.

If the Judge differ from the Jury and determine to submit the case to the High Court, he shall record the grounds of his opinion.

Nothing contained shall prevent any Court from recalling an order other than a final order.

No error or defect in any judgment shall invalidate the proceedings.

CHAPTER XXXV.

PROSECUTIONS IN CERTAIN CASES.

465. A complaint of an offence punishable under Chapter VI of the Indian Penal Code, except section one hundred and twenty-seven, or punishable under section two hundred and ninety-four A of the said Code, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, Governor-General of India in Council, or the Local Government or some officer empowered by the Governor-General in Council to order or authorize such prosecution, or as instituted by the Advocate-General.

Prosecutions for offences against the State.

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466. A complaint of an offence committed by a public servant in his capacity as such public servant, of which any Judge or any public servant not removeable from his office without the sanction of the Government is accused as such Judge or public servant, shall not be entertained against such Judge or public servant, except with the sanction or under the direction of the Local Government, or of some officer empowered by the Local Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the Local Government shall not think fit to limit or reserve.

No such Judge or public servant shall be prosecuted for any act purporting to be done by him in the discharge of his duty unless with the sanction of Government.

The sanction must be given before the commencement of the proceedings.

The Local Government may limit the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial is to be held.

467. A complaint of any offence described in section X of the Indian Penal Code, not falling within section four hundred and thirty-five or four hundred and thirty-six of this Act shall not be entertained in any Criminal Court except with the sanction or on the complaint of the public servant concerned, or of his official superior.

The prohibition contained in this section shall not apply to the offences described in sections one hundred and eighty-nine and one hundred and ninety of the Indian Penal Code.

468. A complaint of an offence against public justice, described in section one hundred and ninety three, one hundred and ninety-four, one hundred and ninety-five, one hundred ninety-six, one hundred and ninety-nine, two hundred, two hundred and five, two hundred and six, two hundred and seven, two hundred and eight, two hundred and nine, two hundred

Prosecution for certain offences against public justice.

ten, two hundred and eleven, or two hundred and twenty-eight of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

469. A complaint of an offence relating to documents described in section four hundred and sixty-three, four hundred and seventy-one, four hundred and seventy-five, or four hundred and seventy-six of the Indian Penal Code, when the document has been given in evidence in any proceedings in any Civil or Criminal Court, shall not be entertained against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

470. The sanction referred to in sections four hundred and sixty-seven, four hundred and sixty-eight, and four hundred and sixty-nine, may be expressed in general terms, and need not name the accused person.

Prosecution for certain offences relating to documents given in evidence.
Nature of sanction necessary.

Such sanction may be given at any time, and a sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Court to amend the charge to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

EXPLANATION.—In cases under this chapter, the report or application of the public servant or Court shall be deemed sufficient complaint.

471. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for inquiring into any charge mentioned in sections four hundred and sixty-seven, four hundred and sixty-eight, and four hundred and sixty-nine, such Court, after making such preliminary inquiry as may be necessary, may either commit the case itself, or may send the case for inquiry

Procedure in cases mentioned in sections 467, 468, and 469.

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to any Magistrate having power to try or commit for trial the accused person for the offence charged.

Such Magistrate shall thereupon proceed according to law; and the Court may send the accused person in custody or take sufficient bail for his appearance before such Magistrate; and may bind over any person to appear and give evidence on such trial or inquiry.

The Magistrate receiving the case may, if he is authorized to make transfers of cases, transfer the inquiry to some other competent Magistrate instead of completing the inquiry himself.

472. A Court of Session may charge a person for any such offence committed before it or under its own cognizance, if the offence be triable by the Court of Session exclusively, and may commit or hold to bail and try such person upon its own charge.

Power of Court of Session as to such offences committed before itself.

In such case the Court of Session shall have the same power of summoning, and causing the attendance at the trial of any witnesses for the prosecution or for the defence, as is vested in a Magistrate by this Act.

Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

473. Except as provided in sections four hundred and thirty-five, four hundred and thirty-six, and four hundred and seventy-two, no Court shall try any person for an offence committed in contempt of its own authority.

Offences in contempt of Court how to be disposed of.

474. In any case triable by the Court of Session exclusively, any Civil Court, before which such offence was committed, may, instead of sending the case for inquiry to a Magistrate, complete the inquiry itself, and commit or hold to bail the accused person to take his trial before the Court of Session.

Power of Civil Courts to complete investigation and commit to Court of Session.

For the purposes of an inquiry under this section, the Civil Court may exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be deemed to have been held by a Magistrate.

If a Civil Court sends a case for inquiry and commitment to a Magistrate he is bound to receive and dispose of it; but if a Civil Court makes a commitment it shall complete the inquiry itself.

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475. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinbefore provided, and shall send the same with the order of commitment and the record of the case to the Magistrate of the District or other Magistrate of the 1st class; and such Magistrate shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

476. Whenever any Court of Session or Civil Court commits or holds to bail any person for trial under sections four hundred and seventy-two, four hundred and seventy-four, or four hundred and seventy-five, it may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

Procedure of Civil Court in such cases.

Court may exercise all powers of Magistrate as to binding over persons to give evidence.

477. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, he shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he thinks fit.

478. A complaint of an offence under section four hundred and ninety-seven of the Indian Penal Code shall not be instituted except by the husband of the woman, or by any person under whose care she was living at the time when the adultery was committed.

Prosecution for adultery.

479. A complaint of an offence under section four hundred and ninety-eight of the Indian Penal Code shall not be instituted, except by the husband of the woman or by the person having care of such woman on behalf of her husband.

Prosecution for enticing away a married woman.

If a Civil Court sends a case for inquiry and commitment to a Magistrate he is bound to receive and dispose of it; but if a Civil Court makes a commitment it shall complete the inquiry itself.

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475. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinbefore provided, and shall send the same with the order of commitment and the record of the case to the Magistrate of the District or other Magistrate of the 1st class; and such Magistrate shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

476. Whenever any Court of Session or Civil Court commits or holds to bail any person for trial under sections four hundred and seventy-two, four hundred and seventy-four, or four hundred and seventy-five, it may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

477. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, he shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he thinks fit.

478. A complaint of an offence under section four hundred and ninety-seven of the Indian Penal Code shall not be instituted except by the husband of the woman, or by any person under whose care she was living at the time when the adultery was committed.

479. A complaint of an offence under section four hundred and ninety-eight of the Indian Penal Code shall not be instituted, except by the husband of the woman or by the person having care of such woman on behalf of her husband.

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PART XI.

PREVENTIVE JURISDICTION OF MAGISTRATES.

CHAPTER XXXVI.

OF THE DISPERSION OF UNLAWFUL ASSEMBLIES.

480. Any Magistrate or officer in charge of a Police-station may command any unlawful assembly or any assembly of five or more persons, likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

481. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a Police-station may proceed to disperse such assembly by force, and may require the assistance of any person, other than any European or Native Troops of Her Majesty acting as such, for the purpose of dispersing it, and arresting the persons who form part of it.

482. If an unlawful assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank, who is present, may cause it to be dispersed by Military force.

483. No Magistrate shall be held to commit any offence by ordering the dispersion by Military force of any assembly, the dispersion of which he regards, on reasonable grounds and in good faith, as necessary to the public security.

484. When a Magistrate determines to disperse an assembly by Military force, he may require any officer in command of any of Her Majesty's Troops, whether European or Native, to disperse such assembly by such force; and it shall be the duty of every such officer to obey every such requisition in such manner as in his discretion appears proper; but in doing so he shall use as little force and do as little injury to person and

Assembly to disperse
on command of Magis-
trate or Police officer.

Use of force to disperse.

When use of Military
force is not an offence.

Duty of officer com-
manding troops required
by Magistrate to disperse
assembly.

property as is consistent with dispersing the assembly and arresting and detaining such persons as he may be directed by the Magistrate to arrest and detain, or as it may be necessary to arrest and detain for the purpose of dispersing the assembly.

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485. No officer, obeying any such requisition, shall be held to have committed any offence by any act done by him in good faith in order to comply with it.

What acts done in obeying requisition not an offence.

486. No inferior officer or private soldier shall be held to have committed any offence by any act done for the dispersion of any such assembly in obedience to any order, which he was bound by the Mutiny Act or by the Indian Articles of War to obey.

Acts of inferior officers and soldiers done in obedience to order not an offence.

487. When the public security is manifestly endangered by an unlawful assembly, and when no Magistrate can be communicated with, any Commissioned Officer of Her Majesty's

Duty of Queen's officers to suppress assembly.

European or Native Forces may disperse any such assembly by military force; and in doing so, he shall have the same protection as a Magistrate, and all officers and soldiers acting under his orders shall have the protection mentioned in section four hundred and eighty-six; but as soon as such Commissioned Officer can communicate with any Magistrate, it is his duty to do so.

488. No prosecution against any Magistrate, officer or soldier for any act done under the provisions contained in sections four hundred and eighty-one, four hundred and eighty-two, four hundred and eighty-four, and four hundred and eighty-seven shall be instituted in any Criminal Court except with the sanction of the Government of India, or the Government of Madras or Bombay.

Sanction required to prosecutions for acts done under sections 481, 482, 484, and 487.

CHAPTER XXXVII.

OF SECURITY FOR KEEPING THE PEACE.

489. Whenever a person, accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with

Personal recognizance to keep the peace in cases of conviction.

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the evident intention of committing the same, is convicted of such offence before a Court of Session, or Magistrate of a division of a District, or Magistrate of the first class,

and the Court or Magistrate, by which or by whom such person is convicted, or the Court or Magistrate, by which or by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require such person to give a personal recognizance for keeping the peace,

such Court or Magistrate may, in addition to any other order passed in the case, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by a Magistrate, or three years if the sentence or final order be passed by a Court of Session, with a provision that if the same be not given the person required to enter into the engagement shall be kept in simple imprisonment for any time not exceeding one year if the order be passed by a Magistrate, or three years if the order be passed by the High Court or by a Court of Session, unless within such period such person execute such formal engagement as aforesaid.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance, and the imprisonment in default of executing such recognizance, shall commence when he is released on the expiration of his sentence.

When any accused person is convicted of any offence specified in this section by a Magistrate neither in charge of a division of a District nor of the 1st class, such Magistrate, if he considers it just and necessary to require a personal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, the Magistrate of the division of the District, or to a Magistrate of the first class to whom such Magistrate is subordinate; and the Magistrate to whom the case is so reported shall deal with the case as if the conviction had been before himself.

Where convicting officer is not in charge of division of district nor a Magistrate of 1st class.

In any case where the order is not made at the time of signing, or by the Court which signs the judgment, the convict must be produced before the Magistrate who adds the order to enter into a personal recognizance to the original sentence.

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490. Whenever it appears necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, the Court or Magistrate, empowered to require a personal recognizance, may require security in addition thereto, and may fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in simple imprisonment for any time not exceeding one year if the order be passed by the Magistrate of the District, Magistrate of a division of a District, or by a 1st Class Magistrate, or three years if the order be passed by the High Court or by a Court of Session.

491. Whenever a Magistrate of a division of a District, or a Magistrate of the 1st class, receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace, with or without sureties, as such Magistrate thinks fit.

EXPLANATION I.—A summons, calling on a person to show cause why he should not be bound over to keep the peace, may be issued on any report or other information which appears credible, and which the Magistrate believes; but the Magistrate cannot bind over a person until he has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may recall a summons issued under this section if he thinks proper.

492. Such summons shall set forth the substance of the report or information on which it is issued, the amount of the bond, and the term for which it is to be in force, and, if security is called for, the

Security to keep the peace.

Summons to any person to show cause why he should not give bond to keep peace.

Form of summons.

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number of sureties required, and the amount in which they are to be bound respectively; and the time and place at which the person summoned is required to attend.

EXPLANATION.—When the parties are present in Court no summons is necessary, but the person to whom a summons would have been issued must have an opportunity to show cause why he should not be bound.

493. The bond shall be in the Form (E), given in the second schedule, or to the like effect; and its penalty shall be fixed with a due regard to the circumstances of the case and the means of the party.

The amount in which the sureties shall be bound shall not exceed the penalty named in the bond.

494. If the person summoned does not attend at the time and place named in the summons on the day appointed, such Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest.

Provided that, whenever it appears to such Magistrate, upon the report of a Police officer or upon other credible information (the substance of which report or information shall be recorded), that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, the Magistrate may at any time issue a warrant for his arrest.

495. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against, under section four hundred and ninety-one, and may permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

496. If on the appearance of such person informed against, or of his agent, if he is permitted to appear by agent, the Magistrate is not satisfied that there is occasion to bind such person to keep the peace, the Magistrate shall direct his discharge.

497. If the Magistrate is satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if such person fails to comply with the order, the Magistrate may order him to be kept in simple imprisonment until he furnish the same.

498. The period for which the Magistrate may bind a person to keep the peace with or without security, shall not exceed one year.

When a person is imprisoned under section four hundred and ninety-seven, he shall not be detained by authority of the Magistrate beyond the term of one year, and shall be released whenever, within that term, he complies with the order.

499. Whenever it appears to the Magistrate that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the Court of Session.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize the Magistrate to extend the term for a further period not exceeding one year.

If such person fails to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate under the orders of the Court of Session directs, he may be kept in simple imprisonment for such further period, or until, within that period, he gives such bond.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section four hundred and ninety-one.

500. The Magistrate of the District may, if he see sufficient cause, discharge any recognizance and surety for keeping the peace taken by him, or by any Magistrate subordinate to him, or by his predecessor

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under the preceding sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

501. A surety for the peaceable conduct of another person may at any time apply to the Magistrate to be relieved from his engagement as surety.

Discharge of sureties.

On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound may appear or be brought before him.

On the appearance of the person to such warrant or on his voluntary surrender, the Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon such person to give fresh security, and in default thereof shall order him to be kept in simple imprisonment.

502. Whenever it is proved before the Magistrate that any recognizance or other bond taken under this chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by such recognizance or bond to pay the penalty thereof, or to show cause why it should not be paid.

Recovery of penalty from principal.

If sufficient cause be not shown, and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any of the moveable property belonging to the person bound by such recognizance or bond.

Such warrant may be executed within the jurisdiction of the Magistrate of the District in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person bound without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such person shall be liable to imprisonment by order of the Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person bound has had an opportunity of showing cause and until the breach of the conditions has been proved.

The commission or attempt to commit or abetment of any offence whatever and wherever it may be committed is a breach of the bond.

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Proceedings under this chapter may be taken either in the district in which the breach of the peace is apprehended, or where an offence has been committed in breach of the bond, or in any district where the person it is desired to bind may be.

503. Whenever it is proved before the Magistrate that any bond with a surety has been forfeited, the Magistrate may, at his discretion, give notice to the surety to pay the penalty, to which he has thereby become liable, or to show cause why it should not be paid.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

CHAPTER XXXVIII.

OF SECURITY FOR GOOD BEHAVIOUR.

504. Whenever it appears to the Magistrate of the District, or to a Magistrate of the 1st class, that any person is lurking within his jurisdiction, or that there is within his jurisdiction a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may require such security for such person's good behaviour for a period not exceeding six months as to him may appear good and sufficient.

If in any case under this or the two following sections the person to be bound is under sentence for an offence, he must be brought up on or after the expiration of his sentence for the purpose of being bound.

If a Sessions Judge, or Magistrate of the 2nd or 3rd class, considers, from evidence taken in any proceedings before him, that any person should be required to enter into a bond

When Magistrate may require security for good behaviour for six months.

Binding of sentenced person.

When Sessions Judge or unauthorized Magistrate thinks a person should be bound.

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to be of good behaviour, he may send such person in custody to a competent Magistrate.

A Magistrate in charge of a Division of a District, exercising the powers of a Magistrate of the 2nd class, may make any inquiry necessary under this chapter, and may submit his proceedings to the Magistrate of the District, who may pass such order on them, either directing the person whose character was inquired into to furnish security or not, as he thinks fit.

Powers of Magistrate of Division of District being a Magistrate of the 2nd class to inquire.

ing the powers of a Magistrate of the 2nd class, may make any inquiry necessary under this chapter, and may submit

505. Whenever it appears to such Magistrate from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker, or thief,

When Magistrate may require security for good behaviour for one year.

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood, or is a dangerous character, such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

506. Whenever it appears to such Magistrate from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief,

Procedure where security required for more than one year.

or a receiver of stolen property, knowing the same to have been stolen,

or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year, hazardous to the community,

he shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number, character, and class of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour, and if such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the Court of Session.

507. If a person required to furnish security, under the provisions of the last preceding section, does not furnish the same, or offers sureties whom

Proceedings to be laid before Court of Session

the Magistrate sees fit to reject, the proceedings shall be laid, as soon as conveniently may be, before the Court of Session.

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Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass orders on the case, either confirming, modifying or annulling the orders of such Magistrate as it thinks proper.

508. If the Court of Session does not think it safe to direct the immediate discharge of such person, it shall fix a period for his detention, not exceeding three years, in the event of his not giving the security required from him.

Court of Session may require security for period not exceeding three years.

509. Whenever security for good behaviour is required by the Court of Session or by a Magistrate, the amount, the security, the number and description of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security shall be stated in the order.

Contents of order for security.

The security-bond shall be in the Form (G) given in the second schedule, or to the like effect.

510. In the event of any person, required to give security under the provisions of this chapter, failing to furnish the security so required, he shall be committed to prison until he furnish the same.

Imprisonment in default of security.

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Term of imprisonment.

Imprisonment under this section may be rigorous or simple, as the Court or Magistrate in each case directs.

511. The Magistrate of the District may at any time exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order, or that of his predecessor in office, or by the order of any officer subordinate to him, provided he is of opinion that such person can be released without hazard to the community.

Release of prisoners under requisition of security.

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512. Whenever the Magistrate of the District is of opinion, that any person confined under requisition of security for good behaviour by order of a Court of Session can be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of such Court of Session.

513. A surety for the good behaviour of a person may at any time apply to a competent Magistrate to be relieved from his engagement as such surety.

On such application being made, such Magistrate shall issue his summons or warrant in order that such person may appear or be brought before him.

On the appearance of such person pursuant to such summons or warrant, or on his voluntary surrender, such Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon the person so appearing or surrendering to give fresh security, and, in default thereof, shall commit him to custody.

514. Whenever a competent Magistrate is of opinion that, by reason of an offence, proved to have been committed by a person, for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, such Magistrate shall give notice to the surety to pay the penalty, or to show cause why it should not be paid.

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

If such penalty be not paid, and cannot be recovered by such attachment and sale, the surety shall be liable to imprisonment by order of such Magistrate in the civil jail for a period not exceeding six months.

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515. The provisions of sections four hundred and ninety-two and four hundred and ninety-four, relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, when such party is not in custody, shall apply to proceedings taken under this chapter against persons required to give security for their good behaviour.

Proceedings may be taken under this chapter against persons amenable to its provisions, in any district where they may be.

Any evidence, taken under Chapter XXXVII or this chapter, shall be taken as in cases usually heard by a Magistrate upon summons.

Any previous conviction against the person to be bound may be proved on proceedings held under this chapter.

516. A Magistrate may refuse to accept any surety offered under this chapter on the ground that such surety is an unfit person.

517. The provisions of this chapter shall not apply to European British subjects.

CHAPTER XXXIX.

LOCAL NUISANCES.

518. A Magistrate of the District, or a Magistrate of a division of a District, or any Magistrate specially empowered, may, by a written order, direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, whenever such Magistrate considers that such direction is likely to prevent, or tends to prevent,

Magistrate may issue orders to prevent obstructions, danger to human life, or riots.

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obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, or danger to human life, health, or safety, or a riot or an affray.

EXPLANATION I.—This section is intended to provide for cases where a speedy remedy is desirable and where the delay, which would be occasioned by a resort to the procedure contained in section five hundred and twenty-one and the next following sections, would, in the opinion of the Magistrate, occasion a greater evil than that suffered by the person upon whom the order was made, or would defeat the intention of this chapter.

EXPLANATION II.—An order may, in cases of emergency or in cases where the circumstances do not admit of the serving of notice, be passed *ex parte*, and may in all cases be made upon such information as satisfies the Magistrate.

EXPLANATION III.—An order may be directed to a particular individual, or to the public generally, when frequenting or visiting a particular place.

EXPLANATION IV.—Any Magistrate may recall or alter any order made under this section by himself or by his predecessor in the same office.

519. A Magistrate of the District, or a Magistrate of a division of a District, or any Magistrate specially empowered, may enjoin any person not to repeat or continue a public nuisance, as defined in section two hundred and sixty-eight of the Indian Penal Code or under any Local or Special Law.

520. Orders made under sections five hundred and eighteen and five hundred and nineteen are not judicial proceedings.

521. Whenever a Magistrate of the District or a Magistrate of a division of a District, or, when empowered by the Local Government in this behalf, a Magistrate of the 1st class, considers that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place,

or that any trade or occupation, by reason of its being

Magistrate may prohibit repetition or continuance of public nuisances.

Orders not judicial proceedings.

Magistrate may order removal of nuisances.

injurious to the health or comfort of the community, should be suppressed or should be removed to a different place,

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or that the construction of any building, or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented,

or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary,

or that any tank or well adjacent to any public thoroughfare should be fenced in such a manner as to prevent danger arising to the public—

such Magistrate may issue an order to the person causing such obstruction or nuisance, or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank, or well as aforesaid, calling on him, within a time to be fixed in the order,

to remove such obstruction or nuisance,

or to suppress or remove such trade or occupation,

or to stop the construction of such building,

or to remove it,

or to alter the disposal of such substance,

or to fence such tank or well, as the case may be,

or to appear before himself or some other Magistrate of the 1st or 2nd class within the time mentioned in the order, and show cause why such order should not be enforced.

The issue of an order under this section shall be a judicial

Order to be a judicial proceeding. proceeding whether or not evidence is taken therein.

Such order may be issued on a report or other information

Order to be in the alternative. which the Magistrate believes, and shall direct the person to whom it is addressed

either to obey it or to show cause why it should not be obeyed. The order shall not be made absolute, except as is hereinafter provided, until opportunity has been given to the person affected to show cause.

EXPLANATION.—A “public place” includes property belonging to the State, camping grounds, and grounds left unoccupied for sanitary and recreative purposes.

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522. The order mentioned in section five hundred and twenty-one shall, if practicable, be served personally on the person to whom it is issued.

Service or notification of order. But if personal service is found to be impracticable, such order shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person.

523. The person, to whom such order is issued, shall be bound, within the time specified in the order, to obey the same; or to appear before the Magistrate before whom he was required by the order to appear and show cause as aforesaid; or he may apply to such Magistrate for an order for a jury to be appointed to try whether such order is reasonable and proper.

Person ordered shall obey or may claim a jury. On receiving such application, such Magistrate shall forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant.

Constitution of jury. The execution of the order shall be suspended pending such inquiry, and the Magistrate who issued the order or before whom the applicant appears shall be guided by the decision of the jury, which shall be according to the opinion of the majority.

Suspension of order. If the applicant by neglect or otherwise prevents, or if he does not claim the appointment of a jury, or if from any cause the jury so appointed do not decide and report within a reasonable time, the Magistrate may pass such order as he thinks proper, which order shall be carried out in the manner hereinafter provided.

When order may be made absolute. The time within which the report is to be made shall be fixed by the Magistrate in the order for the appointment of the jury, and may from time to time be extended by him. When the jury have made their report, the order of the Magistrate must be founded thereon, except in cases falling under section five hundred and twenty-eight.

Report of jury and order thereon.

524. Such Magistrate may summon so many jurors as may be necessary, and such persons shall be bound to attend and make their inquiry and report.

Attendance of jury.

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Any juror failing to attend or neglecting his duty as a juror shall be liable to be dealt with under section one hundred and seventy-four of the Indian Penal Code.

525. If the person, to whom the order, mentioned in section five hundred and twenty-one, is issued, appears to show cause against the same, as hereinafter provided, the Magistrate shall take evidence in the matter, but if he does not appear or does not obey the order,

Procedure in case of disobedience or neglect by person ordered.

or apply for a jury within the time specified in such order,

he shall be liable to the penalty prescribed in that behalf in section one hundred and eighty-eight of the Indian Penal Code ;

and the Magistrate who issued such order may proceed to carry it into execution at the expense of such person, and may realize such expenses, either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of such moveable property of such person within or without his jurisdiction. If such property is without his jurisdiction, the order shall authorize its attachment and sale when endorsed by the Magistrate in whose jurisdiction the goods are attached.

No suit shall lie in respect of anything necessarily or reasonably done in carrying out the provisions of this section.

525. If, in a case referred to a jury, the jury find that the order of the Magistrate is reasonable and proper, as originally made, or subject to a modification which the Magistrate accepts, the Magistrate who issued the order, or before whom cause was shown, shall give notice of such finding to the person to whom the order was issued, and shall add to such notice an order to obey the aforesaid order, within a time to be fixed in the notice, and an intimation that, in case of disobedience, such person will be liable to the penalty provided by section one hundred and eighty-eight of the Indian Penal Code.

Procedure where jury finds Magistrate's order to be reasonable.

If such latter order is not obeyed, the Magistrate may proceed as in section five hundred and twenty-five.

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527. If the person, to whom the order of the Magistrate, under section four hundred and twenty-one, is issued, appears and shows cause against it so as to satisfy the Magistrate who issued it that it is not reasonable and proper, no further proceedings shall be taken in the case.

528. If the Magistrate who issued the order considers that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person to whom the order under section five hundred and twenty-one was issued, as is required to obviate or prevent such danger or injury, whether a jury is to be, or has been, appointed or not.

In default of such person forthwith taking all necessary measures ordered to be taken by such injunction, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything necessarily or reasonably done for that purpose.

529. Nothing in this chapter shall interfere with the provisions of section forty-eight of Act No. XXIV of 1859 (*for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), or of section thirty-four of Act No. V of 1861 (*for the regulation of Police*), or of section sixteen of Act No. VIII of 1867 (*for the regulation of the District Police in the Presidency of Bombay*), of the Governor of Bombay in Council.

Saving of certain statutory provisions.

CHAPTER XL.

POSSESSION.

530. Whenever the Magistrate of the District, or a Magistrate of a division of a District or Magistrate of the 1st class, is satisfied that a dispute, likely to induce a breach of the peace, exists concerning any land or the bound-

Magistrate how to proceed if any dispute concerning land, &c., is likely to cause breach of the peace.

aries of any land, or concerning any houses, water, fisheries, crops or other produce of land, within the limits of his jurisdiction,

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such Magistrate shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person or by agent, within a time to be fixed by such Magistrate, and to give in a written statement of their respective claims, as respects the fact of actual possession of the subject of dispute.

Such Magistrate shall, without reference to the merits of the claims of any party to a right of possession, proceed to inquire and decide which party is in possession of the subject of dispute.

Party in possession to be continued until ousted by due course of law.

After satisfying himself upon that point, he shall issue an order declaring the party or parties to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time.

EXPLANATION.—Such Magistrate may satisfy himself of the existence of a dispute likely to induce a breach of the peace from a report or other information; but the question of possession must be decided on evidence taken before him.

531. If such Magistrate decides that neither of the parties is in possession, or is unable to satisfy himself as to which person is in possession of the subject of dispute, he may attach it, until a competent Civil Court shall have determined the right of the parties, or who ought to be in possession.

If previous possession cannot be ascertained, Magistrate may attach subject of dispute.

532. If a dispute arise concerning the right of use of any land or water, or any right of way, such Magistrate, within whose jurisdiction the subject of dispute lies, may inquire into

Disputes concerning the use of land or water.

the matter, and if it appears to him that the subject of dispute is open to the use of the public, or of any person or of any class of persons, such Magistrate may order that possession thereof shall not be taken or retained by any one to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the person claiming such

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possession shall obtain the decision of a competent Civil Court, adjudging him to be entitled to such exclusive possession.

Provided that such Magistrate shall not pass any such order, if the matter be such that the right of use is capable of being exercised at all times of the year, unless such right has been ordinarily exercised within three months from the date of the institution of the inquiry; or, in cases where the right of use exists at particular seasons, unless such right has been exercised during the last of such seasons before the complaint.

533. Whenever a local inquiry is necessary for the purposes of this chapter, any Magistrate of the 1st class may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such instructions, consistent with the law for the time being in force, as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

534. Whenever, in any Criminal Court, a person is convicted of an offence attended with criminal force, and it appears to such Court that by such criminal force any person has been dispossessed of any immovable property, the Court may order such person to be restored to possession.

No such order shall prejudice any right over such immovable property which any person may be able to show in a civil suit.

535. Nothing in this chapter shall affect the powers of a Collector, or a person exercising the powers of a Collector or of a Revenue Court.

CHAPTER XLI.

OF THE MAINTENANCE OF WIVES AND FAMILIES.

536. If any person, having sufficient means, neglects or refuses to maintain his wife, or legitimate or illegitimate child unable to maintain himself, the Magistrate of the District, or a Magistrate of a Division of a District or a Magistrate of the 1st class may, upon due

proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his wife or such child at such monthly rate, not exceeding fifty rupees in the whole, as to such Magistrate seems reasonable.

Such allowance shall be payable from the date of the order.

If such person wilfully neglects to comply with this order, such Magistrate may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; and may order such person to be imprisoned with or without hard labor for any term not exceeding one month for each month's allowance remaining unpaid:

Enforcement of order.

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Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

Proviso.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by consent.

537. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section five hundred and thirty-six, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he deems fit, provided the total sum of rupees fifty a month be not exceeded.

Alteration in allowance.

538. A copy of the order of maintenance shall be given to the person for whose maintenance it is made or to the guardian of such person; and shall be enforceable by any Magistrate in any place where the person to whom the order is addressed may be, on the Magistrate being satisfied as to the identity of the parties and the non-payment of the sum claimed.

Enforcement of order.

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PART XII.

MISCELLANEOUS PROVISIONS.

CHAPTER XLII.

MISCELLANEOUS.

539. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Court.

Procedure in miscellaneous criminal cases and proceedings.

540. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure of the Magistrates or Commissioners of Police, or the Police in the Presidency towns, except so far as this Act expressly provides for the same.

Saving of jurisdiction of Presidency Police Magistrates.

541. Nothing in this Act shall be held to alter or affect—

Saving of jurisdiction and procedure of Landholders, Heads of Villages, Village Police Officers, Cantonment Magistrates.

(a) the jurisdiction or procedure of landholders specially empowered accord-

ing to law in the Presidency of Bombay,

(b) the jurisdiction or procedure of the heads of villages in the Presidency of Fort Saint George,

(c) the jurisdiction or procedure of village Police officers in the Presidency of Bombay,

(d) the jurisdiction or procedure of any officer duly authorized and appointed under the laws in force in the Presidencies of Fort Saint George and Bombay respectively, for the trial of petty offences in military bazars, at cantonments, and stations occupied by the troops of those Presidencies respectively.

SCHEDULE I.

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ENACTMENTS REPEALED.

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PART I.—STATUTE.

Year and Chapter.	Title.	Extent of repeal.
53 Geo. iii, cap. clv.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further Regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company's Charter.	Section one hundred and five.

PART II.—ACTS.

Number and Year.	Subject or Title.	Extent of repeal.
V of 1841	An Act for the greater uniformity of the process upon trials for State offences, and the amendment of such process in certain cases.	The whole.
XV of 1843	An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department.	Sections three, four, five and six.
XV of 1845	An Act for declaring and enacting the privileges of Native Officers and Soldiers of the Armies of the three Presidencies in respect of Judicial and Revenue proceedings.	So much as has not been repealed.
XXIX of 1845	An Act to empower the Government of Bombay to appoint Joint Zillah Judges or Joint Session Judges.	Ditto.

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PART II.—Acts.—(Continued.)

Act X.

Number and Year.	Subject or Title.	Extent of repeal.
VII of 1853	An Act to extend the jurisdiction of Magistrates, under the 53rd Geo. iii, Cap. 155, Section 105, in cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies.	The whole Act.
X of 1854	An Act for regulating the powers of Assistants to Magistrates and of Deputy Magistrates appointed under Act XV of 1843.	So much as has not been repealed.
XX of 1856	An Act to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.	Section fifty-eight.
XXV of 1861	An Act for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.	So much as has not been repealed.
XVII of 1862	An Act to repeal certain Regulations and Acts relating to Criminal Law and Procedure.	Ditto.
VI of 1864	An Act to authorize the punishment of whipping in certain cases.	Sections eight, eleven and twelve.
XXVIII of 1867	An Act to remove doubts as to the legality of certain sentences passed by tribunals, called Petty Sessions Courts, in the North-Western Provinces.	The whole Act.
XXXVI of 1867	An Act to correct an error in Act No. XVII of 1862.	Ditto.
VIII of 1869	An Act further to amend the Code of Criminal Procedure.	Ditto.
XXVII of 1870	To amend the Indian Penal Code.	Sections sixteen and seventeen, and the two schedules.
XIX of 1871	An Act to provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.	Sections one, two, three, four, five and six.
Bombay Act VII of 1867.	An Act for the Regulation of the District Police in the Presidency of Bombay.	Section forty.

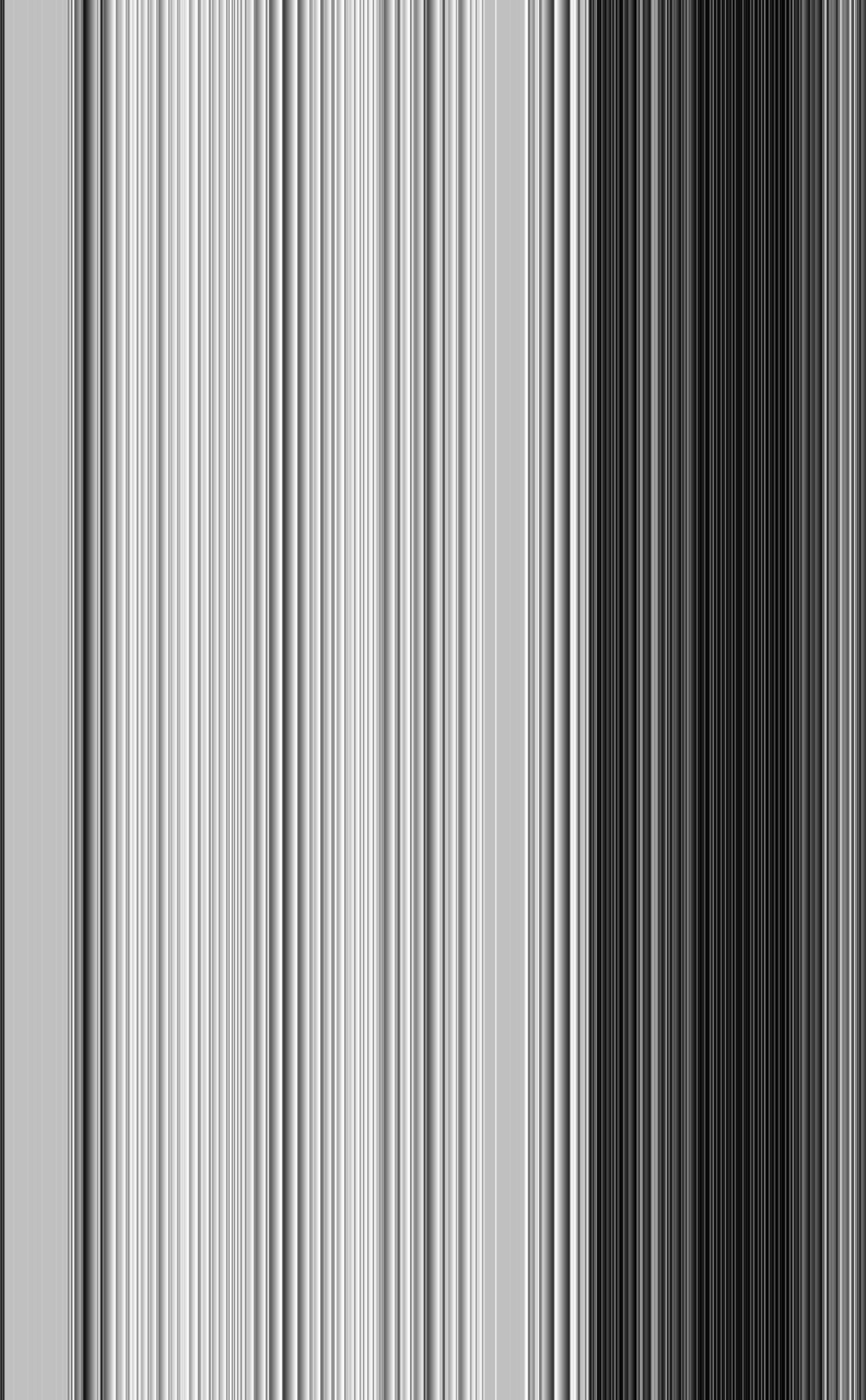
PART III.—REGULATIONS.

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Bengal Regulations.

ACT X.

Number and Year.	Title.	Extent of repeal.
IX of 1793	A Regulation for re-enacting, with Alterations and Modifications, the Regulations passed by the Governor General in Council on the 3rd December 1790, and subsequent Dates, for the Apprehension and Trial of Persons charged with Crimes or Misdemeanours.	Sections three and thirty-four.
IX of 1804	A Regulation for altering the denomination of the Court of Circuit and the Provincial Court of Appeal for the Division of the Ceded Provinces: for the Administration of Justice in Criminal Cases, in the Conquered Provinces in the Dooab and on the Right Bank of the River Jumna, and in the Territory ceded to the Honorable the East India Company in Bundelcund by the Peishwa.	So much as has not been repealed.
VI of 1810	A Regulation for defining the penalties to which Zamindárs and others shall be subject for neglecting to give due information of robberies and for harbouring robbers.	Ditto.
XVI of 1810	A Regulation to amend the existing Rules for the Appointment of Zillah and City Magistrates; to provide for the Appointment of Joint and Assistant Magistrates; and to alter the provisions in force for the Payment of a fixed Reward on the Conviction of Public Offenders.	Ditto.
I of 1811	A Regulation for making more adequate Provision for the punishment of persons found guilty of the Offence of breaking into Houses, Tents or Boats; for subjecting to exemplary Punishment Persons receiving or purchasing Plundered or Stolen Property; and for granting licenses to Gold or Silversmiths, Braziers or Coppersmiths, Ironsmiths, Pawnbrokers, retail Venders of Brass or Copper-wares, and Pykars or itinerant dealers in Second-hand Articles.	Ditto.



PART III.—REGULATIONS.—(Continued.)

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ACT X.

Number and Year.	Title.	Extent of repeal.
VIII of 1827	A Regulation for granting to Native Judges Jurisdiction in Criminal Cases. <i>Bombay Regulations.</i>	So much as has not been repealed.
XII of 1827	A Regulation for the establishment of a system of Police throughout the Zillahs subordinate to Bombay, for providing Rules for its Administration, and for defining the Duties and Powers of all Police Authorities and Servants.	Section ten, clause four, so much of section thirteen as has not been repealed, and section thirty-seven, clause three.
XIII of 1827	A Regulation for defining the Constitution of Courts of Criminal Justice, and the Functions and Proceedings thereof.	Sections one, two, three, seven, eight, nine, fourteen and fifteen. Sections twenty-seven and twenty-eight.
III of 1830	A Regulation rescinding Regulations VIII and XII of 1828, and vesting the Criminal Judges with the Powers and Functions of Session Judges.	Sections two and six.
IV of 1830	A Regulation rescinding such Parts of Regulation XII of 1827 as vest the Criminal Judge with Police Jurisdiction of the Magistrate and his Assistants.	Section two.
VIII of 1831	A Regulation for modifying the Jurisdiction of Session Judges and Judicial Commissioners.	The whole.

SCHEDULE II.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (section 152).

To A. B., of

Whereas your attendance is necessary to answer to a complaint of (*state shortly the offence complained of*): You are hereby required to appear in person or by authorized agent, as the case may be, before the [Magistrate] of _____ on the _____ day of _____ . Herein fail not.

(Signature and Seal.)

Dated the _____ day of _____

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B.

FORM OF WARRANT (*section 159*).

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

Whereas _____ of _____ is accused of the offence of (*state the offence*): You are hereby directed to apprehend the said _____ and produce him before me.

Herein fail not.

(*Signature and Seal.*)

This warrant may be endorsed as follows :—

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

(*Signature.*)

Dated _____

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY
(*sections 196, 197 and 303*).

To _____, Jailer of _____

Whereas _____ of _____ is charged with (*state the offence in respect of which the prisoner is charged*) and ~~has~~ been committed to take his trial before the Court of _____ at _____ :

You are hereby required to receive the said _____ into your custody and to produce him before the said Court when so required.

(*Signature.*)

(*Office and powers.*)

Dated _____

D.

FORM OF WARRANT OF COMMITMENT (*section 303*).

To _____, Jailer of _____

Whereas _____ of _____ was convicted before me (*name and official designation*) of the offence of (*mention the offence quoting Act and section*) and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*): You are hereby required to receive the said _____ into your custody in the said jail of _____

together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated the _____

day of _____

E.

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FORM OF BOND TO KEEP THE PEACE (*section 493*).

Whereas I, _____, inhabitant of _____, have been called upon to enter into a bond to keep the peace for the term of _____, I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of _____ rupees.

Dated _____

(Signature.)

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

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

Dated _____

(Signature.)

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE

(*sections 130 and 360.*)

I, _____, of _____, do hereby bind myself to appear at _____, in the Court of _____, at _____ o'clock, on the _____ day of _____ next, and then and there to prosecute (*or as the case may be*, to prosecute and give evidence, *or to give evidence*) in the matter of a charge of _____ against one A. B., and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of _____ rupees.

Dated _____

(Signature.)

G.

FORM OF BOND FOR GOOD BEHAVIOUR (*section 509*).

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

Dated _____

(Signature.)

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

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

(Signature.)

Dated _____

SCHEDULE III.

CHARGES.

(I.)—CHARGES WITH ONE HEAD.

(a.) I, [name and office of Magistrate, &c.], hereby charge you, [name of accused person], as follows:—

(v.) That you, on or about the _____ day of _____, at _____, waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session.

(c.) And I hereby direct that you be tried by the said Court on the said charge.

[Signature and Seal of the Magistrate.]

[To be substituted for (b).]

(2.) That you, on or about the _____ day of _____, at _____, with the intention of inducing the Honourable A. B., Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3.) That you, being a public servant in the _____ Department, directly accepted from [state the name], for another party [state the name], a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session.

(4.) That you, on or about the _____ day of _____, at _____, committed culpable homicide not amounting to murder, causing the death of _____, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(5.) That you, on or about the _____ day of _____, at _____, abetted the commission of suicide by A. B., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session.

(6.) That you, on or about the _____ day of _____, at _____, 1872
 On section 325. voluntarily caused grievous hurt to _____, Act X.
 and thereby committed an offence punishable under
 section 325 of the Indian Penal Code, and within the cognizance of the Court
 of Session.

(7.) That you, on or about the _____ day of _____, at _____,
 On section 392. committed robbery, an offence punishable under
 section 392 of the Indian Penal Code, and within
 the cognizance of the Court of Session.

(8.) That you, on or about the _____ day of _____, at _____,
 On section 395. committed dacoity, an offence punishable under
 section 395 of the Indian Penal Code, and within
 the cognizance of the Court of Session.

(9.) That you, on or about the _____ day of _____, at _____,
 On section 166. did (or omitted to do, as the case may be)
 _____, such conduct being con-
 trary to the provisions of Act _____ section _____, and was known
 by you to be prejudicial to _____, and thereby committed
 an offence punishable under section 166 of the Indian Penal Code, and
 within the cognizance of the Court of Session.

(10.) That you, on or about the _____ day of _____, at _____,
 On section 193. _____ in the course of the trial of
 before _____, stated in evidence
 that " _____ " which statement you
 either knew or believed to be false, or did not believe to be true, and thereby
 committed an offence punishable under section 193 of the Indian Penal Code,
 and within the cognizance of the Court of Session.

In cases tried by Magistrates substitute "within my cognizance" for "with-
 in the cognizance of the Court of Session." In (d) omit "by the said Court."

(II.)—CHARGES WITH TWO OR MORE HEADS.

(a.) I, [name and office of Magistrate, &c.], hereby charge you, [name of
 accused person], as follows:—

(b.) *First.*—That you, on or about the _____ day of _____, at _____,
 On Penal Code, sections 241 and 242. knowing a coin to be counterfeit, delivered the same
 to another person, by name A. B., as genuine, and
 thereby committed an offence punishable under section 241 of the Indian Penal
 Code, and within the cognizance of the Court of Session.

Secondly.—That you, on or about the _____ day of _____, at _____,
 knowing a coin to be counterfeit, attempted to induce another person, by name
 A. B., to receive it as genuine, and thereby committed an offence punishable
 under section 242 of the Indian Penal Code, and within the cognizance of the
 Court of Session.

(c.) And I hereby direct that you be tried by the said Court on the said charge
 [Signature and Seal of the Magistrate.]

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For (b). *First.*—That you, on or about the _____ day of _____, at _____, committed murder by causing the death of _____, and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That you, on or about the _____ day of _____, at _____, by causing the death of _____, committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

For (b). *First.*—That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

For (b). That you, on or about the _____ day of _____, at _____, in the course of the inquiry before _____, stated in evidence that “_____” and that you, on or about the _____ day of _____, at _____, in the course of the trial of _____ before _____ stated in evidence that “_____” one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session.

In trials before Magistrates substitute “within my cognizance” for “within the cognizance of the Court of Session;” and omit “by the said Court.”