

*Criminal Procedure Code.***No. 3 of 1883.**

(As amended by No. 36 of 1884, No. 1 of 1885, No. 22 of 1890,
and No. 27 of 1892.)

**An Ordinance for regulating the Procedure of the Courts of
Criminal Judicature,**

(See No. 7 of 1880; No. 1 of 1880, No. 10 of 1880.)

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*Criminal Procedure Code.***No. 3 of 1883.**

(As amended by No. 36 of 1884, No. 1 of 1888, No. 22 of 1890, and No. 27 of 1892.)

An Ordinance for regulating the Procedure of the Courts of Criminal Judicature.

(See No. 1 of 1886, No. 1 of 1889, and No. 16 of 1889.)

WHEREAS it is expedient to provide a General Criminal Procedure Code for this colony, it is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

PART I.**CHAPTER I.***Preliminary.*

1 This Ordinance shall be called "The Criminal Procedure Code, 1883," and is generally referred to hereinafter as "this Code," and shall come into operation on and from such day subsequent to the confirmation thereof by Her Majesty as may be appointed by order of the Governor in Executive Council proclaimed in the *Government Gazette*.*

Short title.

Commencement.

2 On and from the day when this Ordinance comes into operation the Laws, Ordinances, and Rules of Court mentioned in the first schedule shall be repealed to the extent specified in the third column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed or to render unlawful the continuance of any confinement, which is then lawful.

Repeal of Ordinances.

2 (1) The repeal of any Law, Ordinance, or Rule of Court shall not affect—

Repeal of laws, &c., not to affect offences committed under them.

(a) The past operation of any Enactment, Law, Ordinance, or Rule of Court hereby repealed, nor anything duly done or suffered under any Law, Ordinance, or Rule of Court hereby repealed; nor

[§ 1, 36 of 1884]

(b) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any Law, Ordinance, or Rule of Court hereby repealed; nor

(c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any Law, Ordinance, or Rule of Court hereby repealed; nor

(d) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, and remedy may be carried on as if any such Law, Ordinance, or Rule of Court had not been repealed, anything in section 511 to the contrary notwithstanding.

* Proclaimed to come into operation on 1st January, 1885.

Criminal Procedure Code.

- Interpretation clause. 3. In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:
- "Complaint." (a) "Complaint" means the allegation made orally or in writing to a police magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence.
- "Inquiry." (b) "Inquiry" includes every inquiry conducted under this Code by a police magistrate or a police court.
- "Judicial proceeding." (c) "Judicial proceeding" means any proceeding in the course of which evidence is, or may be, legally taken.
- "Writing." (d) "Writing" and "written" include printing, lithography, photography, engraving, and every other mode in which words or figures can be expressed on paper or on any substance.
- "Supreme Court." (e) "Supreme Court," and "court" when applicable to the Supreme Court, means the Supreme Court of the colony of Ceylon for the time being, or the Chief Justice or any judge thereof.
- "Attorney-General." (f) "Attorney-General" includes also the Solicitor-General, or any Crown counsel specially authorized by the Attorney-General to represent the Attorney-General.
- "Pleader." (g) "Pleader" used with reference to any proceeding in any court means (1) an advocate; (2) any person authorized under any law for the time being to practice in such court.
- "Police station." (h) "Police station" means any post declared generally or specially by the Government to be a police station; an "officer in charge of a police station" includes, when the officer in charge of a police station is absent therefrom, or unable from illness to perform his duties, the police officer present at the police station who is next in rank to such officer.
- "Police officer." (i) "Police officer" includes the Inspector-General, superintendents, inspectors, sergeants, and constables of police, as well as every fiscal, his deputies and officers, and all village headmen and peace officers.
- "Offence." (j) "Offence" means any act or omission made punishable by any law for the time being in force.
- "Cognizable offence." (k) "Cognizable offence" means an offence for, and "cognizable case" means a case in, which a police officer may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant.
- "Non-cognizable offence." (l) "Non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police officer may not arrest without warrant.

Criminal Procedure Code.

- (m) "Bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force, and "non-bailable offence" means any other offence. "Bailable offence."
- (n) "Fine" includes any fine, pecuniary forfeiture, or compensation adjudged upon any conviction of any crime or offence, or for the breach of any Ordinance, by any court of the colony. "Fine."
- (o) "Chapter" means a chapter of this Code; and "schedule" means a schedule hereto annexed. "Chapter."
"Schedule."
- (p) "Place" includes also a house, building, tent, and vessel. "Place."
- (q) Words which refer to acts done extend also to illegal omissions; and Words referring to acts, include illegal omissions.
- (r) All words and expressions used herein and defined in the Ceylon Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. Words to have same meaning as in Penal Code.
4. All offences under the Ceylon Penal Code shall be inquired into and tried according to the provisions hereinafter contained; and all offences under any other law shall be inquired into and tried according to the same provisions, subject however to any enactment for the time being in force regulating the manner or place of inquiring into or trying such offences. Trial of offences under Penal Code.
Trial of offences against other laws.

PART II.**CHAPTER II.***Jurisdiction of Criminal Courts.**A.—Of Courts generally.*

5. The courts for the ordinary administration of criminal justice within this colony shall continue as heretofore to be as follows: Class of criminal courts.

- (1) The Supreme Court.
- (2) District courts.
- (3) Police courts.

6. The place in which any criminal court is held for the purpose of inquiry into, or trying, any offence, shall be deemed an open and public court, to which the public generally may have access so far as the same can conveniently contain them. Courts to be open.

But the presiding judge or magistrate may, if he thinks fit, order, at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in the room or building used by the court.

Criminal Procedure Code.

Criminal
jurisdiction of
Supreme Court.

7 The Supreme Court and every judge thereof shall, as heretofore and under and subject to the provisions of this Code, exercise an original criminal jurisdiction over all offences committed throughout this colony, and for hearing, trying, and determining all prosecutions which shall be commenced therein against any person for or in respect of any such offences; and also and subject to the provisions of this Code, a criminal appellate jurisdiction for the correction of all errors which shall be committed by district and police courts, and sole and exclusive cognizance by way of appeal in all criminal causes, suits, actions, prosecutions, matters, and things of which such district courts and police courts or any of them may have taken cognizance by way of original jurisdiction.

Criminal
jurisdiction of
district courts.

8 Every district court, including those to be hereafter established, shall have, as heretofore and subject to the provisions of this Code, cognizance of and full power and authority, and is hereby required to hear, try, and determine all suits and prosecutions instituted for or in respect of any offences committed wholly or in part within the district to which such court may belong, and which offences by this Code, or by any law in force in the colony, are made cognizable by a district court.

Criminal
summary
jurisdiction of
police courts.

9 Every police court, including those to be hereafter established, shall have, as heretofore and under and subject to the provisions of this Code, full power and authority, and is hereby required to hear, try, determine, and dispose of in a summary way all suits or prosecutions for offences committed wholly or in part within its local jurisdiction, which offences, by this Code or any law in force in this colony, are made cognizable by a police court.

And also summary jurisdiction as aforesaid in case of breach of any enactment made for the protection of the revenue, or of any enactment making penal any act, not in itself an offence, and which would otherwise not be cognizable by a police court by reason of the amount of punishment which may be inflicted in respect thereof, if a certificate shall be presented to such police court signed by the Attorney-General, to the effect that he is content that such offence or act shall be tried by such police court.

Jurisdiction to
inquire into the
commission of
offences.

And also jurisdiction to inquire into, subject to and as provided for by this Code, all offences committed, or alleged to have been committed, within the local jurisdiction of such courts, or into which jurisdiction is by this Code given to such courts to inquire, and to summon and examine all witnesses touching such offences, and to summon and apprehend all criminals and offenders, and deal with them according to law.

To issue search
warrants.

And to issue warrants to search or to cause to be searched all places wherein any stolen goods, or any goods, articles, or things with which or in respect of which any offence has been committed, are alleged to be kept or concealed, and to require persons to furnish security for the peace, or for their good behaviour according to law.

To require
sureties for the
peace.

Criminal Procedure Code.

And also jurisdiction, under and subject to this Code, to inquire into all cases in which any person shall die in any prison or asylum, or shall come to his death by violence or accident, or when death shall have occurred suddenly, or when the body of any person shall be found dead without its being known how such person came by his death.

To inquire into cases of sudden or accidental death.

The Governor may from time to time appoint any justice of the peace to be an unofficial police magistrate for any district or districts, and any justice of the peace so appointed shall thereupon have all the powers and authority by this Code vested in police courts, save and except the power and authority to take proceedings with regard to, or to hear, try, or determine any offence which by this Code or by any law of this colony is summarily triable before a police court.

Unofficial police magistrates.

Provided, however, that nothing herein contained shall be held to give a police court summary jurisdiction to hear or determine any suit or prosecution for or in respect of any offence over which any village tribunal has exclusive jurisdiction under any special law.

Proviso saving jurisdiction of village tribunals.

CHAPTER III.

*Powers of Courts.**

10 All and every the powers, whether of a judicial or executive nature, which by any law of this colony are now vested in a justice of the peace, are hereby conferred upon, and shall hereafter be discharged by a police magistrate within his local jurisdiction.

Powers of justice of the peace to devolve on police magistrates.

11 Subject to the other provisions of this Code, any offence under the Ceylon Penal Code may be tried by the Supreme Court or by any other court by which such offence is shown in the seventh column of the second schedule to be triable.

Offences under Penal Code, or

12 Any offence under any other law shall, when any court is mentioned in this behalf in such law, be tried by such court. When no court is mentioned it may be tried by the Supreme Court, or by any other court mentioned in this Code: Provided that—

Offences under other laws.

(a) No district court shall try any such offence which is punishable with imprisonment for a term which may exceed two years.

(b) Except as hereinafter provided, no police court shall try any offence which is punishable with imprisonment for a term which may exceed six months.

13 No district court shall take cognizance of any offence as a court of original criminal jurisdiction unless the accused person has been committed for trial by a police court duly empowered in that behalf, or unless the case has been transferred to it from some other court for trial, by order of the Supreme Court.

District courts not to have original criminal jurisdiction.

* For further "Powers of Courts" see "The Courts Ordinance, 1889."

Criminal Procedure Code.

Sentences which
Supreme Court may
pass.

14 The Supreme Court may pass any sentence authorized by law.

Sentences which
district courts
may pass.

15 A district court may pass any of the following sentences:

- (a) Imprisonment of either description, for a term not exceeding two years.
- (b) Fine, not exceeding one thousand rupees.
- (c) Whipping.
- (d) Any lawful sentence combining any of the sentences which it is authorized by law to pass.

Sentences which
police courts
may pass.

16 A police court may pass any of the following sentences:

- (a) Imprisonment of either description, for a term not exceeding six months.
- (b) Fine, not exceeding one hundred rupees.
- (c) Whipping, if the offender is under sixteen years of age.
- (d) Any lawful sentence combining any of the sentences which it is authorized by law to pass.

Power of district
or police courts
to sentence to
imprisonment
in default of
payment of fine.
[§ 7, 22 of 1880]

17 (1) A district or police court may award such term of imprisonment in default of payment of a fine as is authorized by law in case of such default. Provided that the term is not in excess of the court's powers under this Code.

(2) If no term of imprisonment in case of default of payment of a fine is specified in any Ordinance in respect of an offence which is punishable by fine only, a district or police court may direct the offender to be imprisoned in accordance with the provisions of section 53 of the Ceylon Penal Code.

(3) In no case decided by a district or police court, where imprisonment has been awarded as part of the substantive sentence, shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which such court is competent to inflict as punishment for the offence, otherwise than as imprisonment in default of payment of the fine.

(4) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the court under sections 15 or 16.

Sentence in case
of conviction for
several offences
at one trial.

18 When a person is convicted at one trial of any two or more distinct offences, the court may sentence him for such offences to the several punishments prescribed therefor which such court is competent to inflict; such punishments, when consisting of imprisonment, to commence the one after the expiration of the other, in such order as the court may direct.

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

Criminal Procedure Code.

Provided as follows :

- (a) Whenever in any district the duties of police magistrate and district judge are performed by one and the same person under the authority of the Governor, a commitment from the police court of such magistrate to the district court of which he shall be judge shall not be held bad on that ground only, provided the accused shall have consented to be tried before such district judge.
- (b) In no case shall such person be sentenced to imprisonment for a longer period than fourteen years.
- (c) If the case is tried by a district or police court, the aggregate punishment shall not exceed twice the amount of punishment which such court, in the exercise of its ordinary jurisdiction, is competent to inflict.

Committing magistrate not to try offenders in his capacity of district judge without offender's consent.

Maximum term of punishment.

For the purpose of appeal, aggregate sentences passed under this section, in case of convictions for several offences at one trial, shall be deemed to be a single sentence.

PART III.**GENERAL PROVISIONS.****CHAPTER IV.***Of Aid and Information to the Magistrates and Police, and Persons making Arrests.*

21. Every person is bound to assist a police magistrate or a police officer reasonably demanding his aid—

Public when to assist magistrates and police.

- (a) In the taking of any other person whom such magistrate or police officer is authorized to arrest;
- (b) In the prevention of a breach of the peace, or of any injury attempted to be committed to any public property.
- (c) In the suppression of a riot or an affray.

22. When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant if the person to whom the warrant is directed be near at hand and acting in the execution of his warrant.

Aid to person other than police officer executing warrant.

23. Every person aware—

Of the commission of, or the intention of any other person to commit, any offence punishable under the following sections of the Ceylon Penal Code, namely, 114, 115, 116, 117, 118, 119, 120, 121, 122, 126, 296, 297, 371, 380, 381, 382, 383, 384, 418, 419, 435, 436, 442, 443, 444, 445, and 446 :

Public to give information of certain offences.

Criminal Procedure Code.

Of any sudden or unnatural death, or death by violence, or of any death under suspicious circumstances, or of the body of any person being found dead without it being known how such person came by death, shall, in the absence of reasonable excuse,—the burden of proving which shall lie upon the person so aware,—forthwith give information to the nearest police court, or to the officer in charge of the nearest police station, or to a police officer or the headman of the nearest village, of such commission or intention, or of such sudden, unnatural, or violent death or death under suspicious circumstances, or of the finding of such dead body.

Police officer bound to report certain matters.

24 Every police officer shall forthwith communicate to the nearest police magistrate any information which he may have or obtain respecting—

- (a) The commission of or intention to commit any offence within the local jurisdiction in which he is empowered to act;
- (b) The occurrence therein of any sudden or unnatural death, or of any death under suspicious circumstances;
- (c) The finding of the dead body of any person without it being known how such person came by death.

CHAPTER V.

*Of Arrest, Escape, and Retaking.**A.—Arrest generally.*

Arrest how made.

25 In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

If such person forcibly resist the endeavour to arrest him, or attempt to evade the arrest, such officer or other person may use all means necessary to effect the arrest.

Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death.

Search of place entered by person sought to be arrested.

26 If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that any person to be arrested has entered into or is within any place, the person residing in or in charge of such place shall, on demand of such person acting as aforesaid, or such police officer, allow him free ingress thereto and afford all reasonable facilities for a search therein.

Procedure where ingress not obtainable.

27 If ingress to such place cannot be obtained under the preceding section, it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police

Criminal Procedure Code.

officer to enter such place and search therein, and in order to effect an entrance into such place to break open any outer or inner door of any place, whether that of the person to be arrested or of any other person, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

28 Any police officer, or other person authorized to make an arrest, may break open any outer or inner door or window of any place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

Power to break open doors and windows for purposes of liberation.

29 The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

No unnecessary restraint.

30 Whenever a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail; and

Search of persons arrested.

Whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail or is unable to furnish bail;

the officer making the arrest, or when the arrest is made by a private person, the police officer to whom he hands over the person arrested, may search such person, and place in safe custody all articles other than necessary wearing apparel found upon him.

31 Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

Mode of searching women.

32 The officer or other person making any arrest under this Code, may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the court or officer before which or whom the officer or person making the arrest is required by law to produce the person arrested.

Power to seize offensive weapons.

B.—Arrest without a Warrant.

33 Any police officer may, without an order from a magistrate and without a warrant, arrest—

When police may arrest without warrant.

First.—Any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

Secondly.—Any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

Thirdly.—Any person who has been proclaimed as an offender;

Fourthly.—Any person in whose possession anything is found which may reasonably be suspected to be stolen property, and who may reasonably be suspected of having committed an offence with reference to such thing;

Criminal Procedure Code.

Fifthly.—Any person who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

Sixthly.—Any person reasonably suspected of being a deserter from Her Majesty's army or navy;

Seventhly.—Any person found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence;

Eighthly.—Any person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

Ninthly.—Any person who is by repute an habitual robber, house-breaker, or thief, or an habitual receiver of stolen property, knowing it to be stolen, or who by repute habitually commits extortion, or in order to the committing extortion habitually puts, or attempts to put, persons in fear of injury.

Nothing in this section shall be held to interfere with or modify the operation of any other law empowering a police officer to arrest without a warrant.

Refusal to give name and residence.

34 When any person in the presence of a police officer commits, or is accused of committing, a non-cognizable offence, and refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such police officer in order that his name or residence may be ascertained, and he shall within twenty-four hours from the arrest, exclusive of the time necessary for the journey, be taken before the nearest police court, unless before that time his true name and residence are ascertained, in which case such person shall be forthwith released on his executing a bond for his appearance before a police court if so required.

Pursuit of offenders into other jurisdictions.

35 For the purpose of arresting any person whom he has power to arrest without a warrant, a police officer may pursue any such person into any part of this colony.

Arrest by private persons. Procedure on such arrest.

36 Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or who has been proclaimed as an offender, and shall without unnecessary delay take over the person so arrested to the nearest police officer, or in the absence of a police officer take such person to the nearest police station. If there is reason to believe that such person comes under the provisions of section 33, a police officer shall re-arrest him. If there is reason to believe he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 34. If there is no reason to believe that he has committed any offence he shall be at once discharged.

Criminal Procedure Code.

37 A police officer making an arrest without warrant shall, without unnecessary delay, and subject to the provisions herein contained as to bail, take or send the person arrested before a police court having jurisdiction in the case.

How person arrested is to be dealt with.

38 No police officer shall detain in custody a person arrested without a warrant for a longer period than, under all the circumstances of the case, is reasonable; and such period shall not exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the police court.

Person arrested not to be detained more than twenty-four hours.

39 Officers in charge of police stations shall report to the police court of their respective districts the cases of all persons arrested without warrant within the limits of their respective stations, and whether such persons have been admitted to bail or otherwise.

Police to report arrests.

40 No person who has been arrested by a police officer shall be discharged except on his own bond or on bail or under the special order of a police magistrate.

Discharge of person arrested.

41 When any offence is committed in the presence of a police magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

Offence committed in magistrate's presence.

42 Any police magistrate may at any time arrest, or direct the arrest in his presence within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time, and in the circumstances, to issue a warrant.

Arrest by or in presence of magistrate.

43 If a person in lawful custody escapes, or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place either within or without the jurisdiction where he was so in custody, and deal with such person as he might have done on the original taking.

Power on escape to pursue and retake.

44 The provisions of sections 26, 27, and 28 shall apply to arrests under section 43, although the person making the arrest is not acting under a warrant, and is not a police officer having authority to arrest.

Provisions of sections 26, 27, and 28 to apply to arrests under section 43.

CHAPTER VI.

Of Processes to compel Appearance.

A.—*Summons.*

45 Every summons issued by a court under this Code shall be in writing, in duplicate, and signed by the presiding officer or by the registrar, deputy-registrar, secretary, or chief clerk of such court, as the case may be.

Forms of summons.

Such summons shall ordinarily be served by a fiscal's officer, but the court issuing the summons may, if it see fit, direct it to be served by any other person.

Summons by whom served.

Criminal Procedure Code.

Summons how served.

46. The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Service when person summoned cannot be found.

47. When the person to be summoned cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family or with his servant residing with him.

Procedure when personal service cannot be effected.

48. If the service prescribed in sections 46 and 47 cannot, by the exercise of due diligence, be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on government servant.

49. Where the person summoned is in the active service of the Government, the court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 46, and shall return it to the court with an endorsement of service.

Proof of service.

50. When a summons issued by a court is served, an affidavit of such service purporting to be made before an officer duly authorized to administer an oath or affirmation, or, in the case mentioned in section 49, the endorsement therein mentioned, shall be admissible in evidence, and the statements made therein shall be deemed to be correct, unless and until the contrary is proved.

B.—Warrant of Arrest.

Form of warrant of arrest.

51. Every warrant of arrest issued by a court under this Code shall be in writing, signed by the presiding officer.

Continuance of warrant of arrest.

Every such warrant shall remain in force until it is cancelled by the court which issued it, or until it is executed.

Court may direct security to be taken.

52. Any court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant, that if such person execute a bond with sufficient sureties for his attendance before the court at a specified time and thereafter until otherwise directed by the court, the officer to whom the warrant is directed shall take such security, and shall release such person from custody.

The endorsement shall state—

- (a) The number of sureties;
- (b) The amount in which they and the person for whose arrest the warrant is issued are to be respectively bound;
- (c) The time at which he is to attend before the court.

Recognizance to be forwarded.

Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the court.

Criminal Procedure Code.

53 A warrant shall ordinarily be directed to the fiscal of the district, and every fiscal and his deputies, and others his officers, and all headmen and peace officers, are authorized and required to obey, serve, and execute, anywhere within the island, every warrant issued or endorsed by any magistrate of a police court within the local limits respectively for which the above officers have been appointed to act. Every officer of police is hereby authorized to execute such warrant.

Warrants to whom directed.

54 The court issuing the warrant may direct it to any other person or persons, and such person or persons, or any police officer, may execute the same.

May be directed to any person or persons.

When a warrant is directed to more officers or persons than one, it may be executed by all or any one or more of them.

Warrants to several persons.

55 The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person arrested, and, if so required, shall show him the warrant.

Notification of substance of warrant.

56 The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 52 as to security), without unnecessary delay, bring the person arrested before the court before which he is required by law to produce such person.

Person arrested to be brought before court without delay.

57 A warrant of arrest may be executed at any place in Ceylon.

Where warrant may be executed.

58 When a warrant of arrest is to be executed outside the local limits of the jurisdiction of the court issuing the same, such court may, instead of directing such warrant to the fiscal or other person, forward the same by post or otherwise to any police court within the local limits of the jurisdiction of which it is to be executed.

Warrant forwarded to court for execution outside jurisdiction.

A magistrate of the police court to which the warrant is so forwarded shall endorse his name thereon, and, if practicable, cause it to be executed within the local limits of his jurisdiction.

58 (1) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the magistrate within the local limits of whose jurisdiction a warrant is to be executed will prevent such execution, the magistrate issuing the warrant may, if he sees fit so to do, direct the warrant specially to any person; and a warrant so specially directed shall have effect, and may lawfully be executed by such person, without such endorsement as aforesaid anywhere within the island.

Warrants specially directed may be executed anywhere within the island without endorsement. [§ 17, 1 of 1883]

Provided always that upon the execution of such warrant the provisions of sections 60 and 61 shall apply.

Provided.

(2) Any warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Warrant directed to police officer. [§ 18, 1 of 1883]

59 When a warrant directed to a fiscal is to be executed beyond the local limits of the district of such fiscal, he shall endorse it to a fiscal of the district within the limits of which the warrant is to be executed, and shall thereupon

Warrant directed to fiscal for execution

Criminal Procedure Code.

outside
jurisdiction,

forward the same by post or otherwise to such fiscal, who, upon receipt thereof, shall cause such warrant to be executed within the local limits of his district, in the same way as if it had been originally directed to him.

Procedure on
arrest of person
against whom
warrant is
issued.

60 When a warrant of arrest is executed outside the local limits of the jurisdiction of the court by which it was issued, the person arrested shall, unless the court which issued the warrant is within twenty miles of the place of arrest, or is nearer than the police court within the local limits of the jurisdiction of which the arrest was made, or unless security be taken under section 52, be carried before such last-mentioned police court.

Procedure by
police court
before whom
person arrested
is brought.

61 Such latter police court or a magistrate thereof shall, if the person arrested appears to be the person intended by the court which issued the warrant, direct his removal in custody to such last-mentioned court; or if the offence be bailable, and the person arrested be ready and willing to give bail to the satisfaction of the court or magistrate before whom he shall have been brought, or a direction has been endorsed under section 52 on the warrant, and such person is ready and willing to give the security required by such direction, such last-mentioned court or magistrate shall take such bail or security, as the case may be, and forward the bond to the court which issued the warrant.

Nothing in this section shall be deemed to prevent a police officer from taking security under section 52.

C.—Proclamation and Attachment.

Proclamation
for person
absconding.

62 If any court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself, so that such warrant cannot be executed, such court may publish a written proclamation requiring him to appear at a specified place and at a specified time, not less than thirty days from the date of publishing such proclamation.

The proclamation shall be published as follows :

- (a) It shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;
- (b) It shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides, or to some conspicuous place of such town or village ; and
- (c) A copy thereof shall be affixed to some conspicuous part of the court-house.

A statement, by the court issuing the proclamation, to the effect that the proclamation was duly published on a specified day, shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment of
property of
person
absconding.

63 The court may, after issuing a proclamation under section 62, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.

Criminal Procedure Code.

Such order shall authorize the attachment of any property belonging to such person within the local jurisdiction of the court by which it is made; and it shall authorize the attachment of any property belonging to such person without such jurisdiction, when endorsed by the judge of the district court or police magistrate within whose jurisdiction such property is situate.

If the property ordered to be attached be debts or other movable property, the attachment under this section shall be made—

- (a) By seizure; or
- (b) By the appointment of a receiver; or
- (c) By an order in writing prohibiting the delivery of such property to the proclaimed person, or to any one on his behalf; or
- (d) By all or any two of such methods as the court thinks fit.

If the property ordered to be attached be immovable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the government agent of the province in which the land is situate, and in all other cases—

- (e) By taking possession; or
- (f) By the appointment of a receiver; or
- (g) By an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person, or to any one on his behalf; or
- (h) By all or any two of such methods as the court thinks fit.

The powers, duties, and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed in a civil proceeding.

If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay or the court considers that the sale would be for the benefit of the owner, in either of which cases the court may cause it to be sold whenever it thinks fit.

64 If, within one year from the date of the attachment, any person whose property is or has been at the disposal of Government under the last paragraph of section 63 appears voluntarily, or is apprehended and brought before the court by whose order the property was attached, and proves to the satisfaction of such court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or if the same has been sold, the net proceeds of the sale; or if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Restoration of
attached
property.

Criminal Procedure Code.

D.—*Other Rules regarding Processes.*

Issue of warrant
in lieu of or in
addition to
summons.

65 A court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest:

- (a) If either before the issue of summons or after the issue of the same, but before the time fixed for his appearance, the court sees reason to believe that he has absconded, or will not obey the summons; or
- (b) If at such time he fails to appear, and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith, and no reasonable excuse is offered for such failure.

Power to take
bond for
appearance.

66 When any person for whose appearance or arrest the officer presiding in any court is empowered to issue a summons or warrant is present in such court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such court.

Arrest on
breach of bond
for appearance.

67 When any person who is bound by any bond taken under this Code to appear before a court does not so appear, the officer presiding in such court may issue a warrant directing that such person be arrested and produced before him.

Provisions in
this chapter to be
generally
applicable to
summons and
warrants of
arrest.

68 The provisions contained in this chapter relating to a summons and warrant, and their issue, service, and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

*Of Processes to compel the production of Documents and
other Movable Property, and for the discovery of
Persons wrongfully confined.*

A.—*Summons to Produce.*

Summons to
produce
document or
other thing.

69 Whenever any court considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial, or other proceeding under this Code, by or before such court, such court may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it at the time and place stated in the summons.

Any person required under this section merely to produce a document or other thing, shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Criminal Procedure Code.

Nothing in this section shall be deemed to affect the provisions of the Ordinance 9 of 1852, or 12 of 1864, or to apply to any book, letter, post card, telegram, or other document in the custody of the postal or telegraph authorities, or in any public office, or in charge of any public officer.

70. If any such book, letter, post card, telegram, or other document is, in the opinion of the Supreme Court, wanted for the purpose of any investigation, inquiry, trial, or other proceeding under this Code, the Supreme Court may require the public officer, postal or telegraph authorities, as the case may be, to deliver such document to such person as such court directs.

Procedure as to letters and telegrams, &c.

If any such document is, in the opinion of any district judge or police magistrate, wanted for any such purpose, he may require the public officer, postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of the Supreme Court.

B.—*Search Warrants.*

71. Where any court has reason to believe that a person to whom a summons under section 69, or a requisition under section 70, paragraph 1, has been or might be addressed, will not or would not produce the document or other thing as required by such summons or requisition :

When search warrant may be issued.

Or, where such document or other thing is not known to the court to be in the possession of any person :

Or where the court considers that the purposes of any inquiry, trial, or other proceeding under this Code will be served by a general search or inspection :

It may issue a search warrant ; and the person to whom such warrant is directed may search or inspect in accordance therewith, and the provisions hereinafter contained.

Nothing herein contained shall authorize any court, other than the Supreme Court, to grant a warrant to search for a document in the custody of a public officer, or of the postal or telegraph authorities.

72. The court may, if it thinks fit, specify in the warrant the particular place, or part thereof, to which only the search or inspection shall extend ; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Power to restrict warrant.

73. If a magistrate of a police court, upon information, and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property :

Search of house suspected to contain stolen property, forged documents, &c.

Or for the deposit, or sale, or manufacture, of forged documents, false seals, or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps, or for forging :

Criminal Procedure Code.

Or that any stolen property, forged documents, false seals, or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps, or for forging, are concealed, kept, or deposited in any place ;

He may, by his warrant, authorize the person to whom it is directed—

- (a) To enter, with such assistance as may be required, such place ; and
- (b) To search the same in manner specified in the warrant ; and
- (c) To take possession of any property, documents, seals, stamps, or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid ; and
- (d) To convey such property, documents, seals, stamps, coins, instruments, or materials before a police magistrate, or to guard the same on the spot until the offender is taken before a police magistrate, or otherwise to dispose thereof in some place of safety ; and
- (e) To take into custody and carry before a police magistrate every person found in such place who appears to have been privy to the deposit, sale, or manufacture, or keeping of any such property, documents, seals, stamps, coins, instruments, or materials, knowing or having reasonable cause to suspect the said property to have been stolen, or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments, or materials to have been forged, falsified, or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps, or for forging.

Procedure on search warrant to be executed without the jurisdiction.

74 When it is necessary for a search warrant to be executed out of the local limits of the jurisdiction of the police court by which it was issued, a magistrate of a police court within the local limits of the jurisdiction of which the warrant is to be executed shall endorse his name thereon.

Such endorsement shall be sufficient authority for the police officer charged with the execution of the warrant to execute the same within the local limits of the said last-mentioned jurisdiction.

Procedure on search warrant outside jurisdiction where speedy execution is necessary.

75 Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of a magistrate of the police court within the local limits of the jurisdiction of which the warrant is to be executed will prevent the discovery of the thing for which search is to be made, the police officer, or other person charged with the execution of the warrant, may execute the same in any place beyond the local limits of the jurisdiction of the police court by which it was issued, without the endorsement of a court within the local limits of the jurisdiction of which that place is situate,

Criminal Procedure Code.

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

When necessary, police magistrates may order search outside jurisdiction without obtaining endorsement of warrant.

When a police magistrate issues a warrant under this section, he shall send information of his having done so to the police court within the local limits of the jurisdiction of which the place to be searched is situated.

77 A police magistrate issuing a search warrant to be executed in any place out of the local limits of the jurisdiction of his own court, may direct the warrant to the magistrate of the police court within the local limits of the jurisdiction of which such place is situated, and may send the same to him by post.

Warrant may be directed to magistrates of another jurisdiction.

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

78 When, in the execution of a search warrant at any place beyond the local limits of the jurisdiction of the court which issued the same, any of the things for which search is made are found, such things, together with a list of the same, prepared under the provisions hereinafter contained, shall be immediately taken before the court issuing the warrant, unless such place is nearer to the police court having local jurisdiction therein; in which case the list and things shall be immediately taken before such last-mentioned court, and unless there be good cause to the contrary, such last-mentioned court shall make an order authorizing them to be taken to the court issuing the warrant.

Disposal of things found in search beyond jurisdiction.

C.—Discovery of Persons wrongfully confined.

79 If any magistrate of a police court has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search warrant; and the person to whom such warrant is directed may search for the person so confined, and such search shall be made in accordance therewith; and the person if found shall be immediately taken before such magistrate, who shall make such order as in the circumstances of the case seems proper.

Search for persons wrongfully confined.

D.—General Provisions relating to Searches.

80 The provisions of sections 22, 51, 53, 54, and 57 shall, so far as may be, apply to all search warrants issued under section 71, section 73, or section 79.

Direction, &c., of search warrants.

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

Persons in charge of closed place to allow search.

Criminal Procedure Code.

If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 27.

Officer to make list of things seized.
[§ 2, 22 of 1807]

82 (1) The officer or other person executing the search warrant shall make a list of all things seized in the course of the search, and of the places in which they are respectively found, and shall sign such list.

Occupant of place searched may attend.

(2) The occupant of the place searched, or some person on his behalf, shall in every instance be permitted to attend during the search, and a copy of the list prepared under this section, signed by the person executing the warrant, shall be delivered to such occupant or person at his request.

E.—*Miscellaneous.*

Power of court to impound document produced.

83 Any court may, if it thinks fit, impound any document or other thing produced before it under this Code.

Search warrants may be endorsed by police officer.

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

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

Magistrate issuing search warrant may attend at its execution.

85 The police magistrate by whom a search warrant is issued may attend personally, for the purpose of seeing that the warrant is duly executed.

Magistrate may direct search in his presence.

86 Any magistrate of a police court may orally direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

*Of Security for keeping the Peace and for Good Behaviour.*A.—*Security for keeping the Peace on Conviction.*

Security for keeping the peace on conviction.

87 Whenever any person accused of rioting, assault, or other breach of the peace, or of abetting the same, or of assembling armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation by threatening injury to person or property, is convicted of such offence, and the court before which such person is convicted is of opinion that it is necessary to require such person to execute a bond for keeping the peace:

Such court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period in each instance as it thinks fit to fix, not exceeding six months if the sentence or order be by a police court, or two years if the sentence or order be by a district court.

If the conviction is set aside, on appeal or otherwise, the bond so executed shall become void.

*Criminal Procedure Code.***B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.**

88 Whenever a police magistrate receives information that any person is likely to commit a breach of the peace, or to do any wrongful act that may probably occasion a breach of the peace, within the local limits of the jurisdiction of the police court of such magistrate, or that there is within such limits a person who is likely to commit a breach of the peace, or do any wrongful act as aforesaid in any place beyond such limits, the police magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding six months, as the magistrate thinks fit to fix.

Security for keeping the peace in other cases.

89 Whenever a district court has reason to believe that any person is likely to commit a breach of the peace, or to do any wrongful act that may probably occasion a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by detaining such person in custody, such court may issue a warrant for his arrest (if he is not already in custody or before the court) and may send him before a police magistrate empowered to deal with the case under section 88.

Procedure where district court suspects an offence to have been committed, &c.

A police magistrate before whom a person is sent under this section may, in his discretion, detain such person in custody until the completion of the inquiry hereinafter prescribed.

90 Whenever a police magistrate receives information—

- (a) That any person is taking precautions to conceal his presence, within the local limits of the jurisdiction of the police court of such magistrate, and that there is reason to believe that such person is taking such precautions with a view to committing an offence; or
- (b) That there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself;

Security for good behaviour from suspected persons and vagrants, &c.

such magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding six months, as the magistrate thinks fit to fix.

91 Whenever a police magistrate receives information that any person, within the local limits of the jurisdiction of the police court of such magistrate, is an habitual robber, house-breaker, or thief, or an habitual receiver of stolen property, knowing the same to have been stolen, or that he habitually commits extortion, or in order to the committing of extortion habitually puts, or attempts to put, persons in fear of injury;

Security for good behaviour from habitual offenders.

Such magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding six months, as the magistrate thinks fit to fix.

Criminal Procedure Code.

Order to be made,

92 When a police magistrate, acting under section 88, section 90, or section 91, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character, and class of sureties (if any) required.

Procedure in respect of person present in court.

93 If the person in respect of whom such order is made is present in court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

Summons or warrant in case of person not so present.

94 If such person is not present in court, the police magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the court:

Provided that whenever it appears to such police magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the magistrate may at any time issue a warrant for his arrest.

Copy of order issued under section 92 to accompany summons or warrant.

95 Every summons or warrant issued under section 94 shall be accompanied by a copy of the order made under section 92, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.

Power to dispense with personal attendance.

96 The police magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Inquiry as to the truth of information.

97 When an order under section 92 has been read or explained under section 93 to a person present in court, or when any person appears or is brought before a magistrate in compliance with or in execution of a summons or warrant issued under section 94, the magistrate shall proceed to inquire into the truth of the information upon which he has acted, and to take such further evidence as may appear necessary.

Such inquiry shall be made as nearly as may be practicable in the manner hereinafter prescribed for conducting trials in summary cases before police courts, except that no charge need be framed.

For the purposes of this section, the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

Order to give security.

98 If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the magistrate shall make an order accordingly.

Criminal Procedure Code.

Provided—

First.—That no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 92.

Secondly.—That the amount of every bond shall be fixed with due regard to the circumstances of the case, and shall not be excessive.

Thirdly.—That when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

99 If, on an inquiry under section 97, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, the magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him; or if such person is not in custody shall discharge him.

Discharge of person informed against.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

100 If any person, in respect of whom an order requiring security is made under section 87 or section 98, is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

Commencement of period for which security is required.

In other cases such period shall commence on the date of such order.

101 The bond to be executed by any such person shall bind him to keep the peace, or to be of good behaviour, as the case may be; and, in the latter case, the commission, or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Contents of bond.

102 A magistrate may refuse to accept any surety for good behaviour offered under this chapter on the ground that, for reasons to be recorded by the magistrate, such surety is an unfit person.

Power to reject sureties.

103 If any person, ordered to give security under section 87 or section 98, does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison; or, if he is already in prison, be detained in prison until such period expires, or until, within such period, he gives the security to the court which made the order requiring it, or to the officer in charge of the prison in which the person so ordered is detained.

Imprisonment in default of security.

104 Imprisonment for failure to give security for keeping the peace shall be simple.

Simple imprisonment for failure to give security for the peace.

105 Imprisonment for failure to give security for good behaviour may be rigorous or simple, as the magistrate in each case directs.

Rigorous or simple imprisonment for failure to give security for good behaviour.

Criminal Procedure Code.

Power to release person imprisoned for failing to give security.

106 Whenever any court is of opinion that any person imprisoned for failing to give security under this chapter, whether by the order of such court or a magistrate, or that of his predecessor in office, may be released without hazard to the community, or to any other person, the court may order such person to be discharged.

Police-magistrate to report to superior court, and such court may order release.

107 Whenever a police magistrate is of opinion that any person imprisoned for failing to give security under this chapter as ordered by the Supreme Court or a district court, may be released without the hazard mentioned in section 106, such magistrate shall make an immediate report of the case for the orders of the Supreme Court or district court, as the case may be, and such court may, if it thinks fit, order such person to be discharged.

Discharge of sureties.

108 Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a police magistrate to cancel any bond executed under this chapter within the local limits of his jurisdiction.

On such application being made, the magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

When such person appears or is brought before the police magistrate, such magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 101, 102, 103, 104, 105, and 106, be deemed to be an order made under section 87 or section 98, as the case may be.

CHAPTER IX.

Unlawful Assemblies.

Assembly to disperse on command of magistrate or police officer.

109 Any police magistrate or police officer 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.

Use of civil force to disperse assembly.

110 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 police officer of the rank of inspector may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's army or a volunteer duly enrolled under the provisions of any law and acting as such, for the purpose of dispersing such assembly, and if necessary arresting and confining the persons who form part of it, in order to disperse such assembly, or that they may be punished according to law.

Criminal Procedure Code.

111 If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, any government agent or police magistrate who is present, or the Inspector-General of Police, may cause it to be dispersed by military force.

Use of military force.

112 When a government agent, police magistrate, or the Inspector-General of Police determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's army, or, by direction of the Governor, of any volunteers duly enrolled under the provisions of any law, to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the government agent, police magistrate, or Inspector-General of Police may direct, or as it may be necessary to arrest and confine, in order to disperse the assembly, or to have them punished according to law.

Duty of officer commanding troops required by magistrate to disperse assembly.

Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons.

Unnecessary force to be avoided.

113 When the public security is manifestly endangered by any such assembly, and when no government agent, police magistrate, or the Inspector-General of Police can be communicated with, any commissioned officer of Her Majesty's army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly, or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a government agent, police magistrate, or the Inspector-General of Police, he shall do so, and shall thenceforward obey the instructions of the government agent, police magistrate, or Inspector-General of Police; as to whether he shall or shall not continue such action.

Power of commissioned military officers to disperse assembly.

114 No prosecution against any government agent, police magistrate, or the Inspector-General of Police, or any military officer, police officer, soldier, or volunteer, for any act purporting to be done under this chapter, shall be instituted in any criminal court, except with the sanction of the Governor in Executive Council; and

Protection against prosecution for acts done under this chapter.

- (a) No government agent, police magistrate, or police officer acting under this chapter in good faith;
- (b) No officer acting under section 113 in good faith;
- (c) No person doing any act in good faith, in compliance with a requisition under section 110 or section 112; and
- (d) No inferior officer, or soldier, or volunteer, doing any act in obedience to any order which, under military law, he was bound to obey,

shall be deemed to have thereby committed an offence.

Criminal Procedure Code.

CHAPTER X.

Public Nuisances.

Conditional
order for
removal of
nuisance.

115 Whenever a police magistrate considers, on receiving a report or other information, and on taking such evidence (if any) as he thinks fit—

That any unlawful obstruction or nuisance should be removed from any way, harbour, lake, river, or channel which is, or may be, lawfully used by the public, or from any public place; or

That any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed; or removed, or prohibited; or

That the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped; or

That any building is in such a condition that it is likely to fall, and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair, or support is necessary; or

That any tank, well, or excavation adjacent to any such way or public place should be fenced, in such a manner as to prevent danger arising to the public, such police magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing, or controlling such building, substance, tank, well, or excavation, 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 remove such goods or merchandise; or

To prevent or stop the construction of such building; or

To remove, repair, or support it; or

To alter the disposal of such substance; or

To fence such tank, well, or excavation, as the case may be; or

To appear before himself or some other police magistrate, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

No order duly made by a police magistrate under this section shall be called in question in any civil court.

Explanation.—A "public place" includes also property belonging to the Crown or Colonial Government, and grounds left unoccupied for sanitary or recreative purposes.

Service or
notification of
order.

116 The order shall, if practicable, be served on the person against whom it is made in manner herein provided for service of a summons.

Criminal Procedure Code.

If such order cannot be so served, it shall be notified by Proclamation published in the *Government Gazette*, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

117. The person against whom such order is made shall—

- (a) Perform, within the time specified in the order, the act directed thereby; or
- (b) Appear in accordance with such order, and either show cause against the same or apply to the police magistrate by whom it was made to appoint a jury, to try whether the same is reasonable and proper.

Person to whom order is addressed to obey, or show cause, or claim jury.

118. If such person does not perform such act, or appear and show cause or apply for the appointment of a jury as required by section 117, he shall be liable to the penalty prescribed in that behalf in section 185 of the Ceylon Penal Code, and the order shall be made absolute.

Consequence of his failing to do so.

119. If he appears and shows cause against the order, the police magistrate shall take evidence in the matter.

Procedure where he appears to show cause.

If the police magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

If the police magistrate is not so satisfied, the order shall be made absolute.

120. On receiving an application under section 117, to appoint a jury, the police magistrate shall—

Procedure where he claims a jury.

- (a) 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 police magistrate, and the other members by the applicant;
- (b) Summon such foreman and members to attend at such place and time as the magistrate thinks fit; and
- (c) Fix a time within which they are to return their verdict.

121. If the jury, or a majority of the jurors, 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 shall make the order absolute, subject to such modification (if any).

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

In other cases no further proceedings shall be taken.

122. When an order has been made absolute under section 118, section 119, or section 121, the magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that in case of disobedience he will be liable to the penalty provided by section 185 of the Ceylon Penal Code.

Procedure on order being made absolute.

Criminal Procedure Code.

Consequence of disobedience to order.

123 If such act is not performed within the time fixed, the police magistrate may cause it to be performed, and may recover the costs of performing it either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of any other movable property of such person within or without the local limits of such magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the police magistrate within the local limits of whose jurisdiction the property to be attached is found.

No suit shall lie in respect of anything done in good faith under this section.

Procedure on failure to appoint jury or omission to return verdict.

124 If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed, or within such further time as the police magistrate may in his discretion allow, the police magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by sections 122 and 123.

Injunction pending inquiry.

125 If a police magistrate, making an order under section 115, considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be or has been appointed or not, issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury.

In default of obedience to injunction, magistrate may take steps.

126 In default of such person forthwith obeying such injunction, the police magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger, or to prevent such injury.

No suit shall lie against magistrate.

127 No suit shall lie in respect of anything done in good faith by a police magistrate under section 126.

Magistrate may prohibit continuance or repetition of public nuisances.

128 A police magistrate may order any person not to repeat or continue a public nuisance, as defined in the Ceylon Penal Code or any special or local law.

CHAPTER XI.

Temporary Orders in Urgent Cases of Nuisance.

Power to issue absolute order at once in urgent cases of nuisance.

129 In cases where, in the opinion of a police magistrate, immediate prevention or speedy remedy is desirable, such magistrate may, by a written order stating the material facts of the case, and served in manner provided by section 116, direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, if such magistrate considers that such direction is likely to prevent or tends to prevent 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.

Criminal Procedure Code.

An order under this section may, in cases of emergency, or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

An order under this section may be directed to a particular individual, or to the public generally, when frequenting or visiting a particular place.

Any police magistrate may rescind or alter any order made under this section by himself or by his predecessor in office.

No order under this section shall remain in force for more than two months from the making thereof, unless in cases of danger to human life, health, or safety, or a likelihood of a riot, or an affray, the Government, by notification in the *Government Gazette* otherwise directs.

CHAPTER XII.

Preventive Action of the Police.

130 Every police officer may interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of any cognizable offence.

Police to prevent cognizable offences.

131 Every police officer receiving information of a design to commit any cognizable offence, shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Information of design to commit such offences.

132 A police officer knowing of a design to commit any cognizable offence, may arrest, without orders from a police magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Police may arrest without orders or warrant to prevent such offences.

133 A police officer may, of his own authority, interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Prevention of injury to public property.

134 Any police officer not below the rank of sergeant may, without a warrant, enter any place for the purpose of inspecting or searching for any weights or measures, or instruments for weighing used or kept therein, whenever he has reason to believe that there are in such place any weights, measures, or instruments for weighing which are false.

Inspection of weights and measures.

If he finds in such place any weights, measures, or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a police magistrate having jurisdiction.

Criminal Procedure Code.

PART V.

CHAPTER XIII.

Statements to Magistrates or Police.

No inducement to be offered to induce an accused to make a confession.

135. No police officer or person in authority shall offer, or make or cause to be offered or made, any inducement, threat, or promise to an accused person, sufficient to give such accused person grounds which would appear to him reasonable for supposing that by making a confession he would gain any advantage or avoid any evil of a temporary nature in reference to proceedings against him.

Power to record statements and confessions.

136. Any police magistrate may record any statement or confession made to him at any time before the commencement of an inquiry or trial.

Such statements shall be recorded in such manner as is hereinafter prescribed for recording evidence. Such confessions shall be recorded and signed in the manner provided in section 368, and shall then be forwarded to the police court by which the case is to be inquired into or tried.

No magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and when he records any confession he shall make a memorandum at the foot of such record to the following effect :

I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it, and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed) A. B.,
Police Magistrate.

Magistrate may record statements and confessions voluntarily made by an accused person at any stage of an inquiry or trial.
[§ 15, 1 of 1888]

136 (1) Any police magistrate may record any statement or confession made voluntarily by the accused at any stage of any inquiry or trial, and the same shall be recorded and signed in manner provided in section 135 in respect of statements and confessions made before the commencement of any inquiry or trial. All such first-mentioned statements and confessions, purporting to have been duly recorded and signed in manner aforesaid, shall be admissible in evidence without further proof in any subsequent judicial proceeding, or in any later stage of the same judicial proceeding, subject, however, to the requirements of the first proviso contained in section 473.

*Criminal Procedure Code.***PART VI.****PROCEEDINGS IN PROSECUTIONS.****CHAPTER XIV.***Of the Jurisdiction of the Criminal Courts in
Inquiries and Trials.**A. — Place of Inquiry or Trial.*

137 The trial by a district court of, or the trial of or inquiry by a police court into, the commission of an offence shall ordinarily be made by the district or police court within the local limits of the jurisdiction of which the offence is committed, as is hereinafter explained.

Ordinary place of inquiry or trial.

138 Any district or police court within the local limits of the jurisdiction of which an accused may be or be found, shall have jurisdiction respectively in all cases of offences otherwise within their respective jurisdictions, which may have been committed on the territorial waters of the colony.

Any district or police court to have jurisdiction over offences committed on territorial waters.

139 When a person is accused of the commission of any offence, by reason of anything which has been done and of any consequence which has ensued, such offence may be inquired into or tried by any court within the local limits of the jurisdiction of which any such thing has been done, or any such consequence has ensued.

Accused is triable in district where act is done or consequence ensues.

Illustrations.

- (a) A is wounded within the local limits of the jurisdiction of the police court of X, and dies within those of the police court of Z; the offence of culpable homicide of A may be inquired into by the police court of either X or Z.
- (b) A is wounded within the local limits of the jurisdiction of the police court of X, and is, during ten days, within the local limits of the jurisdiction of police court Y, and during ten days more within the local jurisdiction of police court Z, unable in the local limits of the jurisdiction of police court Y or Z to follow his ordinary pursuits; the offence of unlawfully causing grievous hurt to A may be inquired into by the police court or tried by the district court of either X, Y, or Z.
- (c) A is put in fear of injury within the local limits of the jurisdiction of the district court and police court of X, and is thereby induced, within the local limits of the jurisdiction of the district court and police court of Y, to deliver property to the person who put him in fear; the offence of extortion committed on A may be inquired into by the police court and tried by the district court of either X or Y.

140 When an act is an offence by reason of its relation to any other act which is also an offence, or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a court within the local limits of the jurisdiction of which either act was done.

Place of trial where act is offence by reason of relation to other offences.

*Criminal Procedure Code.**Illustrations.*

(a) A charge of abetment may be inquired into or tried either by the court within the local limits of whose jurisdiction the abetment was committed, or by the court within the local limits of whose jurisdiction the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the court within the local limits of whose jurisdiction the goods were stolen, or by the court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into by the police court within the local limits of whose jurisdiction the wrongful concealing, or by the police court within the local limits of whose jurisdiction the kidnapping, took place.

Escape from custody.

141 The offence of having escaped from custody may be inquired into by any police court, or tried by a district court within the local limits of whose jurisdiction the person charged is, or by the court within the local limits of whose jurisdiction the offence was committed.

Criminal misappropriation, and criminal breach of trust.

142 The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into or tried either by the court within the local limits of whose jurisdiction any part of the property, which is the subject of the offence, was received by the accused person, or by the court within the local limits of whose jurisdiction the offence was committed.

Stealing.

143 The offence of stealing anything may be inquired into or tried by a court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief, or by any person who receives or retains the same knowing or having reason to believe it to be stolen.

Place of inquiry or trial where site of offence is uncertain.

144 When it is uncertain in which of several local areas an offence was committed: or,

Or not in one district only:

Where an offence is committed partly in one local area and partly in another; or

Or where offence is continuing.

Where an offence is a continuing one, and continues to be committed in more local areas than one; or

Or consists of several acts.

Where it consists of several acts done in different local areas;

it may be inquired into or tried by a court having jurisdiction over any of such local areas.

Offence committed on a journey.

145 An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a court through or into the local limits of whose jurisdiction the offender or the person against whom, or the thing in respect of which, the offence was committed passed in the course of that journey or voyage.

Offences against railways, post office, telegraphs, and Arms Act.

146 All offences against the provisions of any law for the time being in force relating to railways, telegraphs, the post office, or arms and ammunition, may be inquired into or tried by any court, whether the offence is stated to have been committed within the local limits of the jurisdiction of such court or not, provided that the offender is found within such local jurisdiction.

Criminal Procedure Code.

147 Whenever any doubt is entertained by a police magistrate as to the police court by which any offence should be inquired into, such magistrate may embody the ascertained facts in the form of a case, and transmit the same to the Attorney-General for his opinion, and the Attorney-General shall thereupon decide in which court the offence shall be inquired into, and such court shall thereupon have jurisdiction to inquire into such offence.

Attorney-General to decide, in case of doubt, district where inquiry or trial shall take place.

148 No sentence or order of any criminal court in the trial of an offence shall be liable to be set aside merely on the ground that the inquiry into the commission of the offence to which the sentence or order relates was made by a police court not empowered under this chapter so to do.

Sentence of criminal court may not be set aside on ground of inquiry being by police court not having jurisdiction.

B.—Conditions necessary for initiating Proceedings.

149 No court shall take cognizance—

- (a) Of any offence punishable under sections 170 to 185 (both inclusive) of the Ceylon Penal Code, except with the previous sanction of the Attorney-General, or on the complaint of the public servant concerned, or of some public servant to whom he is subordinate.
- (b) Of any offence punishable under sections 190, 191, 192, 193, 196, 197, 202, 203, 204, 205, 206, 207, and 223 of the same Code, when such offence is committed in, or in relation to, any proceeding in any court, except with the previous sanction of the Attorney-General, or on the complaint of such court.
- (c) Of any offence described in section 452, or punishable under sections 459, 463, 464 of the same Code, when such offence has been committed by a party to any proceeding in any court in respect of a document given in evidence in such proceeding, except with the previous sanction of the Attorney-General, or on the complaint of such court.

Prosecution for contempt of lawful authority of public servants.

Prosecution for certain offences against public justice.

Prosecution for certain offences relating to documents given in evidence.

The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the court or other place in which, and the occasion on which, the offence was committed.

Nature of sanction necessary.

When sanction is given in respect of any offence referred to in this section, the court taking cognizance of the case may frame a charge of any other offence so referred to, which is disclosed by the facts; no such sanction shall remain in force for more than six months from the date on which it was given.

150 No court shall take cognizance of any offence punishable under chapter VI. of the Ceylon Penal Code, or punishable under section 288 of the same Code, unless upon complaint made by or with the written authority of the Attorney-General.

Prosecution for offences against the State.

151 No court shall take cognizance of an offence falling under chapter XIX. of the Ceylon Penal Code, except upon complaint made by direction of the Attorney-General or some person aggrieved by such offence.

Prosecution for defamation.

Criminal Procedure Code.

CHAPTER XV.

*Of the commencement of Proceedings before Police Courts.**Institution of the Inquiry.*

152 In the following events (that is to say):

- (1) On a complaint being made by any person to a police court that an offence has been committed over which the court has jurisdiction; or
- (2) On a formal written report being made to a police court by a police officer to the like effect; or
- (3) On information received by the magistrate of a police court which the magistrate considers credible, and from which the magistrate draws the inference that an offence has probably been committed, over which the court has jurisdiction; or
- (4) On any person being brought before a police court in custody, accused of having committed an offence; or
- (5) Whenever it appears to the Attorney-General that an offence has been committed and he shall by his warrant under his hand require the magistrate of a police court to inquire into the same, and such magistrate shall receive such warrant; or
- (6) On notice or information given to a magistrate of a police court which the magistrate considers credible that any person has, within the jurisdiction of the court, committed suicide, or has been killed by another, or by an animal, or by an accident, or has died suddenly, or under circumstances raising a suspicion that some other person has committed an offence in connection with such death; or
- (7) On notice given to a magistrate of a police court of the finding of the dead body of a person within the local limits of the jurisdiction of such court, without its being known how such person came by death; or
- (8) On notice given to a magistrate of a police court of the death of any person in any prison or asylum;

such police court shall proceed, as the case may be—

- (a) To try the offender; or
- (b) To inquire into the matter of the alleged offence, and commit for trial or dispose of otherwise, as is hereinafter prescribed, any accused person; or
- (c) To inquire into any death so brought under its notice, and to proceed thereon as hereinafter prescribed; or
- (d) As is hereinafter or by any other law provided.

153 The complaint in the first head, and the information in the third head of section 152 mentioned, may be made either orally or in writing. If made orally, the substance of

Commencement
of proceedings
by police courts.

Complaint may
be oral or
written.

Criminal Procedure Code.

the complaint, or the information referred to in the third head, shall be entered by an officer of the court on a separate sheet of paper to be kept in the police court, and the person making the complaint, or giving the information, shall sign the entry so made.

154 If the complaint or information is in writing, it shall be signed by the person making or giving it.

Complaint if written shall be signed.

155 The complaint or information in writing, and the warrant of the Attorney-General, under the fifth head of section 152, shall be delivered to the police court, and form part of the proceedings.

Complaint and warrant of Attorney-General to be filed.

156 In cases falling under heads (1), (3), and (4) of section 152, the police court shall commence the inquiry by examining the complainant, or informant, or other person or persons professing to be able to speak to the material facts of the case.

Complainant to be examined.
[§ 3, 22 of 1880]

157 In cases falling under heads (6), (7), and (8) of section 152, if the body be forthcoming, the magistrate or person appointed by the Governor under section 195 shall go to the spot where such body is, and commence the inquiry there.

Inquiry into death to be at place where body is.

158 The statement made, on examination, shall be reduced into writing, and after being read over, and, if need be, interpreted to the person examined, shall be signed by him, and also by the magistrate, and, in cases falling under head (4) of section 152, shall be taken in the presence of the prisoner, and shall be on oath or affirmation.

Examination of complainant to be reduced to writing.

159 The police court may refuse to proceed further if, after such examination, there is, in the judgment of the police magistrate, no sufficient ground for proceeding, and if the accused be in custody he shall forthwith be discharged.

Police court may refuse to proceed.

CHAPTER XVI.

Of the Inquiry into Cases which appear not to be triable summarily by Police Court, but triable by a Superior Court.

160 The following procedure shall be observed by police magistrates on inquiry into cases falling under head (5) of section 152, in which the offence is one which is triable only by a superior court; and in all cases falling under heads (1), (2), (3), and (4) of section 152, when it shall appear after examination that the offence is one which the police court has no power to try summarily, but is triable only by a superior court.

Procedure in inquiries preparatory to commitment.

161 The police magistrate shall appoint a time for the inquiry to begin, and shall ascertain from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case, and to be able to give evidence for the prosecution, and shall summon any or such of them as he thinks necessary to give evidence before the court.

Police magistrate to appoint time for inquiry.

Criminal Procedure Code.

Procedure when accused is not in custody.

162. If the accused is not in custody before the police court, the police magistrate shall, if the offence is one for which a summons should issue in the first instance, issue his summons for the attendance of the accused. If the case appears to be one in which a warrant should issue in the first instance, he may issue his warrant, or, if he thinks fit, a summons, for causing the accused to be brought or appear at a certain time before the court.

Nothing in this section shall be deemed to affect the provisions of section 65.

When accused appears, particulars of offence to be stated to him.

163. When the accused appears or is brought before the police magistrate, he shall state to him the particulars of the offence of which he is accused.

Taking of evidence produced.

164. The police magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take, in manner hereinafter provided, all such evidence as—

(a) May be produced in support of the prosecution, or on behalf of the accused; or

(b) As may be called for by the police magistrate.

Accused may cross-examine witnesses for prosecution.

165. The accused person shall be permitted to cross-examine the complainant and the witnesses for the prosecution. And the accused person, if he so desires, shall also be permitted, when all the evidence on the part of the prosecution has been taken, to examine witnesses for the defence, who may be cross-examined on behalf of the prosecution, and to re-examine them after such cross-examination.

In the absence of complainant accused may be discharged.
[§ 4, 22 of 1890]

166. (a) If upon any day fixed for the hearing of a case instituted under this chapter upon complaint the complainant is absent, and the offence is one that may be lawfully compounded, the police magistrate may in his discretion, notwithstanding anything hereinafter contained, at any time before the charge has been framed, discharge the accused.

Police court may summon further witnesses and re-examine person already examined.

166. The police court may, at any stage of the proceedings, summon and examine any person whose evidence it considers essential to the inquiry, and recall and re-examine any person already examined. And in each of these events the accused person, if he so desires, shall be permitted to cross-examine the witness after the examination by the court, and such witnesses may be re-examined.

Process of compelling attendance of witnesses.

167. If the complainant, or officer conducting the prosecution, or the accused, applies to the police magistrate to issue process to compel the attendance of any witness, or the production of any document or other thing, the police magistrate shall issue such process, unless for reasons to be recorded by him he deems it unnecessary to do so.

When accused to be discharged.
[§ 5, 22 of 1890]

168. (1) When the evidence referred to in section 164, paragraphs (a) and (b), has been taken, such police magistrate shall, if he finds there are not sufficient grounds for committing the accused for trial, discharge him:

(2) Nothing in this section shall be deemed to prevent a police magistrate from discharging the accused at any previous stage of the case, if for reasons to be recorded by such police magistrate he considers the charge to be groundless.

Criminal Procedure Code.

Explanation.—A discharge under this section is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

169 When, upon such evidence being taken, the police magistrate finds that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand declaring with what offence the accused is charged.

When charge is to be framed.

170 As soon as the charge has been framed it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

Charge to be explained and copy furnished to accused gratis.

171 The magistrate shall then address the accused in these words, or to the like effect :

Magistrate to ask accused if he wishes to say anything in answer to charge.

“Having heard the evidence and the charge, do you wish to say anything in answer to the charge? You are not bound to say anything, but what you do say will be taken down in writing, and may be given in evidence against you at your trial.”

Whatever the accused then says in answer thereto shall be taken down in writing, and kept with the proceedings in the case, and shall be dealt with as is hereinafter mentioned.

172 The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

List of witnesses for defence on trial.

173 The police magistrate may, in his discretion, allow the accused to give in a list or further list of witnesses at a subsequent time; and where the accused is committed for trial before the Supreme Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, a list or further list of the persons whom he wishes to be summoned to give evidence on such trial.

Further list.

174 The police magistrate may, in his discretion, summon and examine any witness named in any list given him under the preceding section.

Power of magistrate in examining such witnesses.

175 So soon as the police magistrate shall have found that there are sufficient grounds for committing the accused for trial, and he shall have framed a charge against the accused, he shall forward the proceedings taken in the case to the Attorney-General in order to be instructed by him as to the court to which such commitment shall be made.

Proceedings to be forwarded to Attorney-General.

176 The police magistrate shall commit to the court to be named for the purpose by the Attorney-General, and to no other.

Police magistrate to commit to court named by Attorney-General.

176 (1) Before making any order under section 177, committing the accused for trial before the Supreme Court, the police magistrate shall, in every case, ask the accused to elect from which of the respective panels of jurors to be summoned, for attendance and service during the criminal sessions at which the accused is to be tried the jury shall be taken for the trial, and the magistrate shall record such election, if made. The accused person so electing shall thereafter be bound by, and may be tried according to, his election; subject, however, in all cases to the provisions of section 288.

Accused persons before being committed for trial before the Supreme Court may elect the panel from which the jury for the trial should be taken.

Criminal Procedure Code.

Order of
commitment.

177 When the accused, on being required to give in a list under section 172, has declined to do so, or when he has given in such list, and the witnesses (if any) included therein whom the police magistrate desires to examine have been summoned and examined under section 173, the police magistrate may make an order committing the accused for trial, and shall also record briefly the reasons for such commitment.

Police
magistrate may
summon
supplemental
witnesses.

178 In cases of commitment for trial, the police magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial, and bind them over to appear and give evidence. Such examination shall, if possible, be taken in the presence of the accused person, and in every case a copy of the examination of such witnesses shall be given to him upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council.

Summons to
witnesses for
defence when
accused is
committed.

179 When the accused has given in any list of witnesses under section 172, and has been committed for trial, the police magistrate shall summon such of the witnesses included in the list as have not already appeared before himself, to appear before the court, to be bound over as hereinafter provided.

Magistrate may
refuse to
summon witness,
if not satisfied
that his evidence
is material.

180 If the police magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the police magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and if he is not so satisfied may refuse to summon the witness (recording his reasons for such refusal), or may, before summoning him, require such sum to be deposited as such police magistrate thinks necessary to defray the expense of obtaining the attendance of the witness.

Complainants
and witnesses
shall be bound
over to appear.

181 Complainants and witnesses for the prosecution and defence, whose attendance before the superior court is necessary, and who appear before the police magistrate, shall execute before him bonds binding themselves to be in attendance to appear at such court to prosecute or to give evidence, as the case may be; and the magistrate shall endorse the names of such complainants and witnesses on the backs of the respective commitments.

Magistrate to endorse
names on back of
commitment.

[§ 2, 2 of 1883]

A magistrate
may require bail
from complainant
and witnesses,
and may in case of
refusal or neglect
commit party in
default to prison.
[§ 12, 1 of 1883]

181 (1) In proceeding under this chapter the police magistrate may at any stage of the inquiry require the complainant or any witness for the prosecution or defence to execute a bond, with or without sureties, for his appearance to prosecute or give evidence, as the case may be, either before himself, or any other police magistrate, or before a superior court; and for the like purpose it shall be lawful for any police magistrate who examines any complainant or witness on commission under the provisions of chapter XXXVII. to require such complainant or witness so examined to execute a bond, with or without sureties, as such magistrate may determine. If a complainant or witness refuses or neglect to execute such bond, the police magistrate may commit him to prison until such bond is duly executed, or until he shall be lawfully discharged.

Criminal Procedure Code.

182 If any complainant or witness refuse to attend before the superior court, or to execute the bond above directed, the magistrate may detain him in custody until he executes such bond, or until his attendance at the superior court is required, when the magistrate shall send him in custody to the superior court.

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

183 In proceedings under this chapter or chapter XIX, the police magistrate shall, if he commits the accused for trial, file, as part of the record of the inquiry, (a) the list or lists of witnesses given by the accused; (b) the list or lists of witnesses bound over, or in custody, to appear; (c) a copy of the warrant of committal. And he shall record or cause to be recorded (a) a brief statement of his reasons for committal; (b) whether the accused is on bail or in custody; and every record of an inquiry shall be certified under the hand of such police magistrate.

Record of inquiry under chapters XVI. and XIX.

[§ 7, 22 of 1880]

184 When the inquiry is concluded, the accused person shall, if he demands it at a reasonable time before the trial, be furnished with a copy of the evidence which is recorded, upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council.

Accused to be furnished with copy of evidence.

185 When the accused person is committed for trial, the police court shall forthwith transmit the record of the inquiry to the Attorney-General.

Record of inquiry to be forwarded to Attorney-General.

186 Until and during the trial, or until the accused shall be discharged by the Attorney-General as hereinafter provided, the police magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody.

Magistrate to commit accused to custody to take his trial.

CHAPTER XVII.

(See No. 11 of 1885.)

Of the Inquiry into Cases of Suicide, Sudden Death, or Death by Accident or Violence, or in an Asylum or a Prison, or where there is suspicion of an Offence, having been committed in connection with such Death, or a Dead Body is found.

187. The following procedure shall be observed by police magistrates in all cases falling under heads (6), (7), and (8) of section 152.

Procedure to be observed.

188. The police magistrate shall ascertain the names of any persons likely to be acquainted with the facts of the case, and to be able to give evidence touching the death to be inquired into, and shall summon them to give evidence before him.

Magistrate to ascertain names of witnesses.

189. The police magistrate shall hold an inquiry into the cause of death, and shall record the evidence taken by him in connection therewith.

He shall hold inquiry and record evidence.

Criminal Procedure Code.

If expedient he shall direct a post-mortem to be held.

190 The police magistrate shall, if he consider it expedient, call upon the government medical officer of the district, or any other medical practitioner, to hold a post-mortem examination of the dead body, and to report to such police magistrate regarding the cause of death.

Or cause body to be disinterred.

191 Whenever such police magistrate shall consider it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of death, the police magistrate may cause the body to be disinterred and examined.

He shall make a full report and forward same to Attorney-General.

192 He shall, after such inquiry, make and record a full and detailed report of the case and of his opinion thereon, and as to the cause of death, and shall forward the same, together with the evidence taken by him, to the Attorney-General.*

If it appears that an offence has been committed, he shall proceed under chapter XVI.

193 If in the course, or upon the termination, of such inquiry, it shall appear, or the police magistrate shall have reason to believe, that any person has committed any offence cognizable before a superior court, such police magistrate shall deal with such person under the provisions contained in chapter XVI.

Observing procedure therein prescribed.

194 In holding any inquiry under this chapter the police magistrate shall have all the powers which he would have in, and shall proceed in the same manner as if he were holding an inquiry into an offence under chapter XVI.

Governor may appoint persons to do coroners' duties.

195 An inquiry under this chapter may be made by any person appointed by the Governor for that purpose. Provided always that when any inquiry shall be held by a person so appointed, he shall associate with himself at such inquiry three respectable householders of the district in which such inquiry shall be held.

CHAPTER XVIII.

*Of the Charge.**Form of Charge.*

Charge to state offence.

196 Every charge under this Code shall state the offence with which the accused is charged.

Specify name of offence sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specified name.

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 accused notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

* See section 374 (f) *infra*.

Criminal Procedure Code.

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

What implied in charge.

The charge shall, when it is preferred, whether at the inquiry preliminary to committal for trial or at the trial, be read to the accused in a language which he understands.

Language of charge.

If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the court is competent to award, the fact, date, and place of the previous conviction shall be stated in the charge.

Previous conviction, when to be set out.

If such statement is omitted, the court may add it at any time before sentence is passed:

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 293 and 294 of the Ceylon Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the four exceptions to section 294, or that if it did fall within exception I, one or other of the three provisos to that exception applied to it.
- (b) A is charged, under section 317 of the Ceylon 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 325 of the Ceylon Penal Code, and that the general exceptions did not apply to it.
- (c) A is accused of murder, cheating, theft, extortion, or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Ceylon Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.
- (d) A is charged, under section 182 of the Ceylon 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.

197 The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

Particulars as to time, place, and person.

198 When the nature of the case is such that the particulars mentioned in sections 196 and 197 do not give the accused sufficient notice 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.

Criminal Procedure Code.

- (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 the 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.

Words in charge taken in sense of law under which offence is punishable.

199 In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors.

200 No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

Illustrations.

- (a) A is charged, under section 237 of the Ceylon 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 "fraudulently" 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) J is charged with the murder of A B on the 21st January, 1882. In fact, the murdered person's name was H B, and the date of the murder was the 20th January, 1882. J was never charged with any murder but one, and had heard the inquiry before the magistrate, which referred exclusively to the case of H. B. The court may infer from these facts that J was not misled, and that the error in the charge was immaterial.
- (e) J was charged with murdering A B on the 20th January, 1882, and H B (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of A B, he was tried for the murder of H B. The witnesses present in his defence were witnesses in the case of A. B. The court may infer from this that J was misled, and that the error was material.

Criminal Procedure Code.

201 A court may alter any charge at any time before judgment is pronounced, or, in the case of trials before the Supreme Court, before the verdict of the jury is returned.

Court may alter charge.

Every such alteration shall be read and explained to the accused.

202 If the alteration made under section 201 is such that proceeding immediately with the trial is not likely, in the opinion of the court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the court may, in its discretion, after such alteration has been made, proceed with the trial as if the altered charge had been the original charge.

When trial may proceed on altered charge immediately.

203 If the altered charge is such that proceeding immediately with the trial is likely, in the opinion of the court, to prejudice the accused or the prosecutor as aforesaid, the court may either direct a new trial or adjourn the trial for such period as may be necessary.

When new trial may be directed or trial adjourned.

204 If the offence stated in the altered charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Stay of proceedings, if prosecution of offence in altered charge requires previous sanction.

205 Whenever a charge is altered by the court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration, any witness who may have been examined.

Recall of witnesses when charge altered.

206 If the Supreme Court, in the exercise of its powers of appeal, reference, or revision, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge, or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

Effect of material error.

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

Illustration.

A is convicted of an offence under section 193 of the Ceylon Penal Code, upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine was false or fabricated. 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.

207 For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 208, 209, 210, and 213.

Separate charges for separate offences.

*Criminal Procedure Code.**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.

Three offences of same kind within a year may be charged together.

208 When a person is accused of more offences than one of the same kind, committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Ceylon Penal Code, or of any special or local law.

I.—Trial for more than one offence.

209 I.—If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

II.—Offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

III.—Acts constituting one offence but constituting another offence when combined.

III.—If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined, or for any offence constituted by any one or more of such acts.

Nothing contained in this section shall affect the Ceylon Penal Code, section 67.

Illustrations.

To paragraph I.:

- (a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and tried for, offences under sections 220 and 324 of the Ceylon Penal Code.
- (b) A has in his possession several seals, knowing them to be counterfeit, and intending to use them for the purpose of committing several forgeries punishable under section 465 of the Ceylon Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 461 of the Ceylon Penal Code.
- (c) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 208 of the Ceylon Penal Code.
- (d) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 208 and 191 of the Ceylon Penal Code.

Criminal Procedure Code.

- (e) A, with six others, commits the offences of rioting, grievous hurt, and assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, and convicted of, offences under sections 144, 316, and 149 of the Ceylon Penal Code.
- (f) A threatens B, C, and D at the same time with injury to their persons with intent to cause alarm to them; A may be separately charged with, and convicted of, each of the three offences under section 486 of the Ceylon Penal Code.

The separate charges referred to in illustrations (e) to (f) respectively may be tried at the same time.

To paragraph II. :

- (g) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 343 and 314 of the Ceylon Penal Code.
- (h) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a drain-pit. A and B may be separately charged with, and convicted of, offences under sections 394 and 396 of the Ceylon Penal Code.
- (i) A exposes her child, with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 308 and 237 of the Ceylon Penal Code.
- (j) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 163 of the Ceylon Penal Code. A may be separately charged with, and convicted of, offences under sections 459 (read with 455) and 193 of the same Code.

To paragraph III. :

- (k) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 314, 380, and 382 of the Ceylon Penal Code.

210 If a single act or series 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 may be charged with having committed all or any of such offences, 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 theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

211 If, in the case mentioned in section 210, the accused is charged with one offence, 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, although he was not charged with it.

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

*Criminal Procedure Code.**Illustration.*

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

When offence proved included in offence charged.

212 When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

When a person is charged with an offence, and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he is not charged with it.

Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 149 or section 151, when no complaint has been made as required by those sections.

Illustrations.

(a) A is charged, under section 399 of the Ceylon Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 389 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 389.

(b) A is charged, under section 316 of the Ceylon Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 326 of that Code.

All persons concerned in committing an offence may be charged together.

213 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 fit; and the provisions contained in the former part of this chapter shall apply to all such charges.

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 other two thefts.

When conviction on one charge, remaining charges may be withdrawn.

214 When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the court withdraw

Criminal Procedure Code.

the remaining charge or charges, or the court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said court (subject to the order of the court setting aside the conviction) may proceed with the inquiry into, or trial of, the charge or charges so withdrawn.

Effect of
withdrawal.

CHAPTER XIX.

(Section 7 of No. 22 of 1890.)

The Trial of Cases where a Police Court has power to try Summarily.

215 The following procedure shall be observed by the police magistrate in all cases falling under—

Procedure to be
observed.

- (a) Heads (2) and (3) of section 152, in which the offence is one triable summarily by the police court;
- (b) Heads (1), (3), and (4) of section 152, where it shall appear after the examination required by section 156 that the offence is one which the police court has jurisdiction to try summarily; and
- (c) Heads (1), (2), (3), (4), and (5) of section 152 in which the offence is one not triable summarily by the police court, but is one within the jurisdiction of the district court, and the police magistrate is of opinion that the same may be sufficiently dealt with and disposed of by the police court summarily, and the accused consents to the same being tried by the said court in manner provided in section 219.

216 If the accused, being before the police court, upon being asked if he has any cause to show why he should not be convicted as provided by section 219, does not admit that he has committed the offence, or if the accused is not before the police court, the police magistrate shall appoint a time for the appearance of the accused and the trial and hearing of the complaint; and shall ascertain, from the complainant or accused if present, or otherwise, the names of any persons likely to be acquainted with the facts of the case, and to be able to give evidence for the prosecution or defence, and shall summon to give evidence before the police court such of them as he thinks necessary.

When accused is
not before court,
or, being present,
denies charge,
magistrate to
appoint time for
trial.

217 (1) If the accused is not before the police court, and the case is one in which a summons should issue in the first instance, the police magistrate shall issue his summons for the attendance of the accused. If the case appears to be one in which a warrant should issue in the first instance, the police magistrate may issue a warrant, or, if he thinks fit, a summons, for enforcing the appearance of the accused at the time appointed before the police court.

Summons or
warrant should
be issued.

(2) Nothing in this section shall be deemed to affect the provisions of section 65.

*Criminal Procedure Code.*SECTION 7 OF No. 22 OF 1890—*contd.*

Personal attendance of accused may be dispensed with.

218 Whenever a police magistrate issues a summons, he may, in his discretion, dispense with the personal attendance of the accused, and permit him to appear by his pleader. But the police magistrate may, in his discretion, at any stage of the proceedings direct the personal attendance of the accused, and enforce his attendance in manner hereinbefore provided.

Particulars of case to be stated to accused.

219 (1) When the accused appears, or is brought before the police magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

Magistrate may try accused by consent.

(2) If the offence is one over which a police court does not have summary jurisdiction, but is one within the jurisdiction of the district court, and the police magistrate is of opinion that the same may be sufficiently dealt with and disposed of by the police court summarily, he shall explain to the accused the particulars of the offence, and say to him these words, or words to the like effect:

“Do you consent that you shall be tried by this court summarily, or do you desire to be tried by a superior court?”

Consent to be recorded.

(3) If the accused consents to being summarily tried, such consent shall be recorded, and he shall be asked if he has any cause to show why he should not be convicted, and the case shall be proceeded with in manner hereinafter provided in this chapter. If he does not consent, then the police magistrate shall proceed with the case as is provided in chapter XVI.

Admission of offence by accused.

220 If the case is one summarily triable by the police court, or if the accused consents to the case being summarily tried by the police court in manner hereinbefore provided, and the accused, upon being asked if he has any cause to show why he should not be convicted as provided by section 219, admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and if he shows no sufficient cause why he should not be convicted, the magistrate shall convict him accordingly, and pass sentence upon him according to law, and shall record the finding and sentence.

If accused does not admit offence, magistrate shall proceed with inquiry.

221 If the accused does not make such admission, the police magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence. The accused shall be permitted to cross-examine any witness examined against him, and the prosecutor or complainant may re-examine any witness who may have been cross-examined.

Accused may cross-examine witnesses for prosecution.

Magistrate may issue process for compelling attendance of witnesses.

222 The police magistrate may, if he thinks fit, on the application at any time of the complainant or accused, issue process to compel the attendance of any witness, or the production of any document or other thing. The police

*Criminal Procedure Code.*SECTION 7 OF NO. 22 OF 1890—*contd.*

magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred for the purposes of attending the trial be deposited in court.

Expenses of witnesses.

223 If the police magistrate, upon taking the evidence referred to in section 221, and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal. If he finds the accused guilty, he shall pass sentence upon him according to law.

Acquittal.

Sentence.

224 Nothing in the preceding section contained shall be deemed to prevent a police magistrate from acquitting the accused at any previous stage of the case, if, for reasons to be recorded by him, he considers the complaint to be groundless.

Power to police magistrate to acquit accused at any time if he considers complaint to be groundless.

225 (1) In cases falling under the heads (a) and (b) of section 215, if the police magistrate, after taking the evidence adduced for the prosecution and the defence, is of opinion that the offence cannot be adequately punished by the police court, and that there is sufficient evidence on which the accused may be committed for trial before a superior court, the police magistrate may refrain from passing sentence on the accused, and shall forward the proceedings taken in the case to the Attorney-General.

Commitment for trial before superior court.

(2) The Attorney-General may, in his discretion, frame a charge in writing, which shall be filed with the record, and a copy of which shall be served on the accused, and instruct the magistrate as to the court to which the case shall be committed for trial.

(3) The police magistrate shall thereupon commit for trial the accused upon the charge so framed as aforesaid to the court named for the purpose by the Attorney-General, and to no other.

226 (1) A police magistrate may convict an accused of any offence over which a police court has summary jurisdiction, which, from the facts admitted or proved, he appears to have committed, whatever may be the nature of the complaint or information.

Conviction not limited to complaint or information.

(2) The police magistrate, before he so convicts an accused as aforesaid, shall frame a charge in writing, and shall read and explain the same to the accused; and such of the provisions of chapter XVIII, as relate to altered charges shall apply to a charge framed under this section.

227 In every case summarily disposed of under this chapter the police magistrate shall record, or cause to be recorded, a brief statement of the reasons for his finding; and he shall certify under his hand as such police magistrate the record of every such case.

Magistrate to state reasons for his finding.

228 If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the police

Accused may be acquitted in the absence of complainant.

*Criminal Procedure Code.*SECTION 7 OF NO. 22 OF 1890—*contd.*

magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day.

Withdrawal of charge by complainant.

229 If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the police magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the police magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

Accused may be discharged by magistrate with sanction of Attorney-General.

230 In any case instituted under this chapter otherwise than upon a complaint, a police magistrate may, with the previous sanction of the Attorney-General, for reasons to be recorded by the magistrate, stop the proceedings at any stage without pronouncing any judgment, either of acquittal or conviction, and may thereupon discharge the accused.

Where accused tried by consent police court to have jurisdiction to impose double ordinary sentence.

231 In any case in which the offence is one triable summarily by the police court with the consent of the accused as provided in section 219, the police court shall have jurisdiction, upon the conviction of the offender, to impose on him any sentence not exceeding double the maximum sentence which a police court may pass under section 16.

How statement of accused to be recorded.

232 When an accused person in any proceedings under this chapter makes a statement only, or makes a statement and is examined thereon as is provided by section 352, the substance of such statement or statement and examination shall be recorded, and shall be shown or read and interpreted to him in a language he understands, and he shall be at liberty to explain or add to his statement or answers.

Statement to be signed by magistrate.

233 Such statement or statement and examination shall be signed by the police magistrate, but it shall not be necessary for the police magistrate to attach any certificate to the same.

How confession of accused to be recorded.

234 When an accused person in the course of any proceedings under this chapter makes any confession, the police magistrate shall record the same in such manner as is in this Code prescribed for recording evidence, and the confession so recorded shall be shown or read and interpreted to the accused, and shall be signed by the police magistrate, and it shall not be necessary for the police magistrate to attach any certificate to the same.

Statement and confession may be given as evidence.

235 The statement or confession of an accused taken and recorded by a police magistrate under the provisions of sections 232, 233, and 234 may be given in evidence without further proof in any subsequent judicial proceedings, or in any later stage of the same judicial proceedings, anything in this Code to the contrary notwithstanding.

Frisivons or vexatious complaints.

236 (1) If in any case instituted on complaint a police magistrate acquits the accused under section 223, and is of opinion that the complaint was frivolous or vexatious, he

*Criminal Procedure Code.*SECTION 7 OF NO. 22 OF 1890—*contd.*

may, in his discretion, by his order of acquittal, direct the complainant to pay to the accused, or to each of the accused when there are more than one, such compensation, not exceeding ten rupees, as the police magistrate shall think fit.

(2) The sum so awarded shall be recoverable as if it were a fine. Provided that, if it cannot be realized, the imprisonment to be awarded shall be simple, and for such term not exceeding thirty days, as the police magistrate directs at the time of awarding compensation. In any subsequent civil suit relating to the same matter, the court shall take into account any sum paid, or recovered as compensation under this section.

(3) If in any case inquired into or tried before a police magistrate under this chapter the complaint be not proceeded with within such time as the police magistrate may deem reasonable, or, if the complaint is declared by the magistrate to have been frivolous or vexatious, it shall be lawful for such police magistrate to make an order for the complainant to pay by way of Crown costs a sum not exceeding five rupees; such sum to be recovered as if it were a fine; and against such order there shall be an appeal; and if any sum which a complainant is awarded to pay by way of Crown costs cannot be recovered, it shall be lawful for the police magistrate to sentence such complainant to simple imprisonment for any period not exceeding fourteen days.

237 In any case in which a police magistrate has committed the accused for trial before a superior court under the provisions of section 225, he shall and may perform or exercise all or any of the duties, powers, acts, matters, or things which such police magistrate, if acting under chapter XVI., might perform or exercise after commitment under that chapter.

(a) The Attorney-General may exercise, in respect of any case forwarded to him under the provisions of section 225, all or any of the powers conferred on him by chapters XVI. and XX.

(b) Sections 368, 369, 370, and 473 shall not apply to statements or confessions taken and recorded by a police magistrate in proceedings carried on under the provisions of this chapter.

238 In any trial before a police court, if at any stage of the proceedings the evidence shows that an offence has been committed which is not triable summarily, or which cannot be sufficiently dealt with and disposed of by the police court notwithstanding the consent of the accused, the police court shall not be at liberty to disregard material parts of the evidence and convict for a lesser offence and so withdraw the case from the proper tribunal, but it shall be the duty of such court to stop further proceedings under this chapter and to proceed under chapter XVI.

Recovery of compensation.

Crown costs.

Police magistrate committing under this chapter to have same powers as if he had acted under chapter XVI.

Powers of Attorney-General.

Sections 368, 369, 370, and 473 shall not apply to statements and confessions taken under this chapter.

Police court cannot convict for lesser offence and so withdraw case from a superior court.

Criminal Procedure Code.

CHAPTER XX.

Of the Proceedings by the Attorney-General.

Attorney-General's powers to file informations.

239 The Attorney-General may exhibit to the Supreme Court informations for all purposes for which Her Majesty's Attorney-General in England may exhibit informations on behalf of the Crown in the High Court of Judicature. Such proceedings may be taken upon every such information as may lawfully be taken in case of similar informations filed by Her Majesty's Attorney-General in England, so far as the circumstances of the case and the course and practice of proceeding in the said Supreme Court respectively will admit.

What persons are deemed to have been brought before the court.

240 All persons appearing before the Supreme Court under a commitment for trial, or in pursuance of bill so to appear, against whom charges are preferred by the Attorney-General, shall, unless the contrary is shown, be deemed to have been brought before the court in due course of law and (subject to the provisions herein contained) shall be tried upon the charges so preferred.

Attorney-General may appoint court to which commitment shall be made.

241 When a police-magistrate shall have forwarded the proceedings in any case to the Attorney-General for instructions, as required by section 175, the Attorney-General may, if he consider commitment desirable, by indorsement thereon, name the court to which such commitment, if any, shall be made, and in such event he shall return such proceedings, with such indorsement, to the police court.

Attorney-General may order person to be discharged. [§. 3. 22 of 1860]

242 Upon such proceedings being forwarded to the Attorney-General, as required by section 175, or upon the record of any inquiry before the police court being transmitted to the Attorney-General, as required by section 185, it shall be competent for the Attorney-General, if he is of opinion that no further proceedings should be taken in the case, to make an order in writing, signed by himself, directing the accused person to be discharged from the matter of the complaint, or information, or charge, and if such accused person is in custody, from further detention; and thereupon the jailer, or other person, having the accused person in custody, shall forthwith release him, and all the proceedings taken upon such inquiry shall cease and be determined.

Attorney-General may order further evidence to be taken.

243 If the Attorney-General is of opinion that a criminal offence is disclosed by the proceedings or record against the accused person, but that the evidence already taken, by reason of being in any particular or respect defective, is not sufficient to afford a foundation for a full and proper trial, then he may make, in writing, an order in the case, signed by himself, requesting the police court to take such further evidence as may be specified or indicated in the order, either in the way of examining anew witnesses who have already given their testimony, or otherwise to continue the inquiry. And upon making such order, the Attorney-General shall return to the police court the proceedings or record, together with his order, for the purpose of the latter being carried into effect.

Criminal Procedure Code.

244 Upon the proceedings or record, together with the order of the Attorney-General, being so returned to it, the police court shall be empowered, and it shall be its duty, to cause the accused person to appear before it, and to resume and proceed with the inquiry in pursuance of the order of the Attorney-General and according to its terms.

Duty of police court in such cases.

245 For the purpose of this supplemental inquiry, the accused person, if at large on bail, shall be called upon by written notice to appear before the police court, and if in prison shall, by an order of the police court, be brought before the police court, on a day appointed therefor, and all the provisions in respect of the original inquiry shall be applicable to the supplemental inquiry. The police court shall, in any event, at the termination of the supplemental inquiry, again forthwith transmit the proceedings or record, as the case may be, in the case to the Attorney-General.

Procedure on such supplemental inquiry.

246 The supplemental inquiry may be conducted in the police court by a magistrate thereof other than the magistrate who conducted the original inquiry.

May be before another magistrate.

247 Whenever the Attorney-General is of opinion that a criminal offence is disclosed by the record as against the accused person, and that the evidence taken is sufficient to afford a foundation for a full and proper trial, then he shall in his discretion, by his fiat in writing signed by himself, designate the court, whether Supreme Court or district court, before which the case shall be placed for trial, and shall thereupon transmit the record of the case to the court so designated.

Attorney-General by fiat to appoint court for trial.

248 The fiat shall be filed in the case, and if the court therein designated shall be other than the court to which the accused person was committed, he shall, if at large on bail, be served with a copy thereof; and thereupon the bail of the accused shall be taken to refer to the court named in the fiat in the same and the like manner as if such last-mentioned court had been the court to which the accused had originally been committed; but if he is detained in prison, a copy of the fiat shall be left with the jailor, who shall inform the prisoner of the same, and, if he desires it, shall give him a copy of it.

Fiat to be filed, and, if court other than that to which commitment was made, accused to be informed.

249 In the event of the court designated by the fiat of the Attorney-General for the trial of the accused being a court other than the court to which the accused shall have been committed for trial, the Attorney-General may cause notices to that effect to be served on the witnesses who shall have been bound over to appear and give evidence; and thereupon the bail of such witnesses shall be taken to refer to such court and time named in such notice, in the same manner as if they had been bound over to appear and give evidence at such court and time.

And in such event witnesses to be also informed thereof.

250 Before transmitting the record of the case to the court of trial, the Attorney-General shall, if it appear to him necessary and expedient so to do, alter or re-draw the charge against the accused, having regard to the rules as to the form

Attorney-General may alter or re-draw charge.

Criminal Procedure Code.

of charges hereinbefore contained; and in the event of his so doing, the charge so altered or re-drawn shall be filed with the record; and shall be deemed the charge on which the accused person is committed for trial, and a copy thereof shall be served on the accused person.

Police magistrate to transmit proceedings in every case to Attorney-General when required to do so.

251 Every police magistrate shall, whenever required so to do by the Attorney-General, forthwith transmit to the Attorney-General the proceedings in any case in which an inquiry has been or is being held before the police court of such magistrate, and thereupon such inquiry shall be suspended in the same and the like manner as upon an adjournment thereof.

In case of doubt or difficulty magistrate may transmit case to Attorney-General.

252 Whenever in the course of any inquiry before a police court, the police magistrate of such court shall consider the case one of doubt or difficulty, or that there are peculiar circumstances connected therewith, or he shall be in doubt as to whether an accused person should be committed or not, he may, in his discretion, transmit the proceedings on such inquiry to the Attorney-General, in order that the Attorney-General may give such instructions in the case as to him shall appear requisite.

Attorney-General may give such instructions as he may consider requisite.

253 It shall be competent for the Attorney-General, upon the proceedings in any case being transmitted to him, under the provisions of the two last preceding sections, to give such instructions with regard to the inquiry to which such proceedings relate as he may consider requisite; and thereupon it shall be the duty of the police magistrate to carry into effect, subject to the provisions of this Code, the instructions of the Attorney-General, and to conduct and conclude such inquiry in accordance with the terms of such instructions.

Attorney-General may file an information when of opinion that an accused should not have been discharged.

254 Whenever a police court shall have discharged an accused person under the provisions of chapter XVI, and the Attorney-General shall be of opinion that such accused person should not have been discharged, the Attorney-General may file an information against such person either in the Supreme or a district court, as the Attorney-General shall please, and the Attorney-General may take such proceedings thereon as he is authorized and empowered to take on information filed under the authority of section 239.

Attorney-General entitled to appear in all cases before magistrate.

255 The Attorney-General, or a pleader generally or specially appointed by him, shall be entitled to appear and conduct the prosecution in any case into which the magistrate of a police court may be inquiring, or which he may be trying.

Magistrate may permit person to conduct prosecution.

256 Any magistrate of a police court inquiring into or trying any case, may permit any person, other than a police officer below the rank of sergeant, to conduct the prosecution; but no person, other than the Attorney-General or pleader generally, or specially appointed by him, shall be entitled to do so without such permission.

Prosecution may be conducted by pleader.

257 Any person conducting the prosecution may do so personally or by pleader.

Criminal Procedure Code.

258 If any private person instructs a pleader to prosecute in any court in any case in which the Attorney-General, or a pleader appointed by him, appears, the pleader so instructed shall act therein under his directions.

Pleader to act under Attorney-General's directions.

259 The Attorney-General, or pleader appointed by him, may, in any case in which he appears, before the judgment is pronounced, withdraw from the prosecution, and upon such withdrawal—

Attorney-General may withdraw from prosecution.

(a) If it is made before a charge has been framed, the accused shall be discharged.

(b) If it is made after the charge has been framed, and the case is one in which the police court has power to adjudicate summarily, the accused shall be acquitted.

CHAPTER XXI.

Trials by District Court.

260 Trials before a district court under this chapter may be before a district judge alone, or before the judge aided by assessors, as provided by law.

Trial before district court to be by judge or with assessors.

261 In every trial before a district court, the prosecution shall be conducted by the Attorney-General, or by some officer empowered by him in that behalf.

Trial before district court to be conducted by Attorney-General.

262 The Attorney-General may at any time before judgment is passed withdraw any case from a district court; and thereupon all proceedings therein shall be stayed, and the accused shall be discharged from the charge, but such discharge shall not amount to an acquittal.

Attorney-General may withdraw prosecution.

263 If the case comes before the court on the committal of a police court, the charge or charges upon which any accused person is tried in the district court shall be that or those which has or have been approved of, or framed, by the Attorney-General, and shall be embodied by the secretary of the court in an indictment.

Attorney-General to frame or approve of charge.

264 If the case comes before the court from some other court, by virtue of an order of transfer made by the Supreme Court, the charge shall be framed upon the facts disclosed in the examination of the complainant or informant and the evidence taken in the case, and need not be substantially identical with, nor comprehend, the charge, if any, made by the police court before which any portion of the inquiry was held; and a copy of the charge so framed shall be furnished to the accused person free of cost.

In case of transfer from another court, charge to be framed upon the evidence.

Choosing Assessors.

265 When the trial is to be held with the aid of assessors, two or more shall be chosen, as the judge thinks fit, from the persons summoned to act as such.

Judge to choose assessors.

*Criminal Procedure Code.**Commencement of Trial.*

Accused to appear before court and charge to be read to him, and he shall be called on to plead.

266 When the court is ready to commence the trial, the accused person shall appear, or be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

Plea of guilty.

267 If the accused person pleads guilty, the plea shall be recorded on the indictment and he may be convicted thereon.

Refusal to plead or claim to be tried.

268 If the accused person refuses to, or does not plead, or if he claims to be tried, the court shall proceed to try the case.

Trial to commence by Attorney-General stating his case and examining witnesses. Accused's statement may be put in.

269 The trial shall commence by the Attorney-General, or other officer who conducts the prosecution, stating his case to the court.

The witnesses for the prosecution shall then be examined; and may be cross-examined, and re-examined.

270 If it is intended to put in, as evidence, the statement (if any) of the accused made before the police court by which he was committed, it may be put in at any time before the close of the case for the prosecution.

Court may acquit without calling for defence; or

271 When the examination of the witnesses for the prosecution is concluded, if the court wholly discredits the evidence on the part of the prosecution, or is of opinion that such evidence fails to establish the commission of the offence charged against the accused in the indictment, then the court shall return a verdict of acquittal; if, however, the court considers that there are grounds for proceeding with the trial, it shall call upon the accused for his defence, and to produce his witnesses if he desires to do so.

Call for defence.

Accused may make his defence.

272 The accused person, or his pleader, may then enter upon his defence, and may examine the witnesses (if any) produced for the defence, who may be cross-examined on behalf of the prosecution, and in that event may be re-examined on the part of the accused person, and the accused person or his pleader may then sum up his case.

When prosecuting officer entitled to reply.

273 If any evidence is adduced on behalf of the accused person, the officer conducting the prosecution shall be entitled to reply.

Judge to sum up evidence.

274 When the case for the defence and the prosecutor's reply (if any) are concluded, the court may, in its discretion, sum up the evidence for the prosecution and defence; and in a case tried with the aid of assessors it shall do so, and shall require each of the assessors to state his opinion orally, and shall record such opinion.

The judge shall not be bound to conform to the opinion of the assessors.

And to pass judgment.

275 When the case for the defence and the prosecutor's reply (if any) are concluded, and the assessors' opinion, if the trial has been with the aid of assessors, has been recorded, the court shall proceed to pass judgment of acquittal or conviction.

Criminal Procedure Code.

If the accused person is convicted, the court shall proceed to pass sentence on him according to law.

276 If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

The provisions of sections 306, 345, with regard to trial by jury in the Supreme Court, shall apply to trials with the aid of assessors in the district courts.

In case of absence of an assessor, trial to proceed before the other.

In the absence of all, a new trial to be held.

CHAPTER XXII.

Trial before the Supreme Court.

A.—Preliminary.

277 All trials under this chapter before the Supreme Court shall be by jury.

The Attorney-General, or some other advocate specially authorized by him in that behalf, shall conduct all prosecutions before the Supreme Court.

278 At any stage of any trial before the Supreme Court under this Code, before the return of the verdict, the Attorney-General may, if he thinks fit, inform the court on behalf of Her Majesty that he will not further prosecute the accused upon the charge; and thereupon all proceedings on such charge against the accused shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal.

279 When any accused person comes for trial before the Supreme Court, under a commitment for trial made by a police court, or by fiat of the Attorney-General, or by virtue of an order of the Supreme Court of transfer of trial from another court, the charge shall be framed or approved by the Attorney-General, having regard to the rules as to the form of charges.

280 If the case comes before the court by virtue of an order of the Supreme Court of transfer of trial from another court, the charge shall be framed upon the facts disclosed in the complaint or information and the evidence taken in the case, and need not be substantially identical with, nor comprehend, the charge (if any) made by the police court before whom any portion of the inquiry was held.

281 The Attorney-General shall embody the charge in an indictment, which indictment shall be the foundation of the trial in the Supreme Court; and a copy of such indictment shall be given to the accused person, free of cost, if he demands it.

Trials before Supreme Court to be by jury.

Attorney-General to conduct all prosecutions before Supreme Court.

Attorney-General may discontinue prosecution.

Attorney-General shall approve of charge.

Charge how framed.

Attorney-General shall embody charge in indictment.

Criminal Procedure Code.

Entry on
unsustainable
charge.

281 (1) In trials before the Supreme Court, when it appears to the Supreme Court at any time before the commencement of the trial of the person charged that any charge or any portion thereof is clearly unsustainable, the judge may make on the charge an entry to that effect. Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

Effect of entry.
[§ 2, 36 of 1884]

Accused to be
furnished with
copy of his
examination on
certain terms.

282 The accused person shall also be furnished, upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council, with a copy of his own statement (if any) before the police court which committed him for trial, or, if he has been previously tried before a police court or district court, with a copy of his statement and examination (if any) before such court, and with copies of the depositions of witnesses made on the inquiry by the police court and on the previous trial (if any) of the same matter, and of all documents read and made exhibits as part of such depositions on these occasions respectively, if the accused person demands them a reasonable time before the case comes on for trial.

B.—Commencement of Trial.

Commencement
of trial.

283: When the court is ready to commence the trial, the accused person shall appear or be brought before it, and the indictment shall be read out in court and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

Plea of guilty
may be recorded
and accused
convicted
thereon.

284 If the accused person pleads guilty, the plea shall be recorded on the indictment, and he may be convicted thereon: Provided that when the charge so pleaded to is murder, the judge may in his discretion refuse to receive the plea and shall cause the trial to proceed, the plea notwithstanding, in like manner as if the accused person had claimed to be tried.

Refusal to plead
or claim to be
tried.

285 If the accused person refuses to or does not plead, or if he claims to be tried, the court shall proceed to choose jurors as hereinafter directed, and to try the case. Provided that, subject to the right of objection hereinafter named and to the provisions with respect to the panel for trial, the same jury may try as many accused persons successively as the court thinks fit.

Special jury may
be summoned.

286 It shall be competent to the Attorney-General or the accused to apply to any judge of the Supreme Court for an order requiring a special jury to be summoned to try any case before the court; and the judge shall, if he considers such application just and reasonable, make an order accordingly.

C.—Choosing a Jury.

Number of jury.
[§ 3, 1 of 1883]

287 The jury shall consist of such uneven number, not being less than seven or more than nine, as the Governor in Executive Council, by order applicable to any particular district or districts, may direct: except where the offence charged is one punishable with death, in which case the jury shall consist of nine persons.

Criminal Procedure Code.

In all cases where the trial is for an offence punishable with death, the verdict shall be by a majority of at least two-thirds: in all other cases the verdict may be returned by a majority in number of the jury.

288 Of the three panels of jurors, prepared as herein-after in section 327 directed, that one from which the jury shall be taken for the trial shall in each case, wherein a special jury is not directed under section 286, be determined by agreement between the Attorney-General and the accused person.

Provided that if they do not agree, the accused person shall be tried by a jury selected from the list referred to as list (1) in section 323 of the said Code, unless the judge otherwise directs; but in no case shall the accused person be allowed as of right the jury he asks for.

289 The jury shall be chosen by lot from the persons summoned to act as such on the panel; so selected or determined in such manner as the Supreme Court may from time to time by any rule or rules direct: Provided that—

First.—Pending the issue of a rule or rules under this section, the practice now prevailing shall be followed.

Secondly.—In case of a deficiency of persons summoned, the deficient number may, with the leave of the court, be taken from such other persons present as understand the language which distinguishes the panel.

290 As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated.

Provided that objections without grounds stated shall be allowed to the number of three on behalf of the Crown, and three on behalf of the person or all the persons charged.

291 Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the court, shall be allowed:

- (a) Some presumed or actual partiality in the juror;
- (b) Some personal ground, such as deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of 21 or above the age of 60 years;
- (c) His holding any office in or under the court;
- (d) His executing any duties of police or being entrusted with police duties;
- (e) His having been convicted of any offence which, in the opinion of the court, renders him unfit to serve on the jury;
- (f) His inability to understand the language which distinguishes the panel from which the jury is drawn;
- (g) Any other circumstance which, in the opinion of the court, renders him improper as a juror.

Panel to be determined by agreement.

What jury shall sit if the accused and the Attorney-General cannot agree.

[S. 4, 2 of 1895]

Jurors to be chosen by lot, subject to rules to be made.

Until rules made, existing practice maintained.

How deficiency to be supplied.

Names of jurors to be called.

Objections to be then taken.

Objections without grounds stated.

Grounds of objection.

Criminal Procedure Code.

Decision of objection.

292 Every objection taken to a juror shall be decided by the court, and such decision shall be recorded and be final.

Supply of place of juror against whom objection allowed.

If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to any summons and chosen in manner provided by section 289; or, if there is no such other juror present, then by any other person present in the court whose name is on the list of jurors, or whom the court considers a proper person to serve on the jury, provided that no objection to such juror or other person is taken under section 291 and allowed.

Foreman of jury.

293 When the jurors have been chosen, they shall appoint one of their number to be foreman.

The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the court that is required by the jury or any of the jurors.

Judge may appoint.

294 If a majority of the jury do not, within such time as the judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the court.

Swearing of jury.

When the foreman has been appointed, the jurors shall be sworn.

Procedure where juror ceases to attend, &c.

295 If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

In each of such cases the trial shall commence anew.

Discharge of jury in case of sickness of prisoner.

296 The judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

D.—Trial to close of Case for Prosecution and Defence.

Registrar to read indictment to jury.

297 As soon as the foreman is nominated the registrar shall, in the hearing of the accused person, read the indictment to the jury; and shall inform them that it is their duty to listen to the evidence which shall be given before them, and upon that evidence to find by the verdict of all, or two-thirds, or the major part of them, as the case may be, whether or not the accused person is guilty of the charge, or any of the charges if more than one made against him in the indictment.

Opening of case for prosecution.

298 When the jurors have been chosen, the prosecutor shall open his case to the jury.

Accused's statement may be put in.

The prosecutor shall then examine his witnesses, and may put in as evidence, if it is intended so to do, the statement of the accused (if any) made before the police court by which he was committed for trial.

Criminal Procedure Code.

299 The evidence of a witness, duly taken in the presence of the accused before the committing magistrate, may, in the discretion of the presiding judge, if such witness is produced and examined, be treated as evidence in the case.

Evidence given at preliminary inquiry admissible.

300 When the examination of the witnesses for the prosecution is concluded, the accused shall be asked whether he means to adduce evidence.

Procedure after examination of witnesses for prosecution.

If he says that he does not, the prosecutor may sum up his case: and if the court considers that there is no evidence that the accused committed the offence, it may then direct the jury to return a verdict of "not guilty."

If the accused, or any one of several accused, says that he means to adduce evidence, and the court considers that there is no evidence that the accused committed the offence, the court may then direct the jury to return a verdict of "not guilty."

If the accused, or any one of several accused, says that he means to adduce evidence, and the court considers that there is evidence that he committed the offence; or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case, and the court considers that there is evidence that the accused committed the offence, the court shall call on the accused to enter on his defence.

301 The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any), and after their cross-examination and re-examination (if any) may sum up his case.

Defence.

302 The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 173 and 205, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the police court by which he was committed for trial.

Right of accused as to examination and summoning of witnesses.

303 The prosecutor may, by leave of the court, call witnesses in rebuttal, and such witnesses may be cross-examined and re-examined.

Witnesses in rebuttal.

304 If the accused, or any of the accused, has stated, when asked under section 300, that he means to adduce evidence, the prosecutor shall be entitled to reply.

Prosecutor's right of reply.

305 Whenever the court thinks that the jury should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the court shall make an order to that effect; and the jury shall be conducted in a body, under the care of an officer of the court, to such place, which shall be shown to them by a person appointed by the court.

View by jury of place where offence committed.

Criminal Procedure Code.

Such officer shall not, except with the permission of the court, suffer any other person to speak to, or hold any communication with, any of the jury; and, unless the court otherwise directs, they shall, when the view is finished, be immediately conducted back into court.

When juror may be examined.

306 If a juror is personally acquainted with any relevant fact it is his duty to inform the judge that such is the case, whereupon he may be sworn, examined, cross-examined, and re-examined in the same manner as any other witness.

Jury to attend an adjourned sitting.

307 If a trial is adjourned, the jury shall attend at the adjourned sitting, and at every subsequent sitting until the conclusion of the trial.

Locking up jury.

308 The Supreme Court may, from time to time, make rules as to keeping the jury together during a trial lasting for more than one day; and subject to such rules the presiding judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial.

Charge to jury.

309 When the case for the defence and the prosecutor's reply (if any) are concluded, the court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Duty of judge.

310 It is the duty of the judge—

- (a) To decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by, or on behalf of, the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;
- (b) To decide upon the meaning and construction of all documents given in evidence at the trial;
- (c) To decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;
- (d) To decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

The judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

- (a) It is proposed to prove a statement, made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

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It is for the judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(b) It is proposed to give secondary evidence of a document, the original of which is alleged to have been lost or destroyed.

It is the duty of the judge to decide whether the original has been lost or destroyed.

311 It is the duty of the jury—

Duty of jury.

(a) To decide which view of the facts is true, and then to return the verdict which under such view ought, according to the direction of the judge, to be returned;

(b) To determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense, which it may be necessary to determine, whether such words occur in documents or not;

(c) To decide all questions which, according to law, are to be deemed questions of fact;

(d) To decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the judge to decide their meaning.

Illustrations.

(a) A is tried for the murder of B.

It is the duty of the judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(b) The question is whether a person entertained a reasonable belief on a particular point—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

312 After the judge has finished his charge, the jury may retire to consider their verdict.

Retirement to consider.

Except with the leave of the court, no person other than a member of the jury shall speak to, or hold any communication with, any member of such jury.

313 When the jury have considered their verdict, the foreman shall inform the judge of their verdict.

Delivery of verdict.

314 If the jury are not unanimous, the judge may require them to retire for further consideration. After such further consideration the jury may deliver their verdict although they are not unanimous.

Procedure where jury differ.

315 Unless otherwise ordered by the court, the jury shall return a verdict on all the charges on which the accused is tried, and the judge may ask them such questions as are necessary to ascertain what their verdict is.

Verdict to be given on each charge.

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Questions and answers
to be recorded.

Such questions and the answers to them shall be recorded.

Amending
verdict.

316 When, by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Discharge of
jury when they
cannot agree.

If the jury, or the required majority of them, cannot agree, the judge shall, after the lapse of such time as he thinks reasonable, discharge them.

Judge to give
judgment
according to
verdict.

317 The judge shall give judgment according to the verdict of the jury.

If the accused is acquitted, the judge shall record judgment of acquittal. If the accused is convicted, the judge shall pass sentence on him according to law.

Retrial of accused
after discharge of
jury.

F.—Retrial of Accused after discharge of Jury.

318 Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury.

Procedure in
case of previous
conviction.

G.—Procedure in case of previous Conviction.

319 In the case of a trial by jury, where the accused is charged with an offence committed after a previous conviction for any offence, the procedure laid down in sections 283, 297, 298, shall be modified as follows:

- (a) The part of the indictment stating the previous conviction shall not be read out in court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence.
- (b) If he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted, as alleged in the charge.
- (c) If he answers that he has been so previously convicted, the judge may proceed to pass sentence on him accordingly; but if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the jury shall then inquire concerning such previous conviction, and in such case it shall not be necessary to swear the jurors again.

CHAPTER XXIII.

Of Jurors.

Liability to
serve as a juror
or assessor.

320 Subject to the disqualifications and exemptions contained in the two sections next following, every male person residing within this colony, who is able to speak, read, and write any of the languages following (that is to say)—English, Sinhalese, or Tamil, and who possesses such income or property as is in the section 323 mentioned, shall, whether or not his name is entered in any list of jurors by

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the same section directed to be made, be qualified and liable to serve as a juror in the Supreme Court, at any sessions thereof held for the circuit, and as an assessor in the district court of the district within which circuit and district respectively he is a resident; provided that the place where he resides is not distant more than thirty miles, in a straight line, from the place where such sessions or court is holden.

321 The following persons are disqualified from serving as jurors in the Supreme Court, or as assessors in a district court, that is to say :

Disqualifications.

Persons who have been convicted of an infamous crime, and who have not received a free pardon.

Persons who labour under such bodily or mental incapacity, or profess such religious tenets, as renders them unfit to discharge the duty of a juror or assessor.

The judges of the Supreme Court and all persons who hold any office in or under the Supreme Court.

The private secretaries of the judges of the Supreme Court.

Persons under the age of twenty-one years and over the age of sixty years.

District judges and police magistrates.

Advocates and proctors.

Habitual petition-drawers.

All officers of customs and police, and all persons who receive any pay or emolument for executing any duties of customs or police.

All fiscals and their officers.

All prison officers.

Persons actually officiating as priests or ministers of their respective religions.

Every officer of a district court is disqualified from serving as an assessor in the district court of which he is an officer.

322 The following persons are exempted from liability to serve as jurors in the Supreme Court, or assessors in a district court, that is to say :

Exemptions.

The Governor, or person discharging the office of Governor.

Members of the Executive Council.

Members of the Legislative Council.

Members of the personal staff of the Governor.

All persons serving in Her Majesty's army or navy on full pay, or active employment.

All persons duly admitted to practice as physicians, surgeons, surgeon apothecaries, apothecaries, or accoucheurs, in actual practice.

The clerks of the Executive and Legislative Councils.

The presidents of village tribunals.

All persons employed in the postal and telegraph department, or in the railway department, or in any police court.

All municipal councillors and members of local boards of health and improvement.

[§ 2, 22 of 1880]

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Fiscals to prepare list of persons liable to serve as jurors.

323 The fiscals of the several provinces and circuits of this island shall prepare, or cause to be prepared, in the first week of January in every year, or as soon thereafter as may be, each for his own province, three several lists of the persons resident therein who shall be both qualified and liable, as before mentioned, to serve as jurors and assessors, setting forth their names in full, occupations, and places of residence, that is to say :

- English. (1) A list of persons who can speak, read, and write the English language, and each of whom possesses in his own or his wife's right an income of not less than one thousand rupees a year ;
- Sinhalese. (2) A list of persons who can speak, read, and write the Sinhalese language; and each of whom possesses, in his own or his wife's right, property immovable or movable not less than one thousand rupees in value, or an income of five hundred rupees a year ;
- Tamil. (3) A list of persons who can read and write the Tamil language; and each of whom possesses, in his own or his wife's right, property immovable or movable not less than one thousand rupees in value, or an income of five hundred rupees a year ; and also
- Special jury. (4) A list of persons selected from list number (1), each of whom possesses an income of not less than two thousand rupees a year, or, either in his own or in his wife's right, property movable or immovable not less than twenty thousand rupees in value, and who shall be liable to serve as special jurors, as hereinafter prescribed :

Provided always that if any person who shall be able to speak, read, and write more than one of the above-mentioned languages, and shall be in other respects duly qualified, shall at any time declare to the fiscal his desire to be placed on any one of the lists numbered (1), (2), and (3) respectively of his district; in preference to another of the same lists, the fiscal shall, if such person be duly qualified, place him accordingly in such place in such list as to the fiscal shall appear most convenient; and no person whose name shall be placed on any one of the same three lists shall be liable to serve on any other of the same lists, unless such person, with the leave of the presiding judge, shall consent thereto. Provided further, that it shall be competent for the Governor, with the advice of the Executive Council, by Proclamation to be by him for that purpose issued, to dispense with the qualification as to income or property, or to reduce the amount thereof in respect of any one or more of the above specified four lists, in any district of this island in which sufficient panels cannot be secured of jurymen having the income or property herein prescribed.

Power of Governor to exempt certain persons from

323 (1) In any district in which it shall appear to the Governor in Executive Council that sufficient panels of jurymen can be secured from any one of the three lists numbered (1), (2), and (3) respectively in section 323, it shall be lawful for him, by Proclamation

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in the *Government Gazette*, to order that no person whose name shall be included in such list shall be liable, save and except under the provision contained in the second proviso to section 289, to serve as a juror at any criminal sessions of the Supreme Court more than once in such period, as shall be defined in such Proclamation.

(2) The Governor in Executive Council may amend or revoke such Proclamation, but no such amendment or revocation shall take effect until the same is duly proclaimed in the *Government Gazette*.

324 The said fiscals shall, as soon as such lists have been so prepared as aforesaid, cause the same to be published in the *Gazette*. But it shall be lawful for the said fiscals, and they are hereby required, from time to time to add to any such list at the end thereof any names which may have been erroneously omitted therefrom, or the names of any persons who may have become, subsequently to the making of any list, qualified to be placed thereupon, and to strike out from any list the names of any persons who may similarly have become permanently exempted or incapacitated from serving as jurors and assessors. Provided that it shall always be lawful for any judge of the Supreme Court, at any criminal sessions thereof holden before him in any province, to order to be added to the said lists for such province the name of any duly qualified person which shall appear to such judge to have been erroneously omitted therefrom, or to be struck out of the said lists the names of any persons which shall appear to such judge to have been erroneously inserted therein, as the case may be.

325 Subject to the right of challenge given by section 290 of this Code, every person whose name shall be included in one of the three lists numbered (1), (2), and (3) respectively in section 323, shall be qualified and liable, for the time being, to serve as a juror at criminal sessions of the Supreme Court.

326 On some day, not less than one month before the commencement of each criminal sessions of the Supreme Court, three panels of jurors to be summoned for attendance and service as jurors at such criminal sessions shall be prepared and taken before a judge of the Supreme Court at Colombo in the following manner :

From each of the three said lists of jurors which are distinguished by the numbers (1), (2), and (3), published and amended and corrected as aforesaid, which lists shall be transmitted for this purpose to the Registrar of the Supreme Court by the fiscal of the province or circuit for which the said sessions are about to be holden, one panel shall be prepared and taken, and shall be designated by the language which distinguishes the list, together with the name of the particular sessions for which it is formed.

327 Each such panel shall contain eighteen names, and shall be prepared by first entering therein the names of the persons (if any) already ordered under section 330, 337, 342, or 343 of this Ordinance to be so entered, and by then drawing by lot, and entering therein so many more names from the corresponding list of jurors as with those already entered in the panel as hereinbefore provided, will make up the number

service for specified periods.
[§ 10, 22 of 1850]

Lists to be published in *Gazette*.

All persons on list qualified to serve as jurors.

One panel of jurors to be prepared from each list.

How panel to be prepared.

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of eighteen persons qualified and liable under the provisions of this chapter to be summoned and to serve as jurors for the said sessions.

Mode of
drawing jury.

328 The mode in which the names of the jurors shall be drawn by lot from the list shall be as follows:

Boxes having locks for securely fastening them shall be provided, which boxes shall be divided into two compartments of equal size.

The name of each person on the list of jurors shall be distinctly written, or printed, on a separate slip of paper, the slips to be of the same shape and appearance, and to be folded alike as nearly as may be.

The slips containing the names of each separate list shall then be placed in one compartment of a separate box, which box shall be marked and designated outside with and by the name of the province or circuit, and the number and language which distinguishes the list to which the names in such box shall belong, and it shall be securely locked and be kept in the possession of the Registrar of the Supreme Court, and the key thereof shall be kept by the Chief Justice or presiding judge of the Supreme Court, and it shall not be opened, or any jury drawn therefrom, except in manner herein provided.

Further
provisions.

329 On the day fixed for the preparation of the panel, the registrar, after having shaken together the slips of paper in the box containing the names of the list from which the particular panel is to be drawn, shall, in open court, in the presence of a judge of the court, open such box, and proceed to draw from the one compartment promiscuously, and without selection, a sufficient number of the said slips, one by one, until the number of names requisite to complete the panel shall have been obtained. As each slip is drawn the name of the juror written thereon shall be called out aloud, and, subject to the provisions of the next section, shall be entered in the panel of the list to which he belongs, as is hereinafter provided.

Further
provisions.

330 As each name is so drawn, if it is the name of a person who is known or believed to be dead, or of a person absent from the colony, or of a person likely to be unable, from sickness or other good cause, to attend, or of a person known or believed not to be qualified or liable to serve as a juror, then the judge may order the name to be set aside; and, in every such case, an additional name shall be drawn in lieu of that so set aside, and the judge, if he think fit, may order the name of any person so set aside, unless it be on account of death or disqualification, to be entered in the panel of any subsequent sessions to be then named by him.

Name, addition,
and address of
juror to be
written on
panel.

331 The names in full, additions, and places of abode of the several persons included in the panels so prepared for each sessions, shall be written in the respective panels, and numbered in the order in which the said names shall have been drawn, and such panels shall be signed by the judge.

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332 After the panel shall have been completed, the slips containing the names so drawn and entered in the panel, as well as the names of any of the persons which have been ordered to be entered in a subsequent panel, shall be again folded and placed in the compartment of the box from which they had not been drawn, and the box shall again be locked, and this shall be repeated as often as any jury or jurors are drawn, until the whole of the names in the one compartment shall have been drawn; when in like manner they shall be drawn out of the second and returned to the first, and so on alternately from time to time, in order that every man qualified and liable to serve on juries may take his turn to serve thereon.

Slips to be replaced in box after jury is drawn.

If any names have been drawn which the judge shall have ordered to be set aside, but which he shall not have ordered to be inserted in a subsequent panel, the slips containing such names, except of persons dead or disqualified, shall be again folded and returned to the compartment from which they were drawn, unless the judge order otherwise:

333 A copy of the panels shall be annexed to a precept to the fiscal, commanding him to summon the persons named in the panels to attend and serve as jurors at the said sessions.

Copy of panels to be annexed to fiscal's precept.

334 Every person named in the panels shall forthwith, or as soon as possible after the receipt of the precept by the fiscal, be summoned by him, and such summons, in the case of panels issued under section 333, shall be served at least ten days before the first day of the sessions:

Persons named in panel to be summoned by fiscal.

335 Every summons to a juror shall be in writing, and shall require his attendance as a juror, at a time and place to be therein specified, and shall be served personally.

Jury summons to be in writing.

336 The fiscal shall, as soon as possible after service of summons and not later than ten days before the commencement of the sessions in case of panels issued under section 333, return the precept to the registrar, with the panels annexed thereto and a memorandum showing the particulars of service on each person named in the panel; and if any person or persons named in the panel shall not have been served, the memorandum shall state the fact and the reason why such service has not been effected, and shall be supported by the affidavit of the officer whose duty it was to effect such service.

Precept to be returned to registrar with fiscal's memorandum.

337 On the receipt of such return, the registrar shall, without delay, bring the same before one of the judges of the Supreme Court, who may direct service to be made upon the person or persons not already served, in such manner as may to him seem fit. And the judge may, if he think fit, make an order directing the name of any person returned by the fiscal as not summoned to be entered on the panel for any subsequent sessions to be fixed by the judge.

Registrar to bring return before judge of Supreme Court.

338 If the judge shall be of opinion that the number of jurors returned by the fiscal as served is not likely to be sufficient, he may cause to be drawn, in the manner provided by sections 329 and 330, such further number of names as may

Judge may order further list of jurors to be summoned.

Criminal Procedure Code.

be required to make up the full number of jurors summoned to attend at the sessions to eighteen; and the supplemental panel so formed shall be prepared and signed in the manner hereinbefore provided for the original panel, and a copy thereof shall be sent, with an additional precept, to the fiscal, who shall, as soon as possible after the receipt of such additional precept, cause the persons named therein to be summoned to attend and serve at the sessions; and shall return the precept to the registrar not less than one clear day before the first day of the sessions, with a memorandum similar to that provided by section 336 in respect to the original panel and precept.

And in a similar manner, as nearly as may be, at any criminal sessions of the Supreme Court, the judge before whom the sessions are being held, if and as often as he is of opinion that the number of jurors summoned and attending the sessions is insufficient, may cause a still further number of names to be drawn, and the supplemental panel so formed and signed by him do be sent with a precept to the fiscal; who shall summon the additional jurors and return the precept to the registrar forthwith.

And in a similar manner, the judge may direct a panel of jurors to be drawn at other periods, when the number of trials before the court renders the attendance of one set of jurors for a whole session oppressive, or whenever, for other reasons, such direction is found to be necessary.

Juror not bound to serve more than ten days.

339 No juror shall be compellable to serve more than five days in any one week, or for more than ten days in any one sessions, unless the requisite number cannot be made without him, or unless, at the expiration of the ten days, a trial in which he is engaged as a juror is pending, and then only until the end of such trial.

Special jury panel.

340 Whenever an order shall be made requiring a special jury to be summoned, a panel shall be prepared of such number as the order shall specify, from the list of special jurors numbered (4) in section 323, and thereupon the fiscal shall summon the persons on such panel, and the provisions of sections 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, and 338 shall, *mutatis mutandis* so far as the same may be applicable, apply to the preparation of such panel, and to the summoning and service of the special jury.

Special jurors may be taken to any place in same district.

341 It shall be lawful for any judge of the Supreme Court, upon cause shown, to order that a panel of special jurors summoned from one or more districts be taken to any place in the same district where the criminal sessions of the Supreme Court, for which such panel is prepared under section 340, shall be holden in any district, or in any circuit. Provided that—

- (1) No special juror shall be liable to be so taken to serve beyond thirty miles in a straight line from his residence unless with his consent: and

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(2) Every juror taken to serve as special juror at any place more than ten miles in a straight line from his residence shall be entitled to his travelling expenses, according to such rates as the Governor, with the advice of the Executive Council, shall from time to time determine.

342 Any person, whose name is included in any panel, may apply to the Registrar of the Supreme Court, asking to be excused from attendance as a juror at the particular session for which the panel is prepared, and stating the grounds on which the application is made. The registrar shall, as soon as possible, bring such application before the judge of the sessions, or some other judge of the Supreme Court, and such judge may make such order thereon as he may think fit.

Person may apply to registrar to be excused from attendance as juror.

343 The judge may, for reasonable cause, excuse any juror from attendance at any particular session, or on any particular day, or days, or time of the day, and either unconditionally, or on condition of his serving at the next or some subsequent session, or some other day, or time, to be fixed by the judge in the order.

Judge may excuse juror from attendance.

344 Any person summoned to attend as a juror or as an assessor, who, without lawful excuse, fails to attend, as required by the summons, or who, having attended, departs without having obtained the permission of the court, or fails to attend after an adjournment of the court, after being ordered to attend, shall be liable by order of the judge to such fine as he thinks fit, and in default of payment of such fine, to imprisonment until the fine is paid.

Juror absenting himself without leave liable to fine.

345 No judgment, sentence, order, verdict, or other proceeding by, of, at, or before the Supreme Court at any criminal sessions thereof, and nothing done in pursuance of the same, shall be held invalid, or illegal, or be in any way called in question by reason of any informality in, or about the preparation, or publication, or amendment of any list or lists of jurors, or of any panel, or by reason of any defect, or error, in or about the qualification or liability of any juror.

No proceeding to be invalid by reason of informality of jury list or panel.

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

346 In the case of any offence triable exclusively by the Supreme Court or a district court, the police magistrate, inquiring into the offence may, after having obtained the Attorney-General's authority so to do, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to the offence under inquiry, tender a pardon to such person, on condition

Tender of pardon to accomplice.

Criminal Procedure Code.

of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence; and to every other person concerned, whether as principal or abettor, in the commission thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial by the Supreme or district court, as the case may be.

Power of Attorney-General to direct tender of pardon by police magistrate.

347 The Attorney-General at any time before judgment is passed, may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to any such offence, tender, or authorize the police magistrate to tender, a pardon on the same condition to such person.

Not complying with condition on which pardon has been tendered.

348 Where a pardon has been tendered under section 346 or 347, and any person who has accepted such tender has, either by wilfully concealing anything essential, or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

If pardon is withdrawn, statement of person may be given in evidence against him.

349 The statement made by a person who has accepted a tender of pardon may be given in evidence against him, when the pardon has been withdrawn under the last preceding section:

No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the Attorney-General.

Right of accused to be defaulted.

350 Every person accused before any criminal court may of right be defended by a pleader.

Procedure where accused, who is not insane, does not understand proceedings.

351 If the accused, though not insane, cannot be made to understand the proceedings, the court may proceed with the inquiry or trial, and in the case of a court other than the Supreme Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the Supreme Court, with a report of the circumstances of the case, and the Supreme Court shall pass thereon such order as it thinks fit.

Upon the trial of every accused, he shall be informed of his right to make a statement, upon which he may be cross-examined.

352 Upon the trial of every accused person, when the case for the prosecution is ended, the court shall inform the accused, whether he is defended by counsel or not, that he may make any statement he pleases as to the charge against him, and that if he does so he will, after he has made it, be questioned by the counsel for the prosecution, or, if there is no counsel for the prosecution, as the court may direct.

Accused may make statement or be examined.

The accused may either make a statement, or, if he is defended by counsel, he may be examined by his counsel as a witness is examined in chief.

Criminal Procedure Code.

After he has been so examined, or after he has made a statement, the counsel for the prosecution may ask him questions in the same manner as if he were a witness under cross-examination, provided that such questions shall be confined to the matters in issue and matters relevant thereto, and shall not be directed to matters affecting the accused's credit or character.

He may be cross-examined.

The court, and the jury (in cases of trial by jury), with the permission of the court, may ask the accused any question which they might ask of a witness.

Court and jury may ask questions.

After the examination of the accused is ended, his counsel, if he is defended by counsel, may ask him any question by way of re-examination. If he is not defended by counsel, he shall be allowed to make any explanation he pleases of the statement made or answers given by him, and the court, and the jury, with the permission of the court, but not the counsel for the prosecution, may ask him questions thereon.

He may be re-examined.

The accused shall not be sworn or affirmed as a witness; nor be liable for making false statements, either before or during or after his examination.

Accused not to be sworn nor be liable for false statements.

353 Except as provided in sections 346 and 347, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

354 If from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of or adjourn any inquiry or trial, the court may from time to time order a postponement or adjournment on such terms as it thinks fit, for such time as it considers reasonable, and may remand the accused if in custody, or may commit him to custody, or take bail in his own recognizance, or with sureties for his appearance.

Power to postpone or adjourn proceedings.

Provided that no police-magistrate shall remand an accused person to custody under this section for a term exceeding seven days at a time, save and except at such police courts as the Governor, with the advice of the Executive Council, shall from time to time proclaim to be police courts at which longer remands may be made, when it shall be lawful to remand accused persons at any such police courts so proclaimed for a term not exceeding twenty-one days.

Remand.

Every order made under this section by a court other than the Supreme Court shall be in writing, signed by the presiding judge or magistrate, and shall state the reasons therefor.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Reasonable cause for remand.

355 The offences punishable under the sections of the Ceylon Penal Code described in the first two columns of the table next following, may be compounded by the person mentioned in the third column of that table

Compounding offences.

Criminal Procedure Code.

Offence.	Sections of Ceylon Penal Code applicable.	Persons by whom offence may be compounded.
Causing hurt ...	314, 325	The person to whom the hurt is caused.
Wrongfully restraining or confining any person	332, 333	The person restrained or confined.
Assault, or use of criminal force	343, 346, 349	The person assaulted or to whom the criminal force is used.
Mischief, when the only loss or damage caused is to a private person	400, 410	The person to whom the loss or damage is caused.
Criminal trespass	433	The person in possession of the property trespassed upon.
House trespass ...	434	
Defamation ...	480	The person defamed.
Printing or engraving matter knowing it to be defamatory.	481	
Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter	482	
Insult, intended to provoke breach of the peace	484	The person insulted.
Criminal intimidation, except when punishment exceeds seven years	486	The person intimidated.

[§ 11, 22 of 1890]

The offence of voluntarily causing hurt, voluntarily causing grievous hurt, or causing hurt by an act which endangers life, punishable under sections 315, 326, 328, or 329 of the Ceylon Penal Code, may, with the permission of the Attorney-General, be compounded by the person to whom the hurt has been caused.

When any offence is compoundable under this section, the abetment of such offence, or an attempt to commit such offence (when such attempt is itself an offence), may be compounded in like manner.

When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot, or a lunatic, any person competent to contract on his behalf may compound such offence.

The compounding of an offence under this section shall have the effect of an acquittal of the accused.

No offence not mentioned in this section shall be compounded.

Detention of
offenders
attending court.

356 Any person attending a criminal court, although not under arrest or upon a summons, may be detained by such court for the purpose of examination for any offence of which such court can take cognizance, and which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned.

Criminal Procedure Code.

357 When the detention takes place in the course of an inquiry under chapter XVI., or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses reheard.

When, in such cases, proceedings shall be commenced afresh.

CHAPTER XXV.

Of the mode of taking and recording Evidence in Inquiries and Trials.

358 In all criminal courts complainants and witnesses shall be examined on oath or affirmation, or otherwise, according to the provisions of the law for the time being in force in relation to the examination of witnesses, and, except as otherwise expressly provided, all evidence taken under chapters XVI., XIX., XX., XXI., XXII., shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader.

Complainants and witnesses to be examined on oath.

Provided that if the evidence of any witness shall have been taken in the absence of the accused, whose attendance has not been dispensed with, such evidence shall be read over to the accused in the presence of such witness, and the accused shall have a full opportunity allowed him of cross-examining such witness thereon.

Deposition of witness taken in absence of accused to be read over to him.
[§ 12, 22 of 1880]

359 The evidence of each witness shall be taken down in writing in English by the judge or magistrate, or in his presence and hearing, and under his personal direction and superintendence, and shall be signed by the judge or magistrate.

Evidence to be taken down in writing.

And where the evidence is taken under chapters XVI., XX., and XXI., shall also be signed by the interpreter, if any shall have been employed.

Deposition of witness to be signed by interpreter.
[§ 5, 1 of 1880]

360 The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative; but the judge or magistrate may in his discretion take down any particular question and answer.

In the form of a narrative.

361 Except in the Supreme Court or in a district court, or except in a police court when the police magistrate is taking down evidence under chapter XIX. of this Code, as the evidence of each witness is completed and taken down, as in the last two preceding sections directed, it shall be read over to the witness in open court, in the presence of the accused person, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

Procedure in regard to such evidence when completed.

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

362 When the evidence has been read over to the witness, and every correction, if any, asked for by him has been made or noted, the witness shall be required to subscribe the deposition with his signature.

Witness to sign record of his own evidence.

Criminal Procedure Code.

Interpretation of evidence to accused.

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

Interpretation of documents put in.

364 When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to cause only so much thereof as appears necessary to be interpreted.

Interpreter to take oath.

365 Every person employed by any court to interpret evidence shall first make oath or solemn affirmation in open court, and in the presence of the accused, that he will render to the court the true interpretation of the evidence.

Provided that in cases where there is an officer of the court, the proper duty of whose office it is to interpret or translate evidence or documents from English into a specified language, and *vice versa*, and who has, on appointment to such office, made oath or affirmation that he will truly and faithfully perform the duties of that office, then such officer may be employed to interpret evidence in criminal cases without conforming to the requirement of this section.

Remarks respecting demeanour of witness.

366 Every judge or magistrate recording the evidence of a witness may record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

Every accused may be examined on his trial.

367 Every accused person may, on his trial, be examined as is provided by section 352, but no oath or affirmation shall be administered to him.

Power to examine the accused at any stage of an inquiry or trial. [§ 16, I of 1883.]

367 (1)* For the purpose of enabling an accused person to explain any circumstances appearing in the evidence against him, the court may at any stage of any inquiry or trial, without previously warning the accused, put such questions to him as the court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence. No oath or affirmation shall be administered to the accused.

The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

All questions put to, and answers given by, the accused shall, except in the Supreme Court, be recorded, signed, and certified in the same manner as the examination referred to in sections 368, 369, and 370 of the said Code.

Explanation.—The examination of the accused is for the purpose of enabling him to explain any circumstances appearing in evidence against him, and should, therefore, not be a general examination on whatever might suggest itself to the court. The discretion given by this section for questioning a prisoner is not for the purpose of driving him to make statements incriminatory of himself. It can only be properly used for ascertaining from a prisoner how he may be able to meet facts disclosed in evidence against him, so that those facts should not stand against him unexplained. Questions must not, therefore, be put to the prisoner merely to supplement the case for the prosecution when it is defective.

* See section 511 (1) *infra*.

Criminal Procedure Code.

368 Except in the Supreme Court, whenever an accused person makes a statement only, or makes a statement and is examined thereon; as is provided by section 352, the whole of such statement, or statement and examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read and interpreted to him in a language he understands, and he shall be at liberty to explain or add to his answers.

How such examination to be recorded.

369 When the whole is made conformable to what he declares is the truth, the statement or statement and examination shall be signed by the accused, and the judge or magistrate shall certify, under his own hand, that it was taken in his presence, and in his hearing, and contains accurately the whole of the statement, or statement and examination, of the accused person.

To be signed by accused and certified by magistrate.

370 The accused person shall be requested to sign or attest, by his mark, such statement, or statement and examination; and in the event of his refusing to do so, the judge or magistrate shall make a memorandum to that effect, signed by himself, at the foot of the statement, or statement and examination.

The accused to be requested to sign and magistrate to record if he refuses.

CHAPTER XXVI.

Of the Judgment.

371 The judgment in every trial in any criminal court shall be pronounced in open court either immediately or at some subsequent time, of which due notice shall be given to the parties or their pleaders, and the accused shall, if in custody, be brought up, or, if not in custody, shall be required to attend to hear judgment delivered, except when his personal attendance during the trial has been dispensed with, and the sentence is one of fine only, in which case it may be pronounced in the presence of his pleader.

Made of delivering judgment.

372 Except in the Supreme Court, the judgment shall be written by the presiding officer of the court, and shall contain the point or points for determination, the decision thereon, and the reasons for the decision, and shall be dated and signed by the presiding officer in open court at the time of pronouncing it.

Judgment to be written.
Contents of judgment.

It shall specify the offence, if any, of which, and the section of the Ceylon Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

When the conviction is under the Ceylon Penal Code, and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the court shall distinctly express the same and pass judgment in the alternative.

Judgment in alternative:
[§ 6, 1 of 1883]

If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted, and direct that he be set at liberty.

Criminal Procedure Code.

When a judgment or final order has been so signed it cannot be altered or reviewed (except to correct a clerical error) by the court which gives such judgment.

The judgment or order shall be explained to the accused person or persons affected by it, and a copy thereof shall be given to him without delay if he applies for it, upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council.

The original shall be filed with the record of proceedings.

Sentence of death.

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

CHAPTER XXVII.

Execution.

Respite of sentence of death.

374 In every case where any person shall be adjudged to die by any sentence of the Supreme Court at any criminal sessions, the execution of such sentence shall be respited until such future day as may afford sufficient time for the case of such person to be reported by the judge who shall have presided at such trial to the Governor, and for the same to receive the consideration of the Governor. Such report shall be made as soon after the passing of such sentence as conveniently may be. If the Governor shall not see fit to pardon the offender, or to further respite the execution of the offender, or to commute his said sentence, the same shall be carried into execution by the fiscal, or deputy fiscal, of the province or district within which such sentence shall be pronounced, or by any other fiscal or deputy fiscal as the judge pronouncing the sentence, or the Governor, shall direct, on the day to which such sentence shall have been respited.

Execution of sentence of death.

- (a) The sentence of death shall be carried into effect within the walls of the prison in which the prisoner is confined at the time of the execution.
- (b) The fiscal charged with the execution, the jailer, the medical officer of the prison, and such other officers as the fiscal requires shall be present at the execution.
- (c) Any justice of the peace for the colony, any minister of religion in attendance at the prison, and such relations of the prisoner, or other persons as it seems to the superintendent of the prison proper to admit within the prison for the purpose, being also present at the execution.
- (d) As soon as may be after judgment of death has been executed, the medical officer shall examine the body of the person executed and shall ascertain the fact of death, and shall sign a certificate thereof and deliver the same to the fiscal.

Criminal Procedure Code.

- (e) The fiscal and jailer of the prison and such justices and other persons present as may be required or allowed shall also sign a declaration to the effect that judgment of death was executed in their presence on the prisoner who had been executed.
- (f) The police magistrate of the district shall within twenty-four hours after the execution hold an inquiry as provided for by this Code, and shall inquire into and satisfy himself of the identity of the body, and whether judgment of death was duly executed thereon, and he shall make a report as required by the 192nd section of the Code, in duplicate: one of the originals shall be forwarded to and filed in the office of the Attorney-General, and the other shall be forwarded to and filed in the office of the Colonial Secretary. The Governor in Executive Council shall from time to time make such rules and regulations to be observed in the execution of the judgment of death in every prison as may from time to time be deemed expedient for the purpose, and for guarding against any abuse in such execution, as also for giving greater solemnity to the same and making it known without the prison walls that such execution is taking place.
- (g) The omission to comply with any of the foregoing provisions shall not make the execution of the judgment of death illegal in any case where such execution would otherwise have been legal.

375 If sentence of death is passed upon any woman she may move an arrest of execution on the ground that she is pregnant. If such a motion is made, the court shall direct one or more medical practitioners to be sworn to examine the woman in some private place, either together or successively, and to inquire whether she is with child of a quick child or not. If upon the report of any of them it appears to the court that she is so with child, execution shall be arrested until she is delivered of a child, or until it is no longer possible in the course of nature that she should be delivered.

In case of pregnant woman.

376 When a sentence of death is avoided by the escape of the person sentenced to death, execution of such sentence shall be carried into effect at such other time after his recapture as the Supreme Court shall order.

Escape of person sentenced to death.

377 Where the accused is sentenced to imprisonment, the court passing the sentence shall forthwith cause a warrant of commitment to be made out, signed by the judge or magistrate who passed sentence, and dated of the day when the sentence was passed. The warrant shall be directed to the fiscal or deputy fiscal for the district in which the court of trial is situated, and the convicted person, together with the warrant, shall forthwith be forwarded to the prison of such district, unless the accused is already confined in such prison, and the officer in charge of such prison shall receive him on behalf of such fiscal or deputy fiscal.

Execution of sentence of imprisonment.

Warrant of commitment.

Criminal Procedure Code.

Sentence of person already in prison.

If the convicted person be already under sentence of imprisonment, he may be returned to the prison in which he is undergoing such imprisonment.

The warrant shall be lodged with the jailer.

Sentence or fine.

378 Whenever an offender is sentenced to pay a fine, the court passing the sentence may in its discretion issue a warrant for the levy of the amount by distress and sale of any movable property belonging to the offender, although the sentence directs that in default of payment of the fine the offender shall be imprisoned.

Warrant of distress to be directed to fiscal.

379 Every warrant of levy and distress shall be directed to the fiscal.

Where such warrant may be executed.

380 Such warrant may be executed within the local limits of the jurisdiction of such court, and it shall authorize the distress and sale of any such property without such limits when endorsed by the district judge or police magistrate within the local limits of whose jurisdiction such property is found.

Execution of sentence may be suspended on execution of bond by offender.

381 When an offender has been sentenced to fine only, and to imprisonment in default of payment of the fine, and the court issues a warrant under section 378, it may suspend the execution of the sentence of imprisonment, and may release the offender on his executing a bond, with or without sureties as the court thinks fit, conditioned for his appearance before such court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized, the court may direct the sentence of imprisonment to be carried into execution at once.

Who may issue warrant.

382 Every warrant for the execution of any sentence may be issued, either by the judge or magistrate who passed the sentence or by his colleague or successor in office.

When and where sentence of whipping to be executed.

383 When the accused is sentenced to whipping, the sentence shall be executed within the precincts of a prison, at such time as the court may direct.

In appeal cases, whipping not to be inflicted until after ten days.

384 When the accused is sentenced to whipping in a case which is subject to appeal, the whipping shall not be inflicted until ten days from the date of the sentence, or, if an appeal be made within that time, until the sentence is confirmed by the appellate court; but the whipping shall be inflicted as soon as practicable after the expiry of the ten days, or, in case of an appeal, as soon as practicable after the receipt of the order of the appellate court confirming the sentence.

In whose presence whipping to be inflicted.

385 The punishment shall be inflicted in the presence only of a medical officer, such of the prison officials as may be necessary, and any person or persons whom the Governor may appoint.

Whipping not to be by instalments.

386 No sentence of whipping shall be executed by instalments.

Criminal Procedure Code.

387 The punishment of whipping shall not be inflicted unless the medical officer certifies that the offender is in a fit state of health to undergo the punishment.

Nor unless medical officer certifies that offender is in a fit state of health.

If during the execution of a sentence of whipping, a medical officer certifies that the offender is not in a fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

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

When sentence of whipping cannot be carried out, offender may be discharged.

Nothing in this section shall be deemed to authorize any court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said court is competent to inflict.

388 (1) Whenever a male offender under twelve years of age is sentenced by any court to whipping without any other punishment in addition thereto for any offence either under the Ceylon Penal Code or any other Ordinances in force in this colony, such whipping, which shall in no case exceed ten strokes with a light cane or rattan, shall be inflicted forthwith within the court premises and in the presence, if he desires to be present, of the parent or guardian of such offender. Provided that such whipping shall not be inflicted unless it appears to the court that the offender is in a fit state of health to undergo the same.

Whipping of juvenile offenders under twelve years of age.

[§ 21, I of 1888]

Provido.

389 No convict shall, by reason of his escape from prison, avoid any unexpired term of imprisonment, simple or rigorous, or any other punishment to which he was liable under any sentence or sentences passed on him prior to his escape.

Sentences on escaped convict.

[§ 7, I of 1888]

When sentence is passed on an escaped convict of death, or of fine or whipping with or without imprisonment, such sentence of death, fine, or whipping shall, subject to the provisions hereinbefore contained, take effect immediately; and if the imprisonment under the new sentence is rigorous, and such convict was undergoing only simple imprisonment when he escaped, the rigorous imprisonment shall take effect immediately, and shall be enforced concurrently with the former sentence; but if such convict was undergoing rigorous imprisonment when he escaped, the rigorous imprisonment under the new sentence shall take effect after such convict has suffered rigorous imprisonment for a further period, commencing from the date of his recapture, equal to that which at the time of his escape remained unexpired of his former sentence.

390 When a person already undergoing a sentence of imprisonment is sentenced to imprisonment, such imprisonment shall commence at the expiration of the imprisonment to which he has been previously sentenced.

Sentence on offender already sentenced for another offence.

Criminal Procedure Code.

Saving as to sections 389 and 390.

Confinement of youthful offenders in reformatories.

Certain sections of Ceylon Penal Code to apply to all offences.

Return of warrant on execution of sentence.

391 Nothing in section 389 or section 390 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

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

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

393 The provisions of sections 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, and 67 of the Ceylon Penal Code shall apply to all offences whatever.

394. When a sentence has been fully executed, the officer executing it shall return the warrant to the court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXVIII.

Of Suspensions, Remissions, and Commutations of Sentences.

Governor may suspend or remit sentences.

395 When any person has been sentenced to punishment for an offence, the Governor may at any time, without conditions, or upon any conditions which the person sentenced accepts, suspend the execution of his sentence, or remit the whole or any part of the punishment to which he has been sentenced.

May require presiding judge to make report.

396 Whenever an application is made to the Governor for the suspension or remission of a sentence, the Governor may, if he desires to do so, require the presiding judge of the court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

Person failing to fulfil conditions prescribed may be arrested.

397 If the person in whose favour a sentence has been suspended or remitted fails to fulfil the conditions prescribed by the Governor, the Governor may cancel such suspension or remission; whereupon such person may, if at large, be arrested by any police officer, without warrant, and remanded to undergo the unexpired portion of the sentence.

Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites, or remissions of punishment.

* This section is repealed where No. 1 of 1886 is in force.

Criminal Procedure Code.

398 The Governor may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it:

Governor may commute sentence.

Death; rigorous imprisonment not exceeding twenty years; rigorous imprisonment; simple imprisonment for any term not exceeding that to which such person might have been sentenced; fine.

CHAPTER XXIX.

Of previous Acquittals or Convictions.

399 A person who has once been tried by a court of competent jurisdiction 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 for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 210, or for which he might have been convicted under section 211.

No person to be tried twice for same offence.

A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 209, paragraph 1.

A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was 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 convicted.

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

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 159, the discharge of the accused, or any entry made upon a charge under section 278, is not an acquittal for the purposes of this section.

Illustrations:

- (a) A is tried upon a charge of theft as a servant, and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or upon the same facts, with theft simply; or with criminal breach of trust.
- (b) A is tried upon a charge of murder, and acquitted. There is no charge of robbery, but it appears from the facts that A committed robbery at the time when the murder was committed. He may afterwards be charged with and tried for robbery.
- (c) A is tried for causing grievous hurt, and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

Criminal Procedure Code.

- (d) A is charged and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.
- (e) A is charged with and convicted of voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of this section.
- (f) A is charged with and convicted of theft of property from the person of B. A may be subsequently charged with and tried for robbery on the same facts.

PART VII.

OF APPEAL, REFERENCE, AND REVISION.

CHAPTER XXX.

Of Appeals.

No appeal to the
except as
provided for.

400 No appeal shall lie from any judgment or order of a criminal court, except as provided for by this Code, or by any other law for the time being in force.

Of Appeals to the Queen in Council.

Appeals to the
Queen.

401 Nothing herein contained may, or can, take away or abridge the undoubted right and authority of Her Majesty to admit or receive any appeal from any judgment, decree, sentence, or order of the Supreme Court, or any criminal court on behalf of Her Majesty, or of any person aggrieved thereby, in any case in which, and subject to any conditions or restrictions upon or under which, Her Majesty may be graciously pleased to admit or receive any such appeal.

Duty of all
courts in such
cases.

402 The Supreme Court, and all courts from which an appeal shall be taken in any criminal matter, shall in all cases of appeal to Her Majesty conform to, execute, and carry into immediate effect such judgments and orders as Her Majesty in Council shall make thereupon, in such manner and by such procedure as any original judgment, decree, or order of such court can, or may, be executed.

CHAPTER XXXI.

Appeals from District or Police Courts to the Supreme Court.

No appeal after
plea of guilty.

403 When an accused person has pleaded guilty, and been convicted by a district or police court on such plea, there shall be no appeal.

No appeal from
district or police
courts against
acquittal, except
at the instance of
Attorney-General.

404 When an accused person has been acquitted by a district or police court there shall be no appeal, except at the instance of the Attorney-General, who may file his petition of appeal in the court in which such judgment of acquittal has been pronounced within twenty-one days from the date of such judgment.

Criminal Procedure Code.

405 Except as excepted in the last preceding section, there shall be no appeal from a district court in cases in which such court passes a sentence of imprisonment not exceeding three months, or fine not exceeding one hundred rupees; nor from a police court in cases in which such court passes a sentence of imprisonment not exceeding one month, or fine not exceeding twenty-five rupees; unless upon a matter of law, or unless with the leave of the court.

Nor for certain sentences of district or police courts.

Explanation.—There is no appeal from a sentence of imprisonment passed by either of such courts in default of payment of fines to the above amounts when no substantive sentence of imprisonment has been passed.

406 Except in the cases referred to in the sections 403, 404, and 405, any person who shall be dissatisfied with any judgment, sentence, or order pronounced by any police court or district court in a criminal case or matter to which he is a party, may prefer an appeal to the Supreme Court against such judgment, sentence, or order, for any error in law or in fact, by lodging, within ten days from the time of such judgment, sentence, or order being passed or made, with the chief clerk of such police court, or with the secretary of such district court, as the case may be, a petition of appeal addressed to the Supreme Court.

Right of appeal.

407 Every petition of appeal shall be addressed to the Supreme Court, and shall state shortly the substance of the judgment appealed against and the grounds of appeal, and shall bear a stamp of five rupees: Provided the court from whose judgment, sentence, or order an appeal is preferred shall, if it see fit, allow the payment of the stamp fee to stand over until judgment on the appeal shall have been given. If the appeal be given in whole or in part in favour of the appellant, the amount of stamp fee, when such has been paid, shall be returned to him. If the appeal be given against him, such stamp fee, when such has not been paid, shall be paid by him or recovered from him in the way of fine, unless the Supreme Court shall deem fit to remit all or any part of such stamp fee, in which case only such part as shall not be so remitted shall be recovered.

What it shall state.

Stamp fees.

408 When an appeal has been preferred under section 406, the court from whose judgment, sentence, or order the appeal has been preferred shall order the appellant if in custody to be released on bail; and thereupon the sentence passed on the appellant, with the exception, in the case of the appellant not being able to furnish the required bail, of so much of it as directs the appellant to be kept in custody, shall be suspended until the judgment of the court of appeal shall be made.

On appeal sentence to be suspended.

409 On a petition of appeal being lodged, the district judge or police magistrate, as the case may be, shall transmit the proceedings, with the evidence in the case, to the Supreme Court, including the petition of appeal, together with a certificate signed by such judge or magistrate.

Proceedings to be forwarded to Supreme Court.

Also, when the appeal is asserted in the first instance by petition, the police court or district court shall forthwith issue notice thereof to the party, whether complainant or

Notice to be given to other side.

Criminal Procedure Code.

accused person, in whose favour the judgment, sentence, or order appealed against was pronounced or made, or adversely to whom the appeal is preferred.

Procedure in
Supreme Court
on appeal.

410 When the proceedings and evidence, with the petition of appeal, have been transmitted to the Supreme Court by the lower court, the registrar shall, unless the court otherwise orders, number the appeal and enter it in the roll of causes for hearing according to the standing orders of court for the time being relative to the course of the business of the court, and the matter of the appeal shall come on for hearing before the court in the order of its position in that roll and according to the said standing orders, without further notice to the parties concerned: provided that a list of the appeals pending before the court in their order on the roll, or of a sufficient number of them, be daily kept suspended upon the doors of the court, and that no appeal shall come on for hearing until it has been in that list for at least six complete days, and provided also that the court may, of its own motion or on the application of a party concerned, and with reasonable notice to the parties, accelerate or postpone the hearing of an appeal upon any such terms, as to the prosecution or the costs of the appeal, or otherwise, as it may think fit.

Appellant to be
heard first.

411 When the appeal comes on for hearing, usually the appellant shall be first heard in support of the appeal, and then the respondent if present shall be heard against it; but the appellant shall have no right of reply.

If the appellant does not appear to support his appeal, the court may either dismiss the appeal or make such order thereon as it may deem fit.

Procedure if
respondent not
present.

412 If at the hearing of the appeal the respondent is not present, and the court is not satisfied upon the affidavits returned by the fiscal or other evidence that the notice of appeal was duly served upon him, then the court shall not make any order in the matter of the appeal adverse to, or to the prejudice of, the respondent, but shall adjourn the hearing of the appeal to a future day, for his appearance, and shall issue the requisite notice to him for service through the fiscal.

Arrest of accused
in appeal from
acquittal.

413 When an appeal is presented against an acquittal, the Supreme Court may issue a warrant directing that the accused be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or admit him to bail.

Power of
Supreme Court
on appeals.

414 Upon and after the hearing of the appeal, the Supreme Court may, as to it may seem best to accord with law and to secure the ends of justice, affirm in its entirety the judgment, sentence, or order which is appealed from, or vary, or modify it in any manner, or may set it aside, and, in lieu thereof, pass any other lawful judgment, sentence, or order; or it may quash the proceedings, or any part of the proceedings of the court of first instance, or remit the case to the court of first instance for re-trial, *de novo*, or for new

Criminal Procedure Code.

trial, subject to specified directions or conditions—as to the alteration of the charge or otherwise, or for re-taking of evidence which has been before adduced in the case, or for taking new evidence, or for trial upon any specified charge or charges, issue or issues, or for carrying into effect any other order of the Supreme Court; and the Supreme Court may transfer the case to any other competent court (inclusive of the Supreme Court itself) for the purpose of such re-trial, whether partial or *de novo*.

Supreme Court may transfer case.

415 In dealing with an appeal under this chapter, the Supreme Court, if it thinks additional evidence to be necessary, may either take such evidence itself or order such evidence to be taken on circuit, or otherwise, by a judge of the court without the aid of a jury, or by any judge of a district court, or by a police magistrate; and it shall be competent for the judge or police magistrate to take all or any such additional evidence, and it shall thereupon be the duty of such judge or magistrate to transmit the evidence so taken, duly certified, to the court of appeal.

Appellate court may take further evidence or direct it to be taken.

Unless the Supreme Court otherwise direct, the accused or his pleader shall be present when any additional evidence is taken under this and the last preceding section.

The taking of such evidence shall, for the purposes of chapter XVI, be deemed an inquiry.

416 On the termination of the hearing of the appeal, the Supreme Court shall, either at once or on some future day, which shall either then be appointed for the purpose, or of which notice shall subsequently be given to the parties, deliver judgment in open court; and if the bench hearing the appeal is composed of more than one judge, each judge may, if he desires it, deliver a separate judgment.

Judgment in appeal to be given in open court.

417 The judgment of the Supreme Court shall be passed in accordance with the opinion of the presiding judge, or, if there be more than one judge, with the opinions of the judges of which the bench hearing the appeal is composed, if they are unanimous in regard to it; but if otherwise, in accordance with the opinions of the majority of them.

And to be in accordance with opinions of the majority of the judges.

418 A record of the judgment shall be signed and dated by the judges according to whose opinion or opinions it is passed:

Record of judgment to be signed.

It shall state generally—

- (a) The points which have come before the court for determination.
- (b) The decision of the judge or judges.
- (c) The reasons which have led to the decision.
- (d) The relief, if any, to which the appellant is entitled on the appeal in consequence of the decision.
- (e) The amount of costs, if any, incurred in the appeal, and by what parties and in what proportions such costs and other costs of the trial are to be paid.

Criminal Procedure Code.

Procedure where two judges hearing appeal disagree.

419 When the bench hearing the appeal is composed of two judges, and the judges composing the bench do not agree, then the appeal shall be re-heard by the full court of three judges, on a day specially appointed for the purpose, of which notice shall be given to the parties. And after such re-hearing, any judge dissenting from the judgment which the majority consider ought to be passed on appeal, shall state in writing the judgment which he thinks ought to be made, and his reasons for the same.

When judges do not agree: each to deliver his own opinion.

420 When all the judges of which the bench hearing the appeal is composed do not concur in the judgment to be pronounced, then the judges shall deliver their opinions in order of seniority, commencing with the judge who is junior in rank, but if otherwise they shall pronounce their opinions in the reverse order.

Record of judgment to be sealed.

421 A record of the judgment after being signed and dated by the judge or judges according to whose opinion or opinions it is passed, shall be sealed with the seal of the court.

Proceedings to be returned to court below.

422 As soon as the record of the judgment is sealed, all the proceedings in the case sent up to the Supreme Court on appeal, together with the petition of appeal and order thereon (if any), and a copy of the record of the judgment pronounced on appeal, shall be forthwith returned to the court of first instance, which shall conform to and execute such judgment in all particulars.

Abatement of appeals.

423 Every appeal against an acquittal shall finally abate on the death of the accused, and every other appeal under this chapter shall finally abate on the death of the appellant.

CHAPTER XXXII.

Of Reference and Revision.

Power to reserve questions arising in original jurisdiction of Supreme Court.

424 When any person has, in a trial before the Supreme Court, acting in the exercise of its original criminal jurisdiction, and holding a criminal sessions thereof, been convicted of an offence, the court, if it thinks fit, may reserve, and refer for the decision of a court consisting of two or more judges of the Supreme Court, any question of law which has arisen in the course of the trial of such person and the determination of which would affect the event of the trial.

Procedure where question reserved.

If the court reserves any such question the person convicted shall, pending the decision thereon, be remanded to prison, or, if the court think fit, be admitted to bail.

Power of court to review.

425 The Supreme Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the court of original jurisdiction, and to pass such judgment or order as to it may seem fit.

Criminal Procedure Code.

426 The Supreme Court may call for and examine the record of any case, whether already tried or pending trial, in any court, for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed therein; or as to the regularity of the proceedings of such court, and upon revision of the case so brought before it the Supreme Court may pass any sentence, or make any order which it might have made had the case been brought before it in due course of appeal instead of by way of revision.

Supreme Court may call for record of any court.

Nothing in this section shall be deemed to authorize the Supreme Court to convert a finding of acquittal into one of conviction.

427 No party has any right to be heard, either personally or by pleader, before the Supreme Court, when exercising its powers of reference or revision. Provided that the court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader. And provided also that no order shall be made to the prejudice of an accused unless he has had an opportunity of being heard, either personally or by pleader.

Optional with court to hear parties on review.

428 When the record of any case is called for by the Supreme Court, under section 426, the judge or magistrate may submit, with the record, a statement setting forth the grounds of his decision or order, and any facts which he thinks material to the issue; and the court shall consider such statement before overruling or setting aside the said decision or order.

When record called for, judge or magistrate may forward statement of grounds of decision.

429 When a case is revised under this chapter by the Supreme Court, it shall certify its decision or order to the court by which the finding, sentence, or order revised was recorded or passed; and the judge or magistrate to whom the decision is so certified shall thereupon make such orders as are conformable to the decision so certified, and, if necessary, the record shall be amended in accordance therewith.

Judge or magistrate to carry into effect orders of Supreme Court.

430 If a sentence of imprisonment is affirmed, any time during which the appellant may have undergone imprisonment under section 424 shall be computed as part of the sentence.

As to unexpired imprisonment where sentence of imprisonment affirmed.

PART VIII.**CHAPTER XXXIII.***Lunatics.*

431 When a police court, holding an inquiry or a trial, has reason to believe that the accused is of unsound mind, and consequently incapable of making his defence, the police court shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the government medical officer of the district, or some other medical officer, and thereupon shall examine such officer as a witness, and shall reduce the examination to writing.

Procedure in case of accused being a lunatic.

Criminal Procedure Code.

If the police court is of opinion that the accused is of unsound mind, and consequently incapable of making his defence, it shall postpone further proceedings in the case.

Procedure in case of person committed before superior court being a lunatic.

432 If any person committed for trial before a superior court appears to the court at his trial to be of unsound mind, and consequently incapable of making his defence, the jury, or the district court, with or without the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly; and thereupon the trial shall be postponed.

The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the court.

Release of lunatic pending investigation or trial.

433. Whenever an accused person is found to be of unsound mind, and incapable of making his defence, the court, if the case is one in which bail may be taken, may release him 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 before the court, or such officer as the court appoints in this behalf.

Custody of lunatic.

If the case is one in which bail may not be taken, or if sufficient security is not given, the court shall report the case to the Governor, and the Governor may order the accused to be confined in a lunatic asylum or other suitable place of safe custody, and the court shall give effect to such order.

Resumption of inquiry or trial.

434 Whenever an inquiry or a trial is postponed under section 431 or section 432, the court may at any time resume the inquiry or trial, and require the accused to appear or be brought before such court.

When the accused has been released under section 433, and the sureties for his appearance produce him to the officer whom the court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused appearing before police or superior court.

435 If, when the accused appears or is again brought before the court, the court considers him capable of making his defence, the inquiry or trial shall proceed.

If the court considers the accused person to be still incapable of making his defence, the court shall again act according to the provisions of section 431 or section 432, as the case may be.

When accused appears to have been insane.

436 When the accused appears to be of sound mind at the time of the inquiry, and the police court is satisfied, from the evidence given before the court, that there is reason to believe that the accused committed an act which if he had been of sound mind would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of

Criminal Procedure Code.

the act, or that it was wrong or contrary to law, the court shall proceed with the case, and, if the accused ought to be committed for trial, send him for trial before the Supreme Court or district court, as the case may be.

437 Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Judgment of acquittal on ground of lunacy.

438 Whenever such judgment states that the accused person committed the act alleged, the court before which the trial has been held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the court thinks fit, and shall report the case for the orders of the Governor.

Person acquitted on such ground to be kept in safe custody.

The Governor may order such person to be confined in a lunatic asylum, prison, or other suitable place of safe custody.

439 When any person is confined under the provisions of section 433 or section 438, the Inspector-General of Prisons, if such person is confined in a prison, or the visitors of the lunatic asylum or 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 Governor as to the state of mind of such person.

Lunatic prisoners to be visited by Inspector-General.

440 If such person is confined under the provisions of section 433, and such Inspector-General, or visitors, shall certify that in his, or their, opinion such person is capable of making his defence, he shall be taken before the court at the instance of which he was confined, at such time as such court appoints, and the court shall deal with such person under the provisions of section 435, and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner is reported capable of making his defence.

441 If such person is confined under the provisions of section 433 or section 438, and such Inspector-General, or visitors, shall 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 Governor may thereupon 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 in case the Governor orders him to be transferred to an asylum, may appoint a commission consisting of a judicial and two medical officers.

Procedure where lunatic confined under sections 433 or 438 is declared fit to be discharged.

Such commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Governor, who may order his discharge or detention as he thinks fit.

Criminal Procedure Code.

Delivery of
lunatic to care
of relative.

442 Whenever any relative or friend of any person confined under the provisions of section 433 or section 438 desires that the person shall be delivered over to his care and custody, the Governor, upon the application of such relative or friend, and on his giving security to the satisfaction of the Governor that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Governor directs.

The provisions of sections 439 and 441 shall *mutatis mutandis* apply to persons delivered under the provisions of this section, and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

Persons
suspected to be
lunatics where
and how to be
remanded.
[S 20, 7 of 1883]

442 (1) Whenever a magistrate or judge in proceeding under this chapter has occasion to subject any accused person who is suspected to be of unsound mind to medical observation, he shall remand such person once or oftener for such reasonable time as shall be specified in the order of remand; either to the custody of the fiscal to be by him detained in prison, or of the officer in charge of such house or place of observation as may be appointed by the Governor under the provisions of section 6 of "The Lunacy Ordinance, 1873," to be by such officer detained in such house or place of observation. And every person so remanded shall be subject to the inspection of the medical officer of the prison, or of the house or place of observation, in which he may be detained.

CHAPTER XXXIV.

*Proceedings in case of certain offences affecting
the Administration of Justice.*

Procedure
in cases
mentioned in
section 149.

443 When any civil or criminal court is of opinion that there is ground for inquiring into any offence referred to in section 149, and committed before it, or brought under its notice in the course of a judicial proceeding, such court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest police court, and may send the accused in custody, or take sufficient security for his appearance before such police court, and may bind over any person to appear and give evidence on such inquiry or trial.

Such police court shall thereupon proceed according to law.

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

444 The Supreme Court may charge a person for any offence referred to in section 149, and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail, and try such person upon its own charge.

Such court may direct any police court to cause the attendance of any witnesses for the purposes of the trial.

Criminal Procedure Code.

445 Whenever any such offence as is described in sections 173, 176, 177, 178, or 223 of the Ceylon Penal Code is committed, in view or presence of any court, criminal or civil, such court may cause the offender to be detained in custody, and at any time before the rising of the court on the same day, may, if it thinks fit, take cognizance of the offence and sentence the offender: if the Supreme Court, to such punishment as may by law be imposed for the offence; if a district court, to a fine not exceeding one hundred rupees, and in default of payment, to simple imprisonment, which may extend to two months, unless such fine be sooner paid; if a court of requests, or a police court, to a fine not exceeding twenty-five rupees, and in default of payment, to simple imprisonment for one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

446 In every such case the court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

Record in such cases.

If the offence is under section 223 of the Ceylon Penal Code, the record, except in the Supreme Court, must show the nature and stage of the judicial proceeding in which the court interrupted or insulted was sitting, and the nature of the interruption or insult.

447 If the court in any case considers that a person accused of any of the offences referred to in section 445, and committed in its view or presence, should be punished otherwise than there provided, or such court is, for any other reason, of opinion that the case should not be disposed of under section 445, such court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a police court having jurisdiction to inquire into the same, and may require security to be given for the appearance of such accused person before such police court, or, if sufficient security is not given, shall forward such person under custody to such police court.

Procedure where court considers case should not be dealt with under section 445.

The police court to which any case is forwarded under this section shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

448 When any court has, under section 445, adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the court may in its discretion 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.

449 If any witness before a criminal court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the court requires him to produce, and does not offer any reasonable excuse for such refusal, such court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the magistrate or judge commit him to

Imprisonment, or committal of person refusing to answer or produce document.

Criminal Procedure Code.

custody, for any term not exceeding seven days, unless in the meantime such person consents to be examined, and to answer or to produce the document. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 445 or section 447, and, in the case of the Supreme Court, shall be deemed guilty of a contempt.

Appeals from convictions in contempt cases.

450 Any person sentenced by any court under section 445 or section 449 may, notwithstanding anything hereinbefore contained, appeal to the court to which judgments or orders made in such court are ordinarily appealable.

The provisions of chapter XXX shall, so far as they are applicable, apply to appeals under this section.

Certain judges and magistrates not to try offences referred to in section 449 when committed before themselves.

451 Except as provided in sections 444, 445, and 449, no judge of a criminal court or magistrate other than a judge of the Supreme Court shall try any person for any offence referred to in section 449, when such offence is committed before himself, or in contempt of his authority, or is brought under his notice as such judge or magistrate in the course of a judicial proceeding.

Saving power of police magistrates.

452 Nothing in section 443 or section 447 shall prevent a magistrate of a police court from himself committing any case to the Supreme Court or a district court.

CHAPTER XXXV:

*Habeas Corpus.**

CHAPTER XXXVI.

Of Bail.

Bail to be taken in case of bailable offence.

454 When any person, other than a person accused of a non-bailable offence, is arrested or detained without warrant, or appears, or is brought before a court, and is prepared at any time, while in custody, or at any stage of the proceedings before such court, to give bail, such person shall be released on bail. Provided that the officer or court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

When bail may be taken in case of non-bailable offence.
(§ 13, 22, of 1860)

455 (1) When any person accused of any non-bailable offence is arrested or detained without warrant, or appears, or is brought before a court, he may be released on bail at the discretion of the court, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

Power to direct admission to bail or reduction of bail.

(2) If it appears to the court at any stage of the inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or at the discretion of the court on the execution by him of a bond without sureties for his appearance as hereinafter provided.

* This chapter has been transferred to "The Courts Ordinance, 1869."

Criminal Procedure Code.

(3) When any person has been committed for trial by a police magistrate for any non-bailable offence other than an offence under sections 114, 191, 205, 236, or 297 of the Ceylon Penal Code, the police magistrate may, in his discretion, release the accused on bail. Any person charged under sections 114, 191, 205, 236, or 297 of the Ceylon Penal Code may be admitted to bail, by order of the Supreme Court, or by the authority of the Attorney-General.

(4) Any court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody:

456 The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the Supreme Court may in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police magistrate be reduced.

457 Before any person is released on bail, or released on his own bond, a bond for such sum of money as the officer or court, as the case may be, thinks sufficient, shall be executed by such person, and when he is released on bail by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed.

If the case so require, the bond shall also bind the person released on bail to appear, when called upon, at the Supreme or a district court to answer the charge.

458 As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and when he is in prison, the court admitting him to bail shall issue an order of release to the officer in charge of the prison, and such officer, on receipt of the order, shall release him.

Nothing in this section, section 454, or section 455 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed:

459 If, through mistake, fraud, or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the court may issue a warrant of arrest directing that the person released on bail be brought before it, and may order him to find sufficient sureties, and, on his failing so to do, may commit him to prison.

460 All or any sureties for the attendance and appearance of a person released on bail may, at any time, apply to the court to discharge the bond, either wholly, or so far as relates to the applicants.

On such application being made, the court shall issue a warrant of arrest, directing that the person so released be brought before the court.

On the appearance of such person, pursuant to the warrant or on his voluntary surrender, the court shall direct the bond to be discharged, either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and if he fails to do so, may commit him to custody:

Accused committed for trial for non-bailable offence other than offences under sections 114, 191, 205, 236, or 297. Court may re-arrest person bailed.

Bond of accused and sureties.

Bond of accused and sureties.

Discharge from custody.

Power to order sufficient bail when that first taken is insufficient.

Discharge of sureties.

Criminal Procedure Code.

CHAPTER XXXVII.

Of Commissions for the Examination of Witnesses.

When attendance of witness may be dispensed with.

461 Whenever in the course of an inquiry, a trial, or any other proceeding under this Code, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense, or inconvenience which, under the circumstances of the case, would be unreasonable, such court may dispense with such attendance, and may after notice to the parties—

Court may issue commission.

(1) Issue a commission to any police court within the local limits of whose jurisdiction such witness resides to take the evidence of such witness.

Police magistrate may proceed to the witness.

(2) Or, if the trial or inquiry is before a police court, and the witness resides within the local jurisdiction of such court, the magistrate of the police court may proceed to the place where the witness is to take such evidence.

Procedure on commission.

462 The police court to which the commission is issued shall, on receiving the commission, summon before it the witness named in the commission; or if, from ill-health or other cause, his attendance cannot reasonably be procured, the magistrate of the police court shall proceed to the place where the witness is.

How evidence shall be taken down.

463 In the events provided for by the second paragraph of section 461, and in the last preceding section, the evidence of the witness shall be taken down by the police court or magistrate in the same manner, and such court or magistrate may, for the purpose, exercise the same powers as in holding inquiries under this Code.

Parties may examine witness.

464 The parties to any proceeding under this Code in which a commission is issued, or when a police magistrate shall proceed under the second paragraph of section 461, may respectively forward any interrogatories in writing which the court in which the proceeding has taken place may think relevant to the issue; and the police magistrate taking the examination shall examine the witness upon such interrogatories.

Any such party may appear before such magistrate by pleader, or, in case of a commission, if he is not in custody, in person, and may examine, cross-examine, and re-examine, as the case may be, the said witness.

Return of commission.

465 After any commission issued under section 461, has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the court out of which it issued, and the commission, the return thereto, and the deposition as well as any deposition taken under the authority of paragraph 2 section 461, shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

Criminal Procedure Code.

466 Whenever it shall appear to the satisfaction of any magistrate of any police court, that any person within the jurisdiction of the said court, dangerously ill, and, in the opinion of some medical practitioner, not likely to recover from such illness, is able and willing to give material information relating to a cognizable offence, and it shall not be practicable to take the examination of such person under the foregoing provisions of this Code, such magistrate may take in writing the statement, on oath or affirmation, of such person, together with the cross-examination and re-examination of such person (if any); and such police magistrate shall add thereto, by way of caption, a statement of his reason for taking the same, and of the day and place when and where the same was taken and of the names of the persons (if any) present at the taking thereof, and shall subscribe the same and shall forward the same to the Registrar of the Supreme Court, to be filed of record in the registry of such court.

Special power of police magistrates to take examination of dying witnesses.

467 The police magistrate shall cause notice of the intended taking of such statement, and of the time and place thereof, to be given to any person whom he may have reason to believe might be affected thereby; and any such person, personally or by pleader, may cross-examine the person making such statement, and in that event the magistrate may put any questions to such person on re-examination. The taking and recording any such statement shall, as far as practicable, be in accordance with the provisions of this Code, referring to the taking and recording the evidence of a witness on an inquiry before a police court.

Procedure.

And such statement, when purporting to have been taken on oath or affirmation in the presence of the person affected thereby, who shall have had the opportunity to cross-examine, shall be admissible in evidence against such person without further proof. Provided that the witness who made the statement is dead, or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay and expense which the court considers unreasonable.

Record of examination of dying witnesses; when receivable in evidence without further proof.

[§ 9, I. of 1883]

468 In every case in which a commission is issued under section 461, the inquiry, trial, or other proceeding may be adjourned for a specified time, reasonably sufficient for the execution and return of the commission.

Adjournment of inquiry or trial.

CHAPTER XXXVIII.

Special Rules of Evidence.

469 The deposition of a government medical officer or other medical witness, taken and attested by a police magistrate, in the presence of the accused, may be given in evidence in any inquiry, trial, or other proceeding under this Code, although the deponent is not called as a witness.

Deposition of medical witness.

The court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Power to summon medical witness.

Criminal Procedure Code.

Deposition of witness as to the custody or disposal of any matter or thing forwarded to a police officer for analysis and report, or of any instrument or weapon used in or about the commission of an offence.

Practice.
(S. 19, 7 of 1883)

Report of government analyst.

469 (1) Where the deposition of any witness is tendered in evidence for the purpose of proving the custody or disposal of any matter or thing forwarded in the course of any inquiry to any public officer for examination or analysis and report, or of proving the custody or disposal of any instrument, weapon, matter, or thing used in or about the commission of an offence, such deposition, if it purports to have been taken and attested by a police magistrate in the presence of the accused, may be given in evidence in any inquiry, trial, or proceeding under this Code, although the deponent is not called as a witness. Provided always that the court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

470 Any document purporting to be a report under the hand of the government analyst upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial, or other proceeding under this Code. Provided that nothing in this section shall affect the necessity of proving the identity of the subject placed in the analyst's hands to be analysed with the subject of which his analysis is needed for the trial of the case. The court may presume that the signature of any such document is genuine, and that the person signing it held the office he professed to hold at the time he signed it. Provided that in any case in which the police-magistrate, or any advocate of the Supreme Court engaged in such case, shall certify that, in his opinion, it would be necessary or expedient that the government medical officer, or other medical witness referred to in the last preceding section, or the government analyst referred to in this section, should be present to give evidence at any particular inquiry, trial, or other proceeding to which the deposition or report may refer, such government medical officer or other medical witness or government analyst, as the case may be, shall be summoned as a witness for the purpose of giving evidence in the same manner as the other witnesses for the prosecution.

Previous conviction or acquittal how proved.

471 In any inquiry, trial, or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force—

- (a) By an extract, certified under the hand of the officer having custody of the records of the court in which such conviction or acquittal was had, to be a copy of the sentence or order; or
- (b) In case of a conviction, either by a certificate, signed by the officer in charge of the prison in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered; or
- (c) By any other mode, provided by any law for the time being in force.

Together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

Criminal Procedure Code.

472 If it be proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence, or his attendance cannot be procured without an amount of delay, expense, or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence in absence of accused.

473 The statement or confession of an accused, taken and recorded by a police magistrate as provided for by sections 136 and 368 :

The statement or confession of an accused made before the police court, and recorded as provided for by sections 171 and 368 ;

The statement or statement and examination of an accused, taken and recorded as provided for by sections 352 and 368 ;

The deposition of a witness, taken and recorded under the provisions of this Code ;

may be given in evidence in any subsequent judicial proceeding or in any later stage of the same judicial proceeding.

Provided that—

(a) The proceeding was between the same parties or their representatives in interest.

(b) That the questions in issue was substantially the same in the first as in the second proceeding.

And provided further, in case of the deposition of a witness, that the witness—

(c) Is dead or cannot be found; or

(d) Is incapable of giving evidence; or

(e) Is kept out of the way by the adverse party; or

(f) His presence cannot be obtained without an amount of delay and expense which the court considers unreasonable; and

(g) That the adverse party in the first proceeding had the right and opportunity to cross-examine the witness, whether such deposition was made in his presence or not.

How confession, statement, and examination of an accused, and depositions of witnesses, may be given in evidence.

Deposition taken in absence of accused receivable in evidence...
[§ 14, 28 of 1880]

Explanation.—A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and accused within the meaning of this section.

474 If, on the trial of an accused for an offence to which the examination of a person under sections 466 and 467 relates, such person be dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay and expense which the court considers unreasonable, the court may permit the deposition of such

How depositions, taken under sections 466 and 467, may be given in evidence.

Criminal Procedure Code.

person to be given in evidence either for or against the accused without further proof; provided that it purports to be taken and recorded under the powers of sections 466 and 467.

Provided always that the court may refuse to admit such depositions in evidence, if it shall be shown that the person against whom it is proposed to produce it had no opportunity of cross-examining the person who made it, and was prejudiced thereby.

In prosecutions for having given false evidence, deposition duly recorded shall be admitted without further proof.

Proviso,
[§ 17, 7 of 1885]

474 (1) The deposition of a witness, if it purports to have been taken and recorded in accordance with the provisions of this Code, shall be receivable in evidence, without further proof, in any inquiry or trial in which such witness may be charged with having intentionally given false evidence.

Provided that the court may, if it thinks fit, summon and examine the judge, magistrate, or interpreter by whom the deposition was signed, or the person by whom such deposition was written.

CHAPTER XXXIX.

Provisions as to Bonds.

Deposit instead of recognizance.

475 When any person is required by any court to execute a bond, with or without sureties, such court may, except in the case of a bond for good behaviour, permit him to deposit a sum of money, either in current coin or notes, to such amount as the court may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

476 Whenever it is proved to the satisfaction of the court by which a bond under this Code has been taken, or when the bond is for appearance before a court, to the satisfaction of such court, that such bond has been forfeited, the court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

[§ 15, 22 of 1890]

If sufficient cause is not shown, and the penalty is not paid, the court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable or immovable property belonging to such person.

[§ 15, 22 of 1890]

Such warrant may be executed within the local limits of the jurisdiction of the court which issued it, and it shall authorize the distress and sale of any movable or immovable property belonging to such person without such limits, when endorsed by the district judge or police magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid, and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the court which issued the warrant, to simple imprisonment for a term which may extend to six months.

The court may at its discretion remit any portion of the penalty mentioned, and enforce payment in part only.

Power to direct levy of amount due on recognizances.

477 The Supreme Court, or a district court, may direct any police magistrate to levy the amount due on a bond to appear and attend at such Supreme Court or district court.

Criminal Procedure Code.

CHAPTER XL.

Of the Disposal of Property.

478 When an inquiry or trial in any criminal court is concluded, the court may make such order as it thinks fit for the disposal of any document or other property produced before it, regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

Order for disposal of property regarding which offence committed.

When the Supreme Court or a district court makes such order, and cannot through its own officers conveniently deliver the property to the person entitled thereto, such court may direct that the order be carried into effect by a police magistrate.

When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is live stock, or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

Explanation.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

479 In lieu of passing an order under section 478, the Supreme Court, or a district court, may direct the property to be delivered to a police magistrate, who shall in such cases deal with it as if it had been seized by the police, and the seizure had been reported to him in the manner hereinafter mentioned.

Order may take form of reference to district or police court.

480 When any person is convicted of any offence which includes or amounts to theft, or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Payment to innocent purchaser of money found on accused.

481 The Supreme Court may direct any order under section 478, section 479, or section 480, passed by a district or police court, to be stayed pending consideration by the Supreme Court, and may modify, alter, or annul such order.

Stay of order under sections 478, 479, 480.

482 On a conviction under the Ceylon Penal Code, section 285, section 286, section 481, or section 482, the court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the court or remain in the possession or power of the person convicted.

Destruction of libellous and other matters.

Criminal Procedure Code.

The court may in like manner on a conviction under the Ceylon Penal Code, section 265, section 266, section 267, or section 268, order the food, drink, drug, or medical preparation in respect of which the conviction was had to be destroyed.

Power to restore possession of immovable property.

483. Whenever a person is convicted of an offence attended by criminal force, and it appears to the court that by such force any person has been dispossessed of any immovable property, the court may, if it thinks fit, order such person to be restored to the possession of the same.

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

Procedure by notice upon seizure of property taken under section 30, or stolen.

484. The seizure by any police officer of property taken under section 30, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a police magistrate, who shall make such order as he thinks fit respecting the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

Procedure where owner of property seized unknown.

If the person so entitled is known, the police magistrate may order the property to be delivered to him, on such conditions (if any) as the magistrate thinks fit. If such person is unknown, the magistrate may detain it, and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to come before him and establish his claim within six months from the date of such proclamation.

Procedure where no claimant appears within six months.

485. If no person, within such period, establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the police magistrate.

In the case of every order passed under this section, an appeal shall lie to the Supreme Court.

Power to sell perishable property.

486. If the person entitled to the possession of such property is unknown or absent, and the property is subject to speedy and natural decay, or the police magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the magistrate may at any time direct it to be sold, and the provisions of sections 484 and 485 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

CHAPTER XLI.

*Transfer of Criminal Cases.**

* This chapter has been transferred to "The Courts Ordinance, 1882."

Criminal Procedure Code.

CHAPTER XLII.

Of Irregular Proceedings.

489 If any police magistrate, not empowered by law to do any of the following things, namely :

- (a) To issue a search-warrant, under section 73 ;
- (b) To hold an inquiry, under sections 187 to 195 ;
- (c) To take cognizance of an offence, under section 152 ;
- (d) To tender a pardon, under section 346 or section 347 ;
- (e) To sell property, under section 485 or section 486 ;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which do not vitiate proceedings.

490 If any police magistrate, not being empowered by law in this behalf, does any of the following things, namely :

- (a) Attaches and sells property, under section 63 ;
- (b) Issues a search warrant for a letter in the post office, or a telegram in the telegraph department ;
- (c) Demands security to keep the peace ;
- (d) Demands security for good behaviour ;
- (e) Discharges a person lawfully bound to be of good behaviour ;
- (f) Cancels a bond to keep the peace ;
- (g) Makes an order under section 115 as to a local nuisance ;
- (h) Prohibits, under section 115, the repetition or continuance of a public nuisance ;
- (i) Issues an order under section 129 ;
- (k) Tries an offender summarily ;

his proceedings shall be void.

Irregularities which vitiate proceedings.

491 No finding, sentence, or order of any criminal court shall be set aside merely on the ground that the inquiry, trial, or other proceedings, in the course of which it was arrived at or passed, took place in a wrong sessions, division, district, sub-division, or other local area, unless it appears that such error occasioned a failure of justice.

Proceedings in wrong place.

492 If any court before which evidence is given by a witness, or a confession, or other statement, or statement and examination of an accused person recorded under the provisions of this Code is tendered in evidence, finds that the provisions of this Code have not been fully complied with by the police magistrate recording the evidence, statements, confession, or statement and examination, it shall take evidence, that such person duly gave the evidence or made the statement, confession, or statement and examination

Non-compliance with provisions of Code.

Criminal Procedure Code.

recorded; and, notwithstanding anything in any law to the contrary, such evidence, statement, confession, or statement and examination shall be admitted, if the error has not injured the accused as to his defence on the merits.

Effect of omission to frame charge.

493 No finding, or sentence pronounced or passed, shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Supreme Court, a failure of justice has been occasioned thereby.

If the Supreme Court think that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge shall be framed, and that the trial be re-commenced from the point immediately after the framing of the charge.

Finding of sentence, when reversible by reason of error or omission in charge or other proceedings.

494 Subject to the provisions hereinbefore contained, no finding, sentence, or order passed by a court of competent jurisdiction shall be reversed, or altered on review, appeal, or revision, on account—

Of any error, omission, or irregularity in the complaint, summons, warrant, charge, judgment, or other proceedings before, or during trial, or in any inquiry, or other proceeding under this Code; or

Of the want of any sanction required by section 149; or

Of the omission to revise any list of jurors, or assessors; or

Of any misdirection in any charge to a jury, unless such error, omission, irregularity, want, or misdirection has occasioned a failure of justice.

Distress not illegal because distasteful to trespasser for defect or want of form in proceedings.

495 No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress, or other proceedings relating thereto.

CHAPTER XLIII.

Fugitive Offenders' Act, 1881.

Meaning of words "Superior Court" in "Fugitive Offenders' Act, 1881."

496 The Supreme Court is by this Code determined to be the "Superior Court" within the meaning of the expression "Superior Court" in the Act of the Imperial Parliament, known as the "Fugitive Offenders' Act, 1881," as required by the 39th section thereof.

Police magistrate is a magistrate under part I. of said Act.

And every police magistrate of a police court is a magistrate by this Code provided, to exercise jurisdiction, to hear a case, and commit a fugitive to prison, to await his return under part I. of the said "Fugitive Offenders' Act, 1881," as is required by the 39th section of the said Act.

Criminal Procedure Code.

CHAPTER XLIV.*

Miscellaneous.

499 Affidavits and affirmations to be used before the Supreme Court, or any officer of such court, may be sworn and affirmed before such court or any commissioner or other person appointed by such court for that purpose, or before any district judge, police magistrate, or justice of the peace, or any judge or any commissioner for taking affidavits in any court of record in British India, or in any of Her Majesty's colonies, or any commissioner to administer oaths in Chancery in England or Ireland, or any magistrate authorized to take affidavits or affirmations in Scotland.

Courts and persons before whom affidavits may be sworn.

500 Any court may, at any stage of an inquiry, trial, or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the court shall summon and examine or recall and re-examine any such person, if his evidence appears to it essential to the just decision of the case.

Power to summon material witness or examine person present.

501 Any court desirous of examining as a witness in any case pending before the court, any person confined in any prison within the local limits of the jurisdiction of such court, may issue an order to the officer in charge of the said prison, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the court for examination.

Power of court to order prisoner in jail to be brought up for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

502 Subject to any rules made by the Governor in Executive Council, the Supreme Court may order payment on the part of the Government of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial, or other proceeding before such court under this Code.

Expenses of complainant or witness.

503 Whenever, under any law in force for the time being, a criminal court imposes a fine or confirms, in appeal, revision, or otherwise, a sentence of fine or a sentence of which fine forms a part, the court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

Power of court to pay expenses or compensation out of fine.

(a) In defraying expenses properly incurred in the prosecution; or

(b) In compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the court, recoverable by civil suit.

If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

* Sections 497, 498, and 508 have been transferred to "The Courts Ordinance, 1883."

Criminal Procedure Code.

Payments to be taken into account in subsequent suit.

At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

Money ordered to be paid recoverable as fines.

504 Any money (other than a fine) payable by virtue of any order made under this Code, shall be recoverable as if it were a fine.

Copies of proceedings.

505 If any person, affected by a judgment or order passed by a criminal court, desires to have a copy of any order or deposition, or other part of the record, he shall, on applying for such copy, be furnished therewith upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council, unless the court for some special reason thinks fit to furnish it free of cost.

Delivery in military authorities of persons capable of being tried by court-martial.

506 The Governor in Executive Council may make rules consistent with this Code and "The Army Act, 1881," or any similar law for the time being in force, as to the cases in which persons subject to military law shall be tried by a court to which this Code applies; and when any person is brought before a police magistrate and charged with an offence for which he is liable, under "The Army Act, 1881," section 41, to be tried by a court-martial, such magistrate shall have regard to such rules, and shall, in proper cases, deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps, or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by court-martial.

Apprehension of such persons:

Every police magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Power to compel restoration of abducted females.

507 Upon complaint made to a police magistrate or district judge, on oath, of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may, after such inquiry as he may deem fit, make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian, or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Summary trial of witness on alternative charges for giving false evidence.

507 (1) If in the course of a trial by jury before the Supreme Court any witness shall on any material point contradict the evidence previously given by him at the inquiry before the magistrate, it shall be lawful for the presiding judge, upon the conclusion of such trial, to have such witness tried by the same jury on an indictment which may then and there be presented by the Attorney-General in the form (4) contained under the heading of "Charges with two or more heads" in schedule III to the said Code; and such witness, if convicted, shall be liable to the punishment prescribed in section 190 of the Ceylon Penal Code.

[§ 19, 1 of 1883]

Criminal Procedure Code.

Provided, however, that the presiding judge may, if he considers expedient, adjourn the trial of such witness for such period as he may think fit, and may commit such witness to custody or take bail in his own recognizance or with sureties for his appearance; and such adjourned trial shall be before the same or any other jury as the judge may direct.

Provided.

509 Subject to the power conferred by section 508,* the forms set forth in the third schedule, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

Forms.

510 All powers conferred by this Code on the Governor in Executive Council may be exercised from time to time, as occasion requires.

Powers of Governor in Executive Council exercisable from time to time.

511 The provisions of this Code shall apply, so far as may be, to all cases pending when this Code comes into force.

Pending suits.

511 (1) All voluntary statements or confessions made by an accused, and all questions put to, and answers given by, an accused in examination by a police magistrate under section 16 of the Ordinance No. 1 of 1884, in the course of a proceeding under chapter XIX, may be recorded and signed in manner provided in sections 232, 233, and 234, without any certificate being attached thereto, anything in sections 15 and 16 of Ordinance No. 1 of 1888 to the contrary notwithstanding.

Voluntary statements or examination in proceedings under chapter XIX, to be recorded in manner provided under sections 232, 233, and 234.

[S. 17, 22 of 1890.]

Ordinance No. 27 of 1892.

1 Notwithstanding anything contained in "The Criminal Procedure Code, 1883," and "The Criminal Procedure Code Amendment Ordinance, 1890," any police magistrate specially empowered in this behalf may try in manner hereinafter provided all or any of the following offences:

Power to try in a summary way certain cases.

- (a) Offences against the Ceylon Penal Code, sections 157, 257, 258, 259, 270, 271, 272, 273, 279, 282, 283, 285, 286, 287, 289, 314, 325, 327, 332, 343, 409, 433, 434, 484, and 488.
- (b) Theft under sections 367, 369, and 370 of the same Code, where the value of the property stolen does not exceed fifty rupees.
- (c) Receiving or retaining stolen property under section 394 of the same Code, where the value of such property does not exceed fifty rupees.
- (d) Assisting in the concealment or disposal of stolen property under section 396 of the same Code, where the value does not exceed fifty rupees.
- (e) Offences against any other Ordinance and against the by-laws, rules, or regulations made under or in pursuance thereof punishable with a fine not exceeding fifty rupees, or with imprisonment for a term not exceeding three months, or with both.

* Section 53 of "The Courts Ordinance, 1889," now represents this enactment.

*Criminal Procedure Code.*No. 27 OF 1892—*contd.*

(f) Abetment of any of the foregoing offences.

(g) An attempt to commit any of the foregoing offences when such attempt is an offence.

Procedure.

2 In trials under this Ordinance, the procedure prescribed by sections 216, 217, 218, and sub-section 1 of section 219, and sections 220, 221, 222, 223, 224, 228, 229, 230, 236 of the chapter substituted by "The Criminal Procedure Code Amendment Ordinance, 1890," for chapter XIX, of "The Criminal Procedure Code, 1883," so far as they are applicable, shall be followed, subject to the provisions hereinafter contained.

Particulars to be recorded.

3 The police magistrate, in cases tried under this Ordinance, need not record at length the evidence of the witnesses or the statement of the accused, or frame a formal charge, but he shall enter in such form as the Governor in Executive Council may direct the following particulars :

- (a) The serial number ;
- (b) The name and residence of the complainant (if any) ;
- (c) The name and residence of the accused ;
- (d) The offence complained of, and the offence (if any) proved, and in cases coming under sub-section (b), sub-section (c), or sub-section (d) of section 1, the value of the property in respect of which the offence has been committed ;
- (e) The plea of the accused, and his examination (if any) ;
- (f) A concise memorandum of the substance of what each witness deposes, (which shall be recorded as the examination of each witness proceeds) ;
- (g) The finding, and, in the case of a conviction, a brief statement of the reasons therefor ;
- (h) The substance of the statement (if any) made by the accused ; and
- (i) The sentence or other final order.

Record in cases under this Ordinance.

4 The particulars mentioned in the preceding section shall be the only record in cases coming under this Ordinance.

Filing not limited by complaint.

5 A police magistrate may, in any proceedings under this Ordinance, convict the accused of any offence triable under this Ordinance which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or information. Provided that the particulars of the offence shall have been stated to the accused, and he has had an opportunity of making his defence, but in no case shall it be necessary to frame a formal charge.

Limit of imprisonment.

6 No sentence of imprisonment exceeding one month, or fine exceeding twenty-five rupees, shall be passed in the case of any conviction under this Ordinance.

Governor may empower magistrates to act under this Ordinance.

7 The Governor in Executive Council, after consultation with the Judges of the Supreme Court, may, by notification in the *Government Gazette*, confer on any police magistrate power to try under the provisions of this Ordinance all or any of the offences mentioned in section 1.

Criminal Procedure Code.

SCHEDULE I.

LAWS, ORDINANCES, AND RULES OF COURT REPEALED:

1 Number and Year.	2 Title.	3 Extent of repeal.
Proclamation, 23rd Sept., 1799	—	Section 4; the proviso
<i>Ordinances.</i>		
1 of 1834	For abolishing certain Oaths and Affirmations taken and made in the Customs and other Revenue Offices in Ceylon, and to substitute Declarations in lieu thereof	The whole Ordinance
3 of 1836	For consolidating and amending the Laws for the Protection of His Majesty's Revenue derived from Salt.	Section 16, all the words beginning with "and if any constable," &c., to the end
4 of 1841	To amend the Laws relating to Vagrants	Sub-sections 5, 6, and 7 of section 4
3 of 1842	For the substitution of Solemn Affirmations in lieu of Oaths in certain cases	Sections 3 and 4
11 of 1842	An Ordinance to provide for a Church in Kandy	Section 20
8 of 1844	An Ordinance for the suppression of Lotteries	Section 2
10 of 1844	An Ordinance to amend the Law relative to the Distillation and Sale of Arrack, Rum, and Toddy within these Settlements	Section 60
3 of 1846	For improving the Law of Evidence in this Colony	Section 9, the last paragraph beginning with "and every person"..... and ending with "perjury"
6 of 1846	An Ordinance relative to Malicious Injuries, and to certain Thefts of Property	The whole Ordinance
12 of 1846	An Ordinance to regulate the Temporal Affairs of the Episcopal Churches in the Island of Ceylon which have been erected, or are now in course of erection, or which may hereafter be erected, in terms of the Ordinance No. 11 of 1845	Section 24
6 of 1850	For the more effectual suppression of the crime of Cattle Stealing, and for authorizing District Courts to hear, try, and determine charges relating to the same	The whole Ordinance
8 of 1852	To amend the Law of Evidence	Sections 10, 11, 12, 14, and 16
12 of 1852	For further improving the Administration of Criminal Justice	The whole Ordinance
15 of 1855	To amend the Ordinance No. 11 of 1844	The whole Ordinance

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1 Number and Year.	2 Title.	3 Extent of Repeal.
<i>Ordinances.</i>		
2 of 1857	"The Electric Telegraph Ordinance, 1857"	Beginning with section 8 to the end of the Ordinance, inclusive
5 of 1857	"The Coining Prevention Ordinance, 1857"	The whole Ordinance
5 of 1861	An Ordinance relating to Wrecks, Sea Casualties, and Salvage.	Sections 29 and 30
10 of 1861	"The Road Ordinance, 1861"	In section 43, the words "and any householdor neglecting or refusing to give such information, or wilfully giving false information to the division officer or to the person acting on his behalf, as to any such matter or thing, shall be liable to a fine not exceeding five pounds" First sub-section of section 46 Section 83
16 of 1861	An Ordinance to amend the Law respecting the payments in certain cases of the Expenses of Witnesses and of Medical Practitioners	The whole Ordinance
18 of 1861	An Ordinance for giving effect to certain Rules and Orders for the Police Courts	The whole Ordinance
12 of 1862	"The Cemeteries Ordinance, 1862"	Section 20
13 of 1863	An Ordinance to amend in certain respects the Law of Marriages in this Island, and to provide for the due registration thereof	Sections 24 and 26
5 of 1864	An Ordinance to regulate the Temporal Affairs of Churches not provided for in the Ordinance No. 12 of 1840	Section 21
5 of 1865	"The Merchandise Marks Act, 1865"	The whole Ordinance, except sections 6, 15, 17, 18, and 19
6 of 1865	"The Masters Attendant's Ordinance, 1865"	Sections 37 and 38
10 of 1865	An Ordinance relating to the Ceylon Railways	Sections 19 and 31
16 of 1865	"The Police Ordinance, 1865"	Sections 52, 55, and 60 Section 63, excepting the words "If in the execution of process it shall be found necessary for the officer of police employed to serve such process to go any distance beyond five miles, the person at whose instance the process is issued shall be bound to lodge at the time he applies for the process a sum sufficient to cover the officer's travelling allowances, at such rates as the Governor shall from time to time appoint" Sections 64, 68, and 71 Section 72, except the words "any police officer who shall be guilty of cowardice shall be liable to a fine not exceeding twelve month's pay, or to imprisonment, with or without hard labour, not exceeding twelve months, or to both" Sections 75, 77, 88, and 89 Sections 92, 93, 96, and 99

Criminal Procedure Code.

1 Number and Year.	2 Title.	3 Extent of Report
<i>Ordinances.</i>		
17 of 1865...	"The Municipal Councils' Ordinance, 1865"	Section 32
28 of 1865...	An Ordinance to give effect to certain Rules relating to Proceedings of the Supreme Court in its Criminal Jurisdiction	The whole Ordinance
4 of 1866...	An Ordinance to enlarge the power of the Surveyor-General to demand the Production of Deeds, and make Surveys of Lands, and to facilitate the proof of Surveys	Section 4
4 of 1867...	"The Fiscals' Ordinance, 1867"	Section 29, all the words beginning with "any person swearing," &c., to the end Sections 23, 24, 25, 30, 64, and 65, so far as they concern criminal matters only
18 of 1867...	"The Births and Deaths Registration Ordinance, 1867"	Sections 28 and 30.
21 of 1867...	"The Paddy Cultivation Ordinance, 1867"	Section 17
11 of 1868...	"The Administration of Justice Ordinance, 1868"	Sections 19, 20, and 21, so far as they concern criminal matters only Section 22, so far only as concerns the transfer of criminal cases and the inspection of records therein by the Supreme Court. Sections 23, 25, 26, 27, 28, 30, 31, and 32, so far as they concern criminal matters only Sections 36, 37, 38, 40, 41, 42, 43, 44, 45, and 50 Section 55, so far as concerns the appointment of places for holding police courts Sections 59 and 61, so far as they concern criminal matters only Sections 66, 67, 68, and 69 Sections 74, 75, and 79, so far as they concern criminal matters only Sections 83, 89, and 90 Section 91 to section 114, both inclusive Section 120 to section 139, both inclusive Section 110, except the words "every justice of the peace shall have power, and is hereby required, to administer any oath which any person may be legally entitled to make before a justice of the peace." Section 141 to section 204, both inclusive All the schedules except schedules B and C
17 of 1869...	An Ordinance for the General Regulation of Customs in the Island of Ceylon	Section 91.
10 of 1871...	An Ordinance to amend the Law respecting the Concealment of the Birth of Children	The whole Ordinance
16 of 1871...	An Ordinance to give effect to certain Rules of Court in Criminal matters	The whole Ordinance
18 of 1871...	An Ordinance to amend the Practice and Proceedings of Police Courts.	The whole Ordinance

Criminal Procedure Code.

1 Number and Year.	2 Title.	Extent of Repeal.
<i>Ordinances.</i>		
20 of 1871	An Ordinance to provide for the summoning of Special Jurors to try Criminal Cases before the Supreme Court.	The whole Ordinance
23 of 1871	"The Stamp Ordinance, 1871"	Section 50
1 of 1873	"The Lunacy Ordinance, 1873"	Section 11
7 of 1873	"The Licensing Ordinance, 1873"	Sub-section 3 of section 26
17 of 1873	"The Carriage Ordinance, 1873"	Section 17
7 of 1874	An Ordinance to amend "The Administration of Justice Ordinance, 1868"	The whole Ordinance
3 of 1876	"The Land Acquisition Ordinance, 1876"	Section 41
7 of 1876	"The Local Board of Health and Improvement Ordinance, 1876"	Section 89
16 of 1877	"The Prisons Ordinance, 1877"	Section 81 so far as it is provided for by section 377 of this Code
2 of 1878	"The Postal Ordinance, 1878"	Sections 52, 53, 54, 55, 60, 61, 62, 66, 67, and 69
6 of 1878	"The Crown Timber Ordinance, 1878"	Section 12
11 of 1878	"The Grain Tax Ordinance, 1878"	The second and third paragraphs of section 12
14 of 1878	An Ordinance to amend "The Weights and Measures Ordinance, 1876"	Section 7
<i>Rules and Orders.*</i>		
1st October, 1833	(p. 55) So much of paragraphs 1, 2, 4, and 6 as is now in force	So far as they concern criminal procedure
1st October, 1833	Section VII. (p. 82)	The whole, so far as it concerns criminal procedure
1st October, 1833	Forms, section II. (pp. 94-97)	The whole
5th April, 1834	No. 3 (p. 108)	The whole
10th June, 1834	No. 5, section 2 (p. 110)	The whole
20th June, 1837	No. 8 (p. 115)	The whole, so far as it concerns criminal procedure
23th December, 1838	No. 16 (p. 119)	The whole
21st October, 1844	(pp. 142, 149)	The whole, except such as have already been repealed
6th December,	General Rules for the Supreme Court (p. 156)	The whole

* *Explanation.*—The paging of the demy quarto edition of the Rules and Orders has been quoted in this schedule.

Criminal Procedure Code.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

EXPLANATORY NOTE.—The entries in the second and sixth columns of this schedule, headed respectively "Offence" and "Punishment under the Ceylon Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Ceylon Penal Code, or even as abstracts of those sections, but merely as references to the subject of which is given in the first column.

CHAPTER V.—ABETMENT.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Ceylon Penal Code.	7 By what Court triable.
102	Abetment of any offence, if the act abetted is committed in consequence; and where no express provision is made for its punishment	May arrest without warrant if offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	The same punishment as for the offence abetted	The court by which the offence abetted is triable
103	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor	Same	Same	Same	Same	The court by which the offence abetted is triable
104	Abetment of any offence, when one act is abetted and a different act is done, subject to the proviso	Same	Same	Same	The same punishment as for the offences intended to be abetted	The court by which the offence abetted is triable
105	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor	Same	Same	Same	The same punishment as for the offence committed	The court by which the offence abetted is triable

Criminal Procedure Code.

112	If the offence be not committed	Same	Same	Same	Same	Imprisonment of either description for three years, and fine	The court by which the offence abetted is triable
	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed	Same	Same	Same	According as the offence abetted is bailable or not.	Imprisonment extending to of the longest term, and of any description, provided for the offence, or fine, or both	The court by which the offence abetted is triable
	If the offence be punishable with death	Same	Same	Not bailable	Same	Imprisonment of either description for ten years	The court by which the offence abetted is triable
	If the offence be not committed	Same	Same	Same	According as the offence abetted is bailable or not	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both	The court by which the offence abetted is triable
113	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed	Same	Same	Same	Same	Same	The court by which the offence abetted is triable
	If the offence be not committed	Same	Same	Same	Same	Imprisonment extending to one-eighth part of the longest term, and of the description provided for the offence, or fine, or both	The court by which the offence abetted is triable

CHAPTER VI.—OFFENCES AGAINST THE STATE.

114	Waging, or attempting to wage, war, or abetting the waging of war against the Queen	Shall not arrest without warrant	Warrant	Not bailable	Death, or imprisonment for twenty years and forfeiture of property
115	Conspiring to commit certain offences against the State	Same	Same	Same	Imprisonment of either description for twenty years, and fine

Criminal Procedure Code.

	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for twenty years, and forfeiture of property
116	Collecting arms, &c., with the intention of waging war against the Queen	Same	Not bailable	Imprisonment of either description for twenty years, and forfeiture of property
117	Concubing with intent to facilitate a design to wage war	Same	Same	Imprisonment of either description for ten years, and fine
118	Attempt to bring the Queen into contempt	Same	Same	Simple imprisonment for two years, and fine
119	Assaulting Governor, &c., with intent to compel or restrain the exercise of any lawful power	Same	Same	Imprisonment of either description for seven years, and fine
120	Exciting, or attempting, to excite, disaffection.	Same	Same	Simple imprisonment for two years and fine, or fine
121	Waging war against any Power in alliance or at peace with the Queen, or abetting the waging of such war	Same	Same	Imprisonment of either description for ten years and fine, or fine
122	Committing depredation on the territories of any Power in alliance or at peace with the Queen	Same	Same	Imprisonment of either description for seven years and fine, and forfeiture of certain property
123	Receiving property taken by war or depredation, mentioned in sections 121 and 122	Same	Same	Same
124	Public servant voluntarily allowing prisoner of State or war, in his custody, to escape	Same	Same	Imprisonment of either description for twenty years, and fine
125	Public servant negligently suffering prisoner of State or war, in his custody, to escape	Same	Bailable	Simple imprisonment for three years, and fine
126	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner	Same	Not bailable	Imprisonment of either description for twenty years, and fine

Criminal Procedure Code.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

	Abetting mutiny, or attempting to seduce an officer, soldier, or sailor from his allegiance or duty	May arrest without warrant	Warrant	Not bailable	Imprisonment of either description for twenty years, and fine
128	Abetting mutiny, or attempting to seduce an officer, soldier, or sailor from his allegiance or duty	Same	Same	Same	Same
129	Abetment of mutiny, if mutiny is committed in consequence thereof	Same	Same	Same	Imprisonment of either description for three years, and fine
130	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office	Same	Same	Same	Imprisonment of either description for seven years, and fine
131	Abetment of such assault, if the assault is committed	Same	Same	Bailable	Imprisonment of either description for two years, or fine, or both
132	Harbouring such an officer, soldier, or sailor who has deserted	Same	Same	Same	Same
133	Deserter concealed on board merchant vessel through negligence of master or person in charge thereof	Shall not arrest without warrant	Summons	Same	Fine of five hundred rupees
134	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence	May arrest without warrant	Warrant	Same	Imprisonment of either description for six months, or fine, or both
135	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier	Same	Summons	Same	Imprisonment of either description for three months, or fine of one hundred rupees, or both

Criminal Procedure Code.

150	Wantonly giving provocation with intent to cause riot, if rioting be committed	Same	...	Same	...	Same	...	Imprisonment of either description for one year, or fine, or both	District court Police court
	If not committed	Same	...	Summons	...	Same	...	Imprisonment of either description for six months, or fine, or both	Police court
151	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant	...	Same	...	Same	...	Fine of one thousand rupees	District court Police court
152	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it	Same	...	Same	...	Same	...	Fine	District court Police court
153	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it	Same	...	Same	...	Same	...	Same	District court Police court
154	Harbouring persons hired for an unlawful assembly	May arrest without warrant	...	Same	...	Same	...	Imprisonment of either description for six months, or fine, or both	Police court
155	Being hired to take part in an unlawful assembly or riot	Same	...	Same	...	Same	...	Same	Police court
	Or to go armed	Same	...	Warrant	...	Same	...	Imprisonment of either description for two years, or fine, or both	District court Police court
157	Committing affray	Shall not arrest without warrant	...	Summons	...	Same	...	Imprisonment of either description for one month, or fine of one hundred rupees, or both	Police court

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

158	Being or expecting to be a public servant and taking a gratification in other than legal remuneration in respect of an official act	Shall not arrest without warrant	...	Summons	...	Bailable	...	Imprisonment of either description for three years, or fine, or both	
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Criminal Procedure Code.

		Shall not arrest without warrant	Summons	Bailable		Imprisonment of either description for three years, or fine, or both	
159	Taking a gratification in order, by corrupt or illegal means, to influence a public servant.	Same	Same	Same	...	Imprisonment of either description for three years, or fine, or both	District court.
160	Taking a gratification for the exercise of personal influence with a public servant.	Same	Same	Same	...	Simple imprisonment for one year, or fine, or both	District court.
161	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Same	Same	Same	...	Imprisonment of either description for three years, or fine, or both	District court.
162	Public servant disobeying a direction of the law with intent to cause injury to any person.	Same	Same	Same	...	Simple imprisonment for one year, or fine, or both	District court. Police court.
163	Public servant framing an incorrect document with intent to cause injury.	Same	Same	Same	...	Imprisonment of either description for three years, or fine, or both	District court.
164	Fraudulent or malicious infraction of duty by public servant in telegraph department.	Same	Same	Same	...	Imprisonment of either description for two years, or fine, or both	District court. Police court.
165	Misconduct by public servant in telegraph or postal department.	Same	Same	Same	...	Imprisonment of either description for three months, or fine which may extend to fifty rupees, or both	Police court.
166	Fraud by public servant in telegraph department.	May arrest without warrant	Warrant	Same	...	Imprisonment of either description, which may extend to two years, or fine, or both	District court. Police court.
167	Injury to messages, &c., committed by public servants in postal or telegraph department.	Same	Same	Same	...	Imprisonment of either description for seven years, or fine, or both	District court.
168	Personating a public servant.	Same	Same	Same	...	Imprisonment of either description for two years, or fine, or both	District court.
169	Wearing garb or carrying token used by public servant with fraudulent intent.	Same	Summons	Same	...	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court.

Criminal Procedure Code.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

170	Abiding to avoid service of summons or order proceeding from a public servant If summons or notice require attendance in person, &c., in a court of justice	Same	Shall not arrest without warrant	Same	Summons	Bailable	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
171	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation If summons, &c., require attendance in person, &c., in a court of justice.	Same	Same	Same	Same	Same	Simple imprisonment for six months, or fine of one hundred rupees, or both	Police court
172	Not obeying a legal order to attend at a certain place, in person or by agent, or departing therefrom without authority If the order requires personal attendance, &c., in a court of justice	Same	Same	Same	Same	Same	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
173	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document If the document is required to be produced in, or delivered to, a court of justice	Same	Same	Same	Same	Same	Simple imprisonment for six months, or fine of one hundred rupees, or both	The court in which the offence is committed, subject to the provisions of chapter XXIV; or, if not committed in court, a police court

Criminal Procedure Code.

180	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person	Same	...	Summons	...	Same	...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
181	Resistance to the taking of property by the lawful authority of a public servant	Same	...	Same	...	Same	...	Same	Police court
182	Obstructing sale of property offered for sale by authority of a public servant	Same	...	Same	...	Same	...	Imprisonment of either description for one month, or fine of one hundred rupees, or both	Police court
183	Obstructing public servant in discharge of his public functions	Same	...	Same	...	Same	...	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court
184	Omission to assist public servant when bound by law to give such assistance	Same	...	Same	...	Same	...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
185	Willfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Same	...	Same	...	Same	...	Simple imprisonment for six months, or fine of one hundred rupees, or both	Police court
186	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance, or injury to persons lawfully employed	Same	...	Same	...	Same	...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
187	If such disobedience causes danger to human life, health, or safety, &c.	Same	...	Same	...	Same	...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
188	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act	Same	...	Same	...	Same	...	Imprisonment of either description for two years, or fine, or both	District court
189	Threatening any person to induce him to refrain from making a legal application for protection from injury	Same	...	Same	...	Same	...	Imprisonment of either description for one year, or fine, or both	District court Police court

Criminal Procedure Code.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

	Shall not arrest without warrant	Warrant	Bailable	Imprisonment of either description for seven years, and fine	District court
190	Giving or fabricating false evidence in a judicial proceeding	Same	Same	Imprisonment of either description for three years, and fine	District court
191	Giving or fabricating false evidence in any other case	Same	Not bailable	Rigorous imprisonment for ten years, and fine	District court
192	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence	Same	Same	Death	
193	If innocent person be thereby convicted and executed	Same	Same	The same as for the offence	
194	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for seven years or upwards	Same	Same	The same as for giving or fabricating false evidence	District court
195	Using in a judicial proceeding, evidence known to be false or fabricated	Same	According as the offence of giving such evidence is bailable or not		
196	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence	Same	Bailable	The same as for giving false evidence	District court
197	Using, as a true certificate, one known to be false in a material point	Same	Same	Same	District court
198	False statement made in any declaration which is by law receivable as evidence	Same	Same	Same	District court
199	Using, as true, any such declaration known to be false	Same	Same	Same	District court

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198	Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender: if a capital offence	Same	...	Same	...	Same	...	Imprisonment of either description for seven years, and fine	District court
	If punishable with imprisonment for ten years	Same	...	Same	...	Same	...	Imprisonment of either description for three years, and fine	District court
	If punishable with less than ten years imprisonment	Same	...	Same	...	Same	...	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	Court by which the offence is triable
199	Intentional omission to give information of an offence by a person legally bound to inform	Same	...	Summons	...	Same	...	Imprisonment of either description for six months, or fine, or both	Police court
200	Giving false information respecting an offence committed	Same	...	Warrant	...	Same	...	Imprisonment of either description for two years, or fine, or both	District court Police court
201	Secreting or destroying any document to prevent its production as evidence	Same	...	Same	...	Same	...	Same	District court
202	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security	Same	...	Same	...	Same	...	Imprisonment of either description for three years, or fine, or both	District court
203	Fraudulent removal or concealment, &c., of property, to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Same	...	Same	...	Same	...	Imprisonment of either description for two years, or fine, or both	District court
204	Claiming property without right, or procuring deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Same	...	Same	...	Same	...	Same	District court

Criminal Procedure Code.

		Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for two years, or fine, or both	District court
205	Fraudulently suffering a decree to pass for a sum not due, or suffering a decree to be executed after it has been satisfied	Same	Same	Same	Imprisonment of either description for two years, and fine	District court
206	Falsely claiming in a court of justice	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	District court
207	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied	Same	Same	Same	Same	District court
208	False charge of offence made with intent to injure	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court
209	If offence charged be capital, or punishable with imprisonment for a term exceeding seven years	May arrest without warrant	Same	Same	Imprisonment of either description for five years, and fine	District court
	Harbouring an offender, if the offence be capital	Same	Same	Same	Imprisonment of either description for three years, and fine	District court
	If punishable with imprisonment for ten years	Same	Same	Same	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	District court
	If punishable with imprisonment for one year and not for ten years	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court
210	Taking gift, &c., to screen an offender from punishment, if the offence be capital	Shall not arrest without warrant	Same	Same	Imprisonment of either description for three years, and fine	District court
	If punishable with imprisonment for ten years	Same	Same	Same	Imprisonment of either description for three years, and fine	District court

Criminal Procedure Code.

211	If with imprisonment for less than ten years	Same	Same	Same	Same	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	District court Police court, if the offender is triable by a police court
	Offering gift or restoration of property in consideration of screening offender, if the offence be capital	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court
	If punishable with imprisonment for ten years	Same	Same	Same	Same	Imprisonment of either description for three years, and fine	District court
	If with imprisonment for less than ten years	Same	Same	Same	Same	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	District court Police court, if the offender is triable by a police court
212	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender	Same	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	District court
213	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered: if the offence be capital	May arrest without warrant	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court
	If punishable with imprisonment for ten years	Same	Same	Same	Same	Imprisonment of either description for three years, with or without fine	District court
	If with imprisonment for one year and not for ten years	Same	Same	Same	Same	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	District court Police court, if the offender is triable by police court
214	Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture	Shall not arrest without warrant	Summons	Same	Same	Imprisonment of either description for two years, or fine, or both	District court

Criminal Procedure Code.

219	Resistance or obstruction by a person to his lawful apprehension	May arrest without warrant	Warrant	Same	...	Imprisonment of either description for two years, or fine, or both	District court Police court, if person resisting or, escaping, &c., charged with or convicted of offence cognisable by police court
220	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody If charged with an offence punishable with imprisonment for ten years If charged with a capital offence If the person is sentenced to imprisonment for ten years or upwards If under sentence of death	Same Same Same Same Same	Same Same Same Same Same	Same Same Same Same Same	Same Not bailable Same Same Same	Same Imprisonment of either description for three years, and fine Imprisonment of either description for seven years, and fine Same Imprisonment of either description for ten years, and fine Imprisonment of either description for one year, or fine, or both	District court Police court District court District court District court
221	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour	Same	Same	Bailable	...	Imprisonment of either description for one year, or fine, or both	District court Police court
222	Violation of condition of remission of punishment	Shall not arrest without warrant	Summons	Not bailable	...	Punishment of original sentence, or, if part of the punishment has been undergone, the residue	The court by which the original offence was triable
223	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding	Same	Same	Bailable	...	Simple imprisonment for six months, or fine of one thousand rupees, or both	The court in which the offence is committed, subject to provisions of chapter XXXIV.
224	Perjury of a juror or assessor	Same	Same	Same	...	Imprisonment of either description for two years, or fine, or both	District court

Criminal Procedure Code.

235.	The same with respect to the Queen's coin	Same	Same	Same	Imprisonment of either description for ten years, and fine	District court.
236.	Knowingly delivering to another any counterfeit coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.	Same	Same	Same	Imprisonment of either description for two years, or fine of ten times the value of the coin counterfeited, or both	District court
237.	Possession of counterfeit coin by a person who knew it to be counterfeit: when he became possessed thereof	Same	Same	Same	Imprisonment of either description for three years, and fine	District court
238.	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court
239.	Fraudulently diminishing the weight or altering the composition of any coin	Same	Same	Same	Imprisonment of either description for three years, and fine	District court
240.	Fraudulently diminishing the weight or altering the composition of the Queen's coin	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court.
241.	Altering appearance of any coin with intent that it shall pass as a coin of a different description	Same	Same	Same	Imprisonment of either description for three years, and fine	District court
242.	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court
243.	Delivery to another of coin possessed with the knowledge that it is altered	Same	Same	Same	Imprisonment of either description for five years, and fine	District court
244.	Delivery of Queen's coin possessed with the knowledge that it is altered	Same	Same	Same	Imprisonment of either description for ten years, and fine	District court
245.	Possession of altered coin by a person who knew it to be altered when he became possessed thereof	Same	Same	Same	Imprisonment of either description for three years, and fine	District court

Criminal Procedure Code.

	May arrest without warrant	Warrant	Not bailable	Imprisonment of either description for five years, and fine	District court
246 Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof	Same	Same	Not bailable	Imprisonment of either description for five years, and fine	District court
247 Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered	Same	Same	Same	Imprisonment of either description for two years, or fine of ten times the value of the coin	District court Police court
248 Counterfeiting a Government stamp	Same	Same	Bailable	Imprisonment of either description for fifteen years, and fine	District court
249 Having possession of an instrument or material for the purpose of counterfeiting a Government stamp	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court
250 Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp	Same	Same	Same	Same	District court
251 Sale of counterfeit Government stamp	Same	Same	Same	Same	District court
252 Having possession of a counterfeit Government stamp	Same	Same	Same	Same	District court
253 Using as genuine a Government stamp known to be counterfeit	Same	Same	Same	Imprisonment of either description for seven years, or fine, or both	District court
254 Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause loss to Government	Same	Same	Same	Imprisonment of either description for three years, or fine, or both	District court
255 Using a Government stamp known to have been before used	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	District court Police court
256 Erasure of mark denoting that stamp has been used	Same	Same	Same	Imprisonment of either description for three years, or fine, or both	District court

Criminal Procedure Code.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

257	Use of instrument for weighing knowing the same to be false.	Shall not arrest without warrant	Summons	Not liable	Imprisonment of either description for one year, or fine, or both	District court Police court
258	Using false weight or measure	Same.	Same	Same	Same	District court Police court
259	Being in possession of false weights or measures for use	Same	Same	Same	Same	District court Police court
260	Making or selling false weights or measures for fraudulent use	Same	Same	Same	Same	District court

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

262	Negligently doing any act, known to be likely to spread infection of any disease dangerous to life	May arrest without warrant	Summons	Not liable	Imprisonment of either description for six months, or fine, or both	District court Police court
263	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	District court
264	Knowingly disobeying any quarantine rule	Same	Same	Same	Imprisonment of either description for six months, or fine, or both	District court Police court
265	Adulterating food or drink intended for sale so as to make the same noxious	Shall not arrest without warrant	Same	Same	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
266	Selling any food or drink as food and drink, knowing the same to be noxious	Same	Same	Same	Same	Police court

Criminal Procedure Code.

	Shall not arrest without warrant	Summons	Arrestable	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
267	Adulterating any drug or medical preparation, intended for sale, so as to lessen its efficacy or to change its operation, or to make it noxious	Same	Same	...	Police court
268	Offering for sale, or issuing from a dispensary, any drug or medical preparation known to have been adulterated	Same	Same	...	Police court
269	Knowingly selling, or issuing from a dispensary, any drug or medical preparation as a different drug or medical preparation	Same	Same	...	Police court
270	Dullying the water of a public spring or reservoir	Same	Same	Imprisonment of either description for three months, or fine of fifty rupees, or both	Police court
271	Making atmosphere noxious to health	Same	Same	Fine of one hundred rupees	Police court
272	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	Same	Same	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
273	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Same	Same	Same	Police court
274	Exhibition of a false light, mark, or buoy	Warrant	Same	Imprisonment of either description for seven years, or fine, or both	District court
275	Conveying for hire any person, by water, in a vessel in such a state, or so loaded, as to endanger his life	Summons	Same	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
276	Causing danger, obstruction, or injury in any public way, or line of navigation	Same	Same	Fine of one hundred rupees	Police court

Criminal Procedure Code.

277	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant	Same	Same	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
278	Dealing with fire, or any combustible matter, so as to endanger human life, &c.	May arrest without warrant	Same	Same	Same	Police court
279	So dealing with any explosive substance	Same	Same	Same	Same	Police court
280	So dealing with any machinery	Shall not arrest without warrant	Same	Same	Same	Police court
281	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it	Same	Same	Same	Same	Police court
282	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal	May arrest without warrant	Same	Same	Same	Police court
283	Committing a public nuisance	Shall not arrest without warrant	Same	Same	Fine of fifty rupees, or imprisonment of either description for three months, or both	Police court
284	Continuance of nuisance after injunction to discontinue	May arrest without warrant	Same	Same	Simple imprisonment for six months, or fine, or both	District court Police court
285	Sale, &c., of obscene books, &c.	Same	Warrant	Same	Imprisonment of either description for three months, or fine, or both	Police court
286	Having in possession obscene book, &c., for sale or exhibition	Same	Same	Same	Same	Police court

Criminal Procedure Code.

298	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Same	Same	Same	Same	Imprisonment of either description for ten years, or fine, or both	District court
299	Causing death by rash or negligent act	Same	Same	Same	Bailable	Imprisonment of either description for five years, or fine, or both	District court
300	Abetment of suicide	Same	Same	Not bailable	Death		
301	Attempt to murder	Same	Seize	Same	Same	Imprisonment of either description for ten years, and fine	District court
302	If such act cause hurt to any person	Same	Same	Same	Same	Imprisonment of either description for twenty years, and fine	District court
303	Attempt to commit culpable homicide	Same	Same	Bailable	Same	Imprisonment of either description for three years, or fine, or both	District court
304	If such act cause hurt to any person	Same	Same	Same	Same	Imprisonment of either description for seven years, or fine, or both	District court
305	Attempt to commit suicide	Same	Same	Same	Same	Simple imprisonment for one year, or fine, or both	District court Police court
<i>Of the running of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.</i>							
306	Causing miscarriage	Shall not arrest without warrant	Warrant	Bailable	Same	Imprisonment of either description for three years, or fine, or both	District court
307	If the woman be quick with child	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court
308	Causing miscarriage without woman's consent	Same	Same	Not bailable	Same	Imprisonment of either description for twenty years, and fine	District court
309	Death caused by an act done with intent to cause miscarriage	Same	Same	Same	Same	Imprisonment of either description for twenty years, and fine	District court
310	Act done with intent to prevent a child being born alive, or to cause it to die after its birth	Same	Same	Same	Same	Imprisonment of either description for ten years, or fine, or both	District court

Criminal Procedure Code.

307	Causing death of a quick unborn child by an act amounting to culpable homicide	Shall not arrest without warrant	Warrant ...	Not liable	Imprisonment of either description for ten years, and fine	District court
308	Exposure of a child under twelve years of age by parent or person having care of it, with intention of wholly abandoning it	May arrest without warrant	Same	Bailable	Imprisonment of either description for seven years, or fine, or both	District court
309	Concealment of birth by secret disposal of dead body	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	District court
<i>Of Hurt.</i>						
314	Voluntarily causing hurt	May arrest without warrant	Summons ...	Bailable	Imprisonment of either description for one year, or fine of one thousand rupees, or both	District court. Police court.
315	Voluntarily causing hurt by dangerous weapons or means	May arrest without warrant	Warrant ...	Same	Imprisonment of either description for three years, or fine, or both, <i>whipping in addition</i>	District court.
316	Voluntarily causing grievous hurt	Same	Warrant ...	Same	Imprisonment of either description for seven years, and fine. If person hurt is a woman or child, <i>whipping in addition</i>	District court
317	Voluntarily causing grievous hurt by dangerous weapons or means	Same	Warrant ...	Not bailable	Imprisonment of either description for ten years, and fine, <i>whipping in addition</i>	District court
318	Voluntarily causing hurt in extort property or valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence	Same	Warrant ...	Same	Imprisonment of either description for ten years, and fine	...
319	Administering stupefying drug with intent to cause hurt, &c.	Same	Same	Same	Same	District court

Criminal Procedure Code.

320	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence	Same	Same	Same	Imprisonment of either description for twenty years, and fine, or whipping.	District court
321	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Same	Same	Bailable	Imprisonment of either description for seven years, and fine	District court
322	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Same	Same	Not bailable	Imprisonment of either description for ten years, and fine	District court
323	Voluntarily causing hurt to deter public servant from his duty	Same	Same	Bailable	Imprisonment of either description for three years, or fine, or both	District court
324	Voluntarily causing grievous hurt to deter public servant from his duty	Same	Same	Not bailable	Imprisonment of either description for ten years, and fine	District court
325	Voluntarily causing hurt, on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	Shall not arrest without warrant	Summons	Bailable	Imprisonment of either description for one month, or fine of fifty rupees, or both	Police court
326	Causing grievous hurt, on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	May arrest without warrant	Same	Same	Imprisonment of either description for four years, or fine of two thousand rupees, or both	District court
327	Doing any act which endangers human life or the personal safety of others	Same	Same	Same	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court

* Section 10 of No. 1 of 1888.

† Section 11 of No. 22 of 1890.

‡ No. 14 of 1889.

Criminal Procedure Code.

328	Causing hurt by an act which endangers human life, &c.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
329	Causing grievous hurt by an act which endangers human life, &c.	Same	Same	Same	Imprisonment of either description for two years, or fine of one thousand rupees, or both	District court
<i>Of Wrongful Restraint and Wrongful Confinement.</i>						
332	Wrongfully restraining any person	May arrest without warrant	Summons	Bailable	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
333	Wrongfully confining any person	Same	Same	Same	Imprisonment of either description for one year, or fine of one thousand rupees, or both	District court Police court
334	Wrongfully confining for three or more days	Same	Same	Same	Imprisonment of either description for two years, and fine	District court
335	Wrongfully confining for ten or more days	Same	Same	Same	Imprisonment of either description for three years, and fine	District court
336	Keeping any person in wrongful confinement knowing that a writ has been issued for his liberation	Shall not arrest without warrant	Same	Same	Imprisonment of either description for two years, in addition to imprisonment under any other section	District court
337	Wrongful confinement in secret	May arrest without warrant	Same	Same	Same	District court
338	Wrongful confinement for the purpose of extorting property, or compelling to an illegal act, &c.	Same	Same	Same	Imprisonment of either description for three years, and fine	District court
339	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Same	Same	Same	Same	District court

Criminal Procedure Code.

Of Criminal Force and Assault.

343	Assault or use of criminal force otherwise than on grave provocation	Shall not arrest without warrant	Same	Same	Imprisonment of either description for three months; or fine of fifty rupees, or both	Police court.
344	Assault or use of criminal force to deter a public servant from discharge of his duty	May arrest without warrant	Warrant	Same	Imprisonment of either description for two years, or fine, or both	District court Police court
345	Assault or use of criminal force to a woman, with intent to outrage her modesty	Same	Same	Same	Same, and whipping	District court
346	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation	Shall not arrest without warrant	Summons	Same	Imprisonment of either description for two years, or fine, or both	District court Police court
347	Assault or criminal force in attempt to commit theft of property wrong or carried by a person	May arrest without warrant	Warrant	Not bailable	Same	District court Police court.
348	Assault or use of criminal force in attempt wrongfully to confine a person	Same	Same	Bailable	Imprisonment of either description for one year, or fine of one thousand rupees, or both	District court Police court
349	Assault or use of criminal force on grave and sudden provocation	Shall not arrest without warrant	Summons	Same	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court

Of Kidnapping, Abduction, Slavery, and Forced Labour.

354	Kidnapping	May arrest without warrant	Warrant	Not bailable	Imprisonment of either description for seven years, and fine	District court
355	Kidnapping or abducting in order to murder	Same	Same	Same	Rigorous imprisonment for twenty years, and fine	

*Criminal Procedure Code.*CHAPTER XVII.—OFFENCES AGAINST PROPERTY.
Of Theft.

...
367	Theft	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for three years, or fine, or both	District court when value of property stolen does not exceed one hundred rupees			
368	Theft of cattle or predial produce	Same	Same	Same	Whipping in addition to punishment for theft	District court if value of property does not exceed fifty rupees.			
369	Theft in a dwelling house, &c.	Same	Same	Same	Imprisonment of either description for seven years, and fine	District court if value of property stolen does not exceed one hundred rupees.			
370	Theft by clerk or servant of property in possession of master or employer	Same	Same	Same	Same	District court if value of property stolen does not exceed one hundred rupees			
371	Theft, preparation having been made, for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retaining after committing it, or to retaining property taken by it	Same	Same	Same	Rigorous imprisonment for ten years, and fine, <i>whipping in addition</i>				

Criminal Procedure Code.

		Same	Same	Same	Same	Same	Rigorous imprisonment for four- teen years, and fine, <i>whipping in addition</i> *	District court †
381	If committed on the highway between sunset and sunrise	Same	Same	Same	Same	Same	Rigorous imprisonment for seven years, and fine, <i>whipping in addi- tion</i> *	District court Police court
382	Attempt to commit robbery	Same	Same	Same	Same	Same	Rigorous imprisonment for twenty years, and fine	
383	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Same	Same	Same	Same	Same	Rigorous imprisonment for twenty years, † <i>whipping also</i>	
384	Robbery, with attempt to cause death or grievous hurt	Same	Same	Same	Same	Same	Same	
385	Attempt to commit robbery when armed with deadly weapon	Same	Same	Same	Same	Same	Rigorous imprisonment for seven years, and fine	District court.
386	Beinging to a wandering gang of persons associated for the purpose of habitually committing thefts	Same	Same	Same	Same	Same		
<i>Of Criminal Misappropriation of Property.</i>								
386	Dishonest misappropriation of mov- able property, or converting it to one's own use	Shall not arrest without warrant	Warrant	Bailable	Same	Same	Imprisonment of either descrip- tion for two years, or fine, or both.	District court. Police court
387	Dishonest misappropriation of pro- perty, knowing that it was in pos- session of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Same	Same	Same	Same	Same	Imprisonment of either descrip- tion for three years, and fine	District court Police court
	If by clerk or person employed by deceased	Same	Same	Same	Same	Same	Imprisonment of either descrip- tion for seven years, and fine	District court

* No. 15 of 1883.

† Section 15 of No. 22 of 1890.

‡ Sections 3 and 4 of No. 3 of 1892.

Criminal Procedure Code.

<i>Of Cheating.</i>						
Cheating	...	Shall not arrest without warrant	Warrant	Bailable	Imprisonment of either description for one year, or fine, or both	District court Police court
400	Cheating	...	Same	Same	...	District court
401	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect	...	Same	Same	Imprisonment of either description for three years, or fine, or both	District court
402	Cheating by personation	...	Same	Same	Same	District court
403	Cheating, and thereby dishonestly inducing delivery of property, or the making, alteration, or destruction of a valuable security	...	Same	Same	Imprisonment of either description for seven years, and fine	District court
<i>Of Fraudulent Deeds and Dispositions of Property.</i>						
Fraudulent removal or concealment of property, &c., to prevent distribution among creditors	...	Shall not arrest without warrant	Warrant	Bailable	Imprisonment of either description for two years, or fine, or both	District court
404	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors	...	Same	Same	...	District court
405	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender	...	Same	Same	Same	District court
406	Fraudulent execution of deed of transfer containing a false statement of consideration	...	Same	Same	Same	District court
407	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled	...	Same	Same	Same	District court
<i>Of Mischief.</i>						
Mischief	...	Shall not arrest without warrant	Summons	Bailable	Imprisonment of either description for three months, or fine, or both	Police court
409	Mischief	...	Same	Same	...	Police court

Criminal Procedure Code.

	Warrant	Bailable	Imprisonment of either description for two years, or fine, or both	District court Police court
410	Mischief, and thereby causing damage to the amount of fifty rupees or upwards	Shall not arrest without warrant	...	District court Police court
411	Mischief by killing, poisoning, maiming, or rendering useless any animal of the value of ten rupees or upwards	May arrest without warrant	Same	District court Police court
412	Mischief by killing, poisoning, maiming, or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of fifty rupees or upwards	Same	Imprisonment of either description for five years, or fine, or both	District court
413	Mischief by causing a diminution of supply of water for agricultural purposes, &c.	Same	Same	District court, where damage done does not exceed fifty rupees
414	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property	Same	Same	District court
415	Mischief by causing inundation or obstruction to public drainage, attended with damage	Same	Same	District court
416	Mischief by destroying, or moving, or rendering less useful a lighthouse or beacon, or by exhibiting false lights	Same	Imprisonment of either description for seven years, or fine, or both	District court
417	Mischief by destroying or moving, &c., a landmark fixed by public authority	Shall not arrest without warrant	Imprisonment of either description for one year, or fine, or both	District court Police court

Criminal Procedure Code.

418	Mischief by fire or explosive substance, with intent to cause damage to the amount of one hundred rupees or upwards	Same	May arrest without warrant	Same	Same	Imprisonment of either description for seven years, and fine	District court
419	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Same	Same	Same	Not bailable	Imprisonment of either description for fifteen years, and fine	District court
420	Mischief with intent to destroy or make unsafe a decked vessel, or a vessel of twenty tons burthen	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	District court
421	The mischief described in the last section, when committed by fire or any explosive substance	Same	Same	Same	Same	Imprisonment of either description for twenty years, and fine	District court
422	Running vessel ashore, with intent to commit theft, &c.	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	District court
423	Impeding the saving of a vessel	Same	Same	Same	Same	Imprisonment of either description for five years, or fine, or both	District court
424	Removing or secreting wreck	Same	Same	Same	Same	Imprisonment of either description for one year, or fine, or both	District court Police court
425	Taking wreck into foreign port	Same	Same	Same	Same	Imprisonment of either description for five years, or fine, or both	District court
426	Mischief committed after preparation made for causing death or hurt, &c.	Same	Same	Same	Same	Imprisonment of either description for five years, and fine	District court
<i>Of Criminal Trespass.</i>							
433	Criminal trespass	Same	May arrest without warrant	Summons	Bailable	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court

= Section 11 of No. 1 of 1886.

Criminal Procedure Code.

442	Lurking house-trespass or house-breaking by night	Same	...	Same	...	Imprisonment of either description for three years, and fine	District court
443	Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment	Same	Same	Same	...	Imprisonment of either description for five years, and fine	District court
444	If the offence is theft	Same	Same	Same	...	Imprisonment of either description for fourteen years, and fine	District court
445	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Same	Same	Same	...	Same	District court
446	Grievous hurt caused whilst committing lurking house-trespass or house-breaking	Same	Same	Same	...	Imprisonment of either description for twenty years, and fine	District court
447	Death or grievous hurt caused by one of several persons jointly committed in house-breaking by night, &c.	Same	Same	Same	...	Same	District court
448	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	Same	Same	Same	...	Imprisonment of either description for two years, or fine, or both	District court Police court
449	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same	Same	Same	Same	...	Imprisonment of either description for three years, or fine, or both	District court Police court
450	Possession of house-breaking implements or offensive weapons	Same	Same	Same	...	Imprisonment of either description for two years, and fine	District court Police court
451	Being found in building for unlawful purpose	Same	Same	Same	...	Imprisonment of either description for three months, or fine of fifty rupees, or both	Police court
452	Loitering about, by reputed thief	Same	Same	Same	...	Same	Police court

* See No. 16 of 1881, section 2; sub-sections (1) and (a).

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CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY-MARKS.

	...	Warrant	...	Bailable	...	Imprisonment of either description for five years, or fine, or both	<i>District court</i>
454	Forgery
455	Forgery of a record of a court of justice or of a register of births, &c., kept by a public servant	Same	Same	Not bailable	...	Imprisonment of either description for seven years, and fine	...
456	Forgery of a valuable security, with authority to make, or transfer any valuable security, or to receive any money, &c.	Same	Same	Same	...	Imprisonment of either description for twenty years, and fine	...
457	Forgery, for the purpose of cheating	Same	Same	Same	...	Imprisonment of either description for seven years, and fine	<i>District court</i>
458	Forgery, for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose	Same	Same	Bailable	...	Imprisonment of either description for three years, and fine	<i>District court</i>
459	Using as genuine a forged document which is known to be forged	Same	Same	Same	...	Punishment for forgery	<i>District court</i>
460	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery, punishable under section 456 of the Ceylon Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit	Same	Same	Same	...	Imprisonment of either description for ten years, and fine	...

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461	Making or counterfeiting a seal, plate, &c., with intent to commit a felony; punishable otherwise than under section 454 of the Ceylon Penal Code, or possessing with like intent any seal, plate, &c., knowing the same to be counterfeit	Same	Same	Same	Imprisonment of either description for seven years, and fine
462	Having possession of a document, knowing it to be forged, with intent to use it as genuine, if the document is one of the description mentioned in section 455 of the Ceylon Penal Code	Same	Same	Same	Same
463	If the document is one of the description mentioned in section 456 of the Ceylon Penal Code	Same	Same	Same	Imprisonment of either description for ten years, and fine
464	Counterfeiting a device or mark used for authenticating documents described in section 456 of the Ceylon Penal Code, or possessing counterfeit marked material	Same	Same	Same	Imprisonment of either description for seven years, and fine
465	Counterfeiting a device or mark used for authenticating documents other than those described in section 456 of the Ceylon Penal Code, or possessing counterfeit marked material	Same	Same	Same	Imprisonment of either description for seven years, and fine
466	Sending false message by telegraph	Same	Same	Same	Imprisonment for one year, or fine, or both
467	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Same	Same	Same	Imprisonment of either description for seven years, and fine

* Section 11 of No. 1 of 1888.

† Section 15 of No. 22 of 1890.

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CHAPTER XIX.—DEFAMATION.

480	Defamation. ...	Shall not arrest without warrant	Warrant ...	Bailable ...	Simple imprisonment for two years, or fine, or both
481	Printing or engraving matter, knowing it to be defamatory.	Same	Same	Same	Simple imprisonment for two years, or fine, or both
482	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	Same	Same	Same	Same

CHAPTER XX.—CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

484	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court Police court
485	False statement, rumour, &c., circulated with intent to cause injury or offence against the public peace	Same	Same	Not bailable	Same	District court
486	Criminal intimidation	Same	Same	Bailable	Same	District court Police court
487	If threat be to cause death or grievous hurt, &c.	Same	Same	Same	Imprisonment of either description for seven years, or fine, or both	District court
487	Criminal intimidation by anonymous communication, or having taken precaution to conceal whence the threat comes	Same	Same	Same	Imprisonment of either description for two years, in addition to the punishment under above section	District court
488	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person	Same	Same	Same	Simple imprisonment for one month, or fine of one hundred rupees, or both	Police court

*Criminal Procedure Code.**SCHEDULE III.*

FORMS.

I.—Summons to an Accused Person.

(See Section 45.)

To _____, of _____.

Whereas your attendance is necessary to answer to a charge of (state shortly the offence charged), you are hereby required to appear in person (or by pleader, as the case may be) before the (_____) _____, of _____, on the _____ day of _____. Herein fail not.

Dated this _____ day of _____, 18—.

Signature _____.

II.—Warrant of Arrest.

(See Section 51.)

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

Whereas _____, of _____, stands charged with the offence of (state the offence), you are hereby directed to arrest the said _____, and to produce him before me. Herein fail not.

Dated this _____ day of _____, 18—.

Signature _____.

(See Section 52.)

This warrant may be enforced 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 attend before me on the _____ day of _____, and to continue so to attend until otherwise directed by me, he may be released.

Dated this _____ day of _____, 18—.

Signature _____.

III.—Bond and Bail-Bond after Arrest under a Warrant.

(See Section 51.)

I, (name), of _____, being brought before the police magistrate of _____ (or as the case may be), under a warrant issued to compel my appearance to answer to the charge of _____, do hereby bind myself to attend in the court of _____, on the _____ day of _____ next, to answer to the said charge, and to continue so to attend until otherwise directed by the court; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen the sum of rupees _____.

Dated this _____ day of _____, 18—.

Signature _____.

I do hereby declare myself surety for the above-named _____, of _____, that he shall attend before _____, in the court of _____, on the _____ day of _____ next, to answer to the charge on which he has been arrested, and shall continue so to attend

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until otherwise directed by the court; and, in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the Queen the sum of rupees _____.

Dated this _____ day of _____, 18__.

Signature: _____.

IV.—Proclamation requiring the Appearance of a Person Accused.

(See Section 62.)

Whereas complaint has been made before me that (*name, description, and address*) has committed (or is suspected to have committed) the offence of _____, punishable under section _____ of the Ceylon Penal Code; and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (or is concealing himself to avoid the service of the said warrant):

Proclamation is hereby made that the said _____ of _____, is required to appear at (*place*) before this court (or before me), to answer the said complaint, within (*not less than thirty*) days from this date.

Dated this _____ day of _____, 18__.

Signature: _____.

V.—Proclamation requiring the Attendance of a Witness.

(See Section 62.)

Whereas complaint has been made before me that (*name, description, and address*) has committed (or is suspected to have committed) the offence of (*mention the offence concisely*), and a warrant has been issued to compel the attendance of (*name, description, and address of the witness*) before this court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (or is concealing himself) to avoid the service of the said warrant:

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the court of _____, on the _____ day of _____ next, at _____ o'clock, to be examined touching _____, the offence complained of.

Dated this _____ day of _____, 18__.

Signature: _____.

Order of Attachment to compel the Appearance of a Person Accused.

(See Section 63.)

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

Whereas complaint has been made before me that (*name, description, and address*) has committed (or is suspected to have committed) the offence of _____, punishable under section _____ of the Ceylon Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found: and

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whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself*) to avoid the service of the said warrant, and thereupon a Proclamation was duly issued and published requiring the said _____ to appear to answer the said charge within _____ days; and whereas the said _____ is possessed of the following property other than land paying revenue to Government in the village (*or town*) of _____, in the district of _____, viz: _____, and an order has been made for the attachment thereof:

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this _____ day of _____, 18 —.

Signature _____.

VI.—Order of Attachment to compel the Attendance of a Witness.

(See Section 63.)

To the Fiscal of the _____ Province.

Whereas a warrant has been duly issued to compel the attendance of (*name, description, and address*) to testify concerning a complaint pending before this court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or is concealing himself*) to avoid the service of the said warrant; and thereupon a Proclamation was duly issued and published requiring the said _____ to appear and give evidence at the time and place mentioned therein, and he has failed to appear:

This is to authorize and require you to attach by seizure the movable property belonging to the said _____, to the value of rupees _____, which you may find within the jurisdiction of this court; and to hold the said property under attachment pending the further order of this court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this _____ day of _____, 18 —.

Signature _____.

Order authorizing an Attachment by the Government Agent.

(See Section 63.)

To the Government Agent of the _____ Province.

Whereas complaint has been made before me that (*name, description, and address*) has committed (*or is suspected to have committed*) the offence of _____, punishable under section _____ of the Ceylon Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself*) to avoid the service of the said warrant, and thereupon a Proclamation was duly issued and published requiring the said _____ to appear to answer the said charge within _____ days, but he has not appeared; and whereas the said _____ is possessed of certain land paying revenue to Government in the village (*or town*) of _____, in the district of _____, in your Province:

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You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this court, and to certify without delay what you may have done in pursuance of this order.

Dated this _____ day of _____, 18 —.

Signature _____

VII.—Warrant in the first instance to bring up a Witness.

(See Section 65.)

To *(name and designation of the police officer or other person or persons who is or are to execute the warrant)*.

Whereas complaint has been made before me that _____, of _____, has *(or is suspected to have)* committed the offence of *(mention the offence concisely)*, and it appears likely that *(name and description of witness)* can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so:

This is to authorize and require you to arrest the said *(name)*, and on the _____ day of _____ to bring him before this court to be examined touching the offence complained of.

Given under my hand this _____ day of _____, 18 —.

Signature _____

VIII.—Warrant to search after Information of a Particular Offence.

(See Section 71.)

To *(name and designation of the police officer or other person or persons who is or are to execute the warrant)*.

Whereas information has been laid *(or complaint has been made)* before me of the commission *(or suspected commission)* of the offence of *(mention the offence concisely)*, and it has been made to appear to me that the production of *(specify the thing clearly)* is essential to the inquiry now being made *(or about to be made)* into the said offence *(or suspected offence)*:

This is to authorize and require you to search for the said *(the thing specified)*, in the *(describe the house or place or part thereof to which the search is to be confined)*, and, if found, to produce the same forthwith before this court; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____

IX.—Warrant to search suspected Place of Deposit.

(See Section 73.)

To _____.

Whereas information has been laid before me, and, on due inquiry thereupon had, I have been led to believe that the *(describe the house or other place)* is used as a place for the deposit *(or sale)* of stolen property *(or, if for either of the other purposes expressed in the section, state the purpose in the words of the section)*:

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This is to authorize and require you to enter the said house (or other place), with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose; and to search every part of the said house (or other place, or, if the search is to be confined to a part, specify the part clearly), and to seize and take possession of any property (or documents, or stamps, or seals, or coins, as the case may be)—[Add (when the case requires it), and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps, or false seals, or counterfeit coin (as the case may be)]; and forthwith to bring before this court such of the said things as may be taken possession of; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

X.—Bond to keep the Peace.

(See Section 87.)

Whereas I, (name), inhabitant of (place), 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 hereby bind myself to forfeit to Her Majesty the Queen the sum of rupees _____.

Dated this _____ day of _____, 18 —.

Signature _____.

XI.—Bond for Good Behaviour.

(See Sections 90 and 91.)

Whereas I, (name), inhabitant of (place), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen and to all her subjects for the term of (state the period), 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 this _____ day of _____, 18 —.

Signature _____.

(Where a bond with sureties is to be executed, add) We do hereby declare ourselves sureties for the above-named _____, that he will be of good behaviour to Her Majesty the Queen and to all her subjects during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees _____.

Dated this _____ day of _____, 18 —.

Signature _____.

XII.—Summons on Information of a Probable Breach of the Peace.

(See Section 94.)

To _____, of _____.

Whereas it has been made to appear to me by credible information that (state the substance of the information), and that you are likely to commit a breach of the peace (or by which act a breach of the peace will probably be occasioned), you are hereby required to attend in

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person (or by a duly authorized agent) at the police court of _____ on the _____ day of _____, 18 __, at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees _____ [when sureties are required, add, and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of rupees _____ (each, if more than one)] that you will keep the peace for the term of _____.

Given under my hand this _____ day of _____, 18 __.

Signature _____.

**XIII.—Warrant of Commitment on Failure to find
Security to keep the Peace.**

(See Section 103.)

To the Fiscal of the _____ Province:

Whereas (name and address) appeared before me, in person (or by his pleader) on the _____ day of _____, in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees _____, with one surety (or a bond with two sureties, each in rupees _____); that he the said (name) would keep the peace for the period of _____ months; and whereas an order was then made requiring the said (name) to enter into and find such security (state the security ordered when it differs from that mentioned in the summons), and he has failed to comply with the said order;

This is to authorize and require you to receive the said (name) into your custody, together with this warrant, and him safely to keep in prison for the said period of (term of imprisonment), unless he shall in the meantime comply with the said order by himself and his surety (or sureties), entering into the said bond, in which case the name shall be received, and the said (name) released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand this _____ day of _____, 18 __.

Signature _____.

**XIV.—Warrant of Commitment on Failure to find
Security for Good Behaviour.**

(See Section 103.)

To the Fiscal of the _____ Province.

Whereas it has been made to appear to me that (name and description) has been and is lurking within the district of _____, having no ostensible means of subsistence (or, and that he is unable to give any satisfactory account of himself);

or

Whereas evidence of the general character of (name and description) has been adduced before me and recorded, from which it appears that he is an habitual robber (or house-breaker, &c., as the case may be);

And whereas an order has been recorded stating the same, and requiring the said (name) to furnish security for his good behaviour for the term of (state the period) by entering into a bond with one surety (or two or more sureties, as the case may be), himself, for rupees _____ and the said surety (or each of the said sureties) for rupees _____, and the said (name) has failed to comply with the said order, and for such default has been adjudged ("rigorous" or "simple," as the case may be) imprisonment for (state the term), unless the said security be sooner furnished;

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This is to authorize and require you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*), unless he shall in the meantime comply with the said order, by himself and his surety (*or sureties*) entering into the said bond, in which case the same shall be received and the said (*name*) released: and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand this _____ day of _____, 18__.

Signature _____.

XV.—Warrant to Discharge a Person imprisoned on failure to give Security.

(See Sections 103 and 106.)

To the Fiscal of the _____ Province (*or other officer in whose custody the person is*).

Whereas (*name and description of prisoner*) was committed to your custody under warrant of this court (*or of the Supreme Court, or district court of _____, as the case may be*), dated the _____ day of _____, and has since duly given security under section 103 of "The Criminal Procedure Code, 1883":

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community:

or

the Supreme Court (*or district court of _____, as the case may be*) has ordered that the said _____ be released:

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other cause.

Given under my hand this _____ day of _____, 18__.

Signature _____.

XVI.—Order for the Removal of Nuisances.

(See Section 115.)

To (*name, description, and address*).

Whereas it has been made to appear to me that you have caused an obstruction (*or nuisance*) to persons using the public roadway (*or other public place*) which, &c. (*describe the road or public place*), by, &c. (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or nuisance*) still exists:

or

Whereas it has been made to appear to me that you are carrying on as owner or manager the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or comfort*) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place:

or

Whereas it has been made to appear to me that you are the owner of (*or are in possession of, or have the control over*) a certain tank (*or well, or excavation*) adjacent to the public way (*describe the thoroughfare*),

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and that the safety of the public is endangered by reason of the said tank (or wall, or excavation) being without a fence (or insecurely fenced):

or

Whereas, &c., &c. (as the case may be):

I do hereby direct and require you within (state the time allowed) to (state what is required to be done to abate the nuisance), or to appear at _____, in the _____ court of _____, on the _____ day of _____ next, and to show cause why this order should not be enforced:

or

I do hereby direct and require you within (state the time allowed) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on; or to appear, &c.:

or

I do hereby direct and require you within (state the time allowed) to put up a sufficient fence (state the kind of fence and the part to be fenced), or to appear, &c.:

or

I do hereby direct and require you, &c., &c. (as the case may be).

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XVII.—Magistrate's Order constituting a Jury.

(See Section 120.)

Whereas on the _____ day of _____, 18 —, an order was issued to (name) requiring him (state the effect of the order), and whereas the said (name) has applied to me by a petition bearing date the _____ day of _____ for an order appointing a jury to try whether the said recited order is reasonable and proper; I do hereby appoint (the names, &c., of the five or more jurors) to the jury to try and decide the said questions; and do require this said jury to report their decision within _____ days from the date of this order at my office at _____.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XVIII.—Magistrate's Notice and Peremptory Order after the Finding by a Jury.

(See Section 122.)

To (name, description, and address).

I hereby give you notice that the jury duly appointed on the petition presented by you on the _____ day of _____ have found that the order issued on the _____ day of _____, requiring you (state substantially the requisition in the order), is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (state the time allowed), on peril of the penalty provided by the Ceylon Penal Code for disobedience thereto.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

*Criminal Procedure Code.***XIX.—Injunction to provide against imminent danger pending Inquiry by Jury.**

(See Section 125.)

To (name, description, and address).

Whereas the inquiry by a jury appointed to try whether my order, issued on the _____ day of _____, 18 —, is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 125 of "The Criminal Procedure Code, 1883," direct and enjoin you forthwith to (state plainly what is required to be done as a temporary safeguard), pending the result of the local inquiry by the jury.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XX.—Magistrate's Order prohibiting the Repetition, &c., of a Nuisance.

(See Section 128.)

To (name, description, and address).

Whereas it has been made to appear to me that, &c. (state the proper recital guided by Form No. XVI or Form No. XXI, as the case may be):

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, &c. (as the case may be).

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XXI.—Magistrate's Order to prevent Obstruction, Riot, &c.

(See Section 129.)

To (name, description, and address).

Whereas it has been made to appear to me that you are in possession (or have the management) of (describe clearly the property), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road:

or

Whereas it has been made to appear to me that you and a number of other persons (mention the class of persons) are about to meet and proceed in a religious procession along the public street, &c. (as the case may be), and that such procession is likely to lead to a riot or an affray:

or

Whereas, &c., &c. (as the case may be):

I do hereby order you not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road:

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (or as the case cited may require).

Given under my hand this _____ day of _____, 18 —.

Signature _____.

*Criminal Procedure Code.***XXII.—Charges.**

(See Sections 196, 197, 198.)

1.—Charges with one Head.

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

On Penal Code,
section 114.

(b) That you, on or about the _____ day of _____, at _____, waged war against Her Majesty the Queen, and thereby committed an offence punishable under section 114 of the Ceylon Penal Code.

(Signature of the Magistrate.)

To be substituted for (b)

On section 119.

(2) That you, on or about the _____ day of _____, at _____, with the intention of inducing the Honourable A. B., Member of the Executive Council of Ceylon, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 119 of the Ceylon Penal Code.

On section 158.

(3) That you, being a public servant in the _____ Department, directly accepted from (state the name), for another party (state the name), a gratification (state the nature), other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 158 of the Ceylon Penal Code.

On section 162.

(4) That you, being a public servant in the _____ Department, on or about the _____ day of _____, at _____, did (or omitted to do, as the case may be) _____, such conduct being contrary to the provisions of Ordinance _____, section _____, and known by you to be prejudicial to _____, and thereby committed an offence punishable under section 162 of the Ceylon Penal Code.

On section 190.

(5) That you, on or about the _____ day of _____, at _____, 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 190 of the Ceylon Penal Code.

On section 297.

(6) That you, on or about the _____ day of _____, at _____, committed culpable homicide not amounting to murder, by causing the death of _____, and thereby committed an offence punishable under section 297 of the Ceylon Penal Code.

On section 299.

(7) That you, on or about the _____ day of _____, at _____, abetted the commission of suicide by A. B., and thereby committed an offence punishable under section 299 of the Ceylon Penal Code.

On section 316.

(8) That you, on or about the _____ day of _____, at _____, voluntarily caused grievous hurt to _____, and thereby committed an offence punishable under section 316 of the Ceylon Penal Code.

On section 380.

(9) That you, on or about the _____ day of _____, at _____, robbed (state the name and article stolen), and thereby committed an offence punishable under section 380 of the Ceylon Penal Code.

2.—Charges with two or more Heads.

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

On section 236.

(b) First.—That you, on or about the _____ day of _____, at _____, 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 236 of the Ceylon Penal Code.

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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 236 of the Ceylon Penal Code.

(Signature of the Magistrate.)

To be substituted for (b):

(2) *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 296 of the Ceylon Penal Code.

On sections 296 and 297.

Secondly.—That you, on or about the _____ day of _____, at _____, by causing the death of _____, committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 297 of the Ceylon Penal Code.

(3) *First.*—That you, on or about the _____ day of _____, at _____, committed theft (*state article stolen*), and thereby committed an offence punishable under section 367 of the Ceylon Penal Code.

On sections 367 and 371.

Secondly.—That you, on or about the _____ day of _____, at _____, committed theft (*state article stolen*), 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 371 of the Ceylon Penal Code.

Thirdly.—That you, on or about the _____ day of _____, at _____, committed theft (*state article stolen*), 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 371 of the Ceylon Penal Code.

Fourthly.—That you, on or about the _____ day of _____, at _____, committed theft (*state article stolen*), 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 371 of the Ceylon Penal Code.

(4) That you, on or about the _____ day of _____, at _____, in the course of the inquiry into _____, 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 190 of the Ceylon Penal Code.

Alternative charges on section 190.

3.—Charge for Theft after a previous Conviction.

I, (name and office of magistrate, &c.), hereby charge you (name of accused person), as follows:

That you, on or about the _____ day of _____, at _____, committed theft (*state article stolen*), and thereby committed an offence punishable under section 367 of the Ceylon Penal Code (*as the case may be*).

And you the said (name of accused) stand further charged that you, before the committing of the said offence, that is to say, on the _____ day of _____, had been convicted by the (state court by which conviction was had) at _____, of an offence punishable under chapter XVII. of the Ceylon Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the offender was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 68 of the Ceylon Penal Code.

*Criminal Procedure Code.***XXIII.—Indictment on Committal by a Police Court.**

(See Sections 263 and 281.)

The Queen v. A. B.

Whereas *A. B.*, of ———, has been committed for trial by the police court of ———, and this court has been duly designated as the court of trial, the said *A. B.* now stands before this court for trial accordingly; and the charges against him are:

- (1) ———
 (2) ———
 (3) ———

The ——— day of ———, 18 —.

Signature ———.

XXIV.—Same on transfer by order of Supreme Court.

(See Sections 284 and 280.)

Reg. v. A. B.

Whereas, after proceedings had against *A. B.*, of ———, in the police court of ——— (or in the district court of ———), the case was by order of the Supreme Court transferred to this court for trial; the said *A. B.* now stands before this court for trial accordingly; and the charges against him are:

- (1) ———
 (2) ———
 (3) ———

The ——— day of ———, 18 —.

Signature ———.

XXV.—Warrant of Commitment on a Sentence of Imprisonment or Fine, if passed by a Magistrate.

(See Sections 220 and 223.)

To the Fiscal of the ——— Province.

Whereas on the ——— day of ———, 18 —, (*name of prisoner*), the (first, second, third, *as the case may be*) prisoner in case No. ———, was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*), under section ——— (or sections) of the Ceylon Penal Code (or of Ordinance ———), and was sentenced to (*state the punishment fully and distinctly*):

This is to authorize and require you to receive the said (*prisoner's name*) into your custody in prison at ———, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

* XXVI.—In cases of jurisdiction by consent, under section 219; after the asterisk, add "who consented that the charge should be tried by me."

*Criminal Procedure Code.***XXVII.—Warrant of Imprisonment on failure to recover
Amends by Distress.**

(See Section 236.)

To the Fiscal of the ———— Province.

Whereas (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (*or vexatious*), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees ———— as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the movable property of the said (*name of complainant*), and an order has been made for his simple imprisonment in prison for the period of ———— days, unless the aforesaid sum be sooner paid:

This is to authorize and require you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*), subject to the provisions of section 65 of the Ceylon Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ———— day of ————, 18 —.

Signature ————.**XXVIII.—Summons to a Witness.**

(See Sections 45 and 167.)

To ————, of ————.

Whereas complaint has been made before me that ————, of ————, has (*or is suspected to have*) committed the offence of (*state the offence concisely, with time and place*), and it appears to me that you are likely to give material evidence for the prosecution:

You are hereby summoned to appear before this court on the ———— day of ———— next, at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the court; and you are hereby warned that if you shall, without just excuse, neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand this ———— day of ————, 18 —.

Signature ————.**XXIX.—Precept to Fiscal to Summon Jurors.**

(See Section 333.)

To the Fiscal of ————.

Whereas a criminal session of the Supreme Court is appointed to be held in the court-house at ———— on the ———— day of ———— next, and the names of the persons stated in the form annexed hereto have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this court; you are hereby required to summon the said persons to attend at the said sessions at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

Given under my hand this ———— day of ————, 18 —.

Signature ————.

*Criminal Procedure Code.***XXX.—Summons to a Juror.**

(See Section 335.)

To (name), of (place).

Pursuant to a precept directed to me by the Supreme Court requiring your attendance as a juror at the next criminal session at _____, you are hereby summoned to attend at the said session at (place) at ten o'clock in the forenoon on the _____ day of _____ next.

Given under my hand this _____ day of _____, 18—.

Signature _____.

XXXI.—Warrant of Commitment and Execution under Sentence of Death.

(See Section 374.)

To the Fiscal of the _____ Province.

Whereas, at the session held before me on the _____ day of _____, 18—, (name of prisoner), the (first, second, third, *as the case may be*) prisoner in case No. _____ of the calendar at the said session, was duly convicted of the offence of culpable homicide amounting to murder, under section 296 of "The Ceylon Penal Code;" and sentenced to suffer death, which sentence was, under the provisions of the 374th section of "The Criminal Procedure Code, 1883," respited until the _____ day of _____, 18—.

This is to authorize and require you, the said fiscal, to receive the said (prisoner's name) into your custody, together with this warrant, and him safely keep; and to carry the said sentence into execution by causing the said _____ to be hanged by the neck until he be dead, at (time and place of execution), unless the said _____ shall be pardoned, or the said execution respited, or the said sentence commuted by the Governor, and to return this warrant to the court with an endorsement certifying what you have done hereunder.

Given under my hand this _____ day of _____, 18—.

Signature _____.

XXXI. a.—Certificate of Medical Officer.

(See Section 374 d.)

I, A. B., the medical officer of the prison (*as the case may be*), hereby certify that I have duly examined the body of C. D., on whom judgment of death was this day executed in my presence in the (describe prison), and that on such examination I found that the said C. D. was dead.

Dated this _____.

Signed _____.

XXXI. b.—Certificate of Fiscal and others.

(See Section 374 e.)

We, the undersigned, hereby declare that sentence of death was this day executed in the (describe prison) on C. D., in our presence.

Dated this _____ day of _____, 18—.

_____, Fiscal.
 _____, Justice of the Peace.
 _____, Jailor.
 _____, Minister of Religion.

*Criminal Procedure Code.***XXXII.—Warrant to levy a Fine by Distress and Sale.**
(See Section 378.)

To the Fiscal of the _____ Province.

Whereas (*name and description of the offender*) was on this _____ day of _____, 18 —, convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees _____, and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof:

This is to authorize and require you to make distress by seizure of any movable property belonging to the said (*name*) which may be found within the district of _____; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or forthwith*), to sell the movable property distrained, or so much thereof as shall be sufficient to satisfy the said fine; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XXXIII.—Warrant of Commitment in certain cases of Contempt when a Fine is imposed.

(See Section 445.)

To the Fiscal of the _____ Province.

Whereas, at a court holden before me on this day (*name and description of the offender*), in the presence (*or view*) of the court committed wilful contempt:

And whereas for such contempt the said (*name of offender*) has been adjudged by the court to pay a fine of rupees _____, or in default to suffer simple imprisonment for the space of (*state the number of months or days*):

This is to authorize and require you to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XXXIV.—Magistrate's or Judge's Warrant of Commitment of Witness refusing to Answer.

(See Section 449.)

To the Fiscal of the _____ Province.

Whereas (*name and description*), being summoned (*or brought before this court*) as a witness, and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or certain questions*) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*):

This is to authorize and require you to take the said (*name*) into custody, and him safely keep in your custody for the space of _____ days, unless in the meantime he shall consent to be examined, and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this court to be dealt with according to law; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

*Criminal Procedure Code.***XXXV.—Bond and Bail-bond on a Preliminary Inquiry before a Magistrate.**

(See Sections 454 and 457.)

I, (*name*), of (*place*); being brought before the magistrate of (*as the case may be*), charged with the offence of _____, and required to give security for my attendance in the police court and at the _____, if required, do bind myself to attend at the court of the said magistrate on every day of the preliminary inquiry into the said charge, and should the case be sent for trial to _____, to be, and appear, before the said court when called upon to answer the charge against me; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees _____.

Dated this _____ day of _____, 18—.

Signature _____.

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the said (*name*), that he shall attend at the police court of _____ on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial to the _____, that he shall be, and appear, before the said court to answer the charge against him, and in case of his making default therein, I bind myself (or we bind ourselves) to forfeit to Her Majesty the Queen the sum of rupees _____.

Dated this _____ day of _____, 18—.

Signature _____.**XXXVI.—Warrant to Discharge a Person imprisoned on Failure to give Security.**

(See Section 458.)

To the Fiscal of the _____ Province (*or other officer in whose custody the person is*).

Whereas (*name and description of prisoner*) was committed to your custody under warrant of this court dated the _____ day of _____, and has since with his surety (or sureties) duly executed a bond under section 457 of "The Criminal Procedure Code, 1883";

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand this _____ day of _____, 18—.

Signature _____.**XXXVII.—Warrant of Attachment to enforce a Bond.**

(See Section 476.)

To the Fiscal of the _____ Province:

Whereas (*name, description, and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum, or show any sufficient cause why payment should not be enforced against him;

This is to authorize and require you to attach any movable or immovable property of the said (*name*) that you may find within the district of _____, by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand this _____ day of _____, 18—.

Signature _____.

*Criminal Procedure Code.***XXXVIII.—Notice to Surety on Breach of a Bond.**

(See Section 476.)

To _____, of _____.

Whereas on the _____ day of _____, 18 —, you became surety for (*name*), of (*place*), that he should appear before this court on the _____ day of _____, and bound yourself in default thereof to forfeit the sum of rupees _____ to Her Majesty the Queen; and whereas the said (*name*) has failed to appear before this court, and by reason of such default you have forfeited the aforesaid sum of rupees _____:

You are hereby required to pay the said penalty, or show cause, within _____ days from this date, why payment of the said sum should not be enforced against you.

Given under my hand this _____ day of _____, 18 —.

Signature _____

XXXIX.—Notice to Surety of Forfeiture of Bond for Good Behaviour.

(See Section 476.)

To _____, of _____.

Whereas on the _____ day of _____, 18 —, you became surety by a bond for (*name*), of (*place*), that he would be of good behaviour for the period of _____, and bound yourself in default thereof to forfeit the sum of rupees _____ to Her Majesty the Queen; and whereas the said (*name*) has been convicted of the offence of (*specify the offence committed*) committed since you became such surety, whereby your security bond has become forfeited:

You are hereby required to pay the said penalty of rupees _____, or to show cause, within _____ days, why it should not be paid.

Given under my hand this _____ day of _____, 18 —.

Signature _____

XL.—Warrant of Attachment against a Surety.

(See Section 476.)

To _____.

Whereas (*name, description, and address*) has bound himself as surety for the appearance of _____ (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen the sum of rupees _____ (*the penalty in the bond*):

This is to authorize and require you to attach any movable or immovable property of the said (*name*) which you may find within the district of _____, by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant, immediately upon its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____

XLI.—Warrant of Commitment of the Surety of an Accused Person admitted to Bail.

(See Section 476.)

To the Fiscal of the _____ Province.

Whereas (*name and description of surety*) has bound himself as a surety for the appearance of _____ (*state the condition of the bond*), and the said (*name*) has therein made default whereby the penalty

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mentioned in the said bond has been forfeited to Her Majesty the Queen; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum, or show any sufficient cause why payment should not be enforced against him; and the same cannot be recovered by attachment and sale of movable or immovable property of his, and an order has been made for his imprisonment in prison for (*specify the period*):

This is to authorize and require you to receive the said (*name*) into your custody, with this warrant, and him safely to keep in prison for the said (*term of imprisonment*), and to return this warrant with an enforcement certifying the manner of its execution:

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XLII.—Notice to the Principal of Forfeiture of a Bond to keep the Peace.

(See Section 476.)

To (*name, description, and address*).

Whereas on the _____ day of _____, 18 —, you entered into a bond not to commit, &c. (*as in the bond*); and proof of the forfeiture of the same has been given before me and duly recorded:

You are hereby called upon to pay the said penalty of rupees _____, or to show cause before me, within _____ days, why payment of the same should not be enforced against you.

Dated this _____ day of _____, 18 —.

Signature _____.

XLIII.—Warrant to attach the Property of the Principal on Breach of a Bond to keep the Peace.

(See Section 476.)

To the Fiscal of the _____ Province.

Whereas (*name and description*) did on the _____ day of _____, 18 —, enter into a bond for the sum of rupees _____, binding himself not to commit a breach of the peace, &c. (*as in the bond*); and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum:

This is to authorize and require you to attach by seizure movable or immovable property belonging to the said (*name*) to the value of rupees _____ which you may find within the district of _____, and, if the said sum be not paid within _____, to sell the property so attached, or so much of it as may be sufficient to realize the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XLIV.—Warrant of Imprisonment on Breach of a Bond to keep the Peace.

(See Section 476.)

To the Fiscal of the _____ Province:

Whereas proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen the sum of rupees _____; and whereas the said (*name*)

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has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable or immovable property, and an order has been made for the imprisonment of the said (name) in prison for the period of (term of imprisonment) :

This is to authorize and require you to receive the said (name) into your custody, together with this warrant, and him safely to keep in prison for the said period of (term of imprisonment) ; and to return this warrant with an endorsement certifying the manner of its execution :

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XLV.—Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour.

(See Section 476.)

To the Fiscal of the _____ Province.

Whereas (name, description, and address) did, on the _____ day of _____, 18 —, give security by bond in the sum of rupees _____ for the good behaviour of (name, &c., of the principal), and proof has been given before me and duly recorded of the commission by the said (name) of the offence of _____, whereby the said bond has been forfeited ; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum :

This is to authorize and require you to attach by seizure movable or immovable property belonging to the said (name) to the value of rupees _____ which you may find within the district of _____, and if the said sum be not paid within _____, to sell the property so attached, or so much of it as may be sufficient to realize the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

XLVI.—Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour.

(See Section 476.)

To the Fiscal of the _____ Province.

Whereas (name, description, and address) did, on the _____ day of _____, 18 —, give security by bond in the sum of rupees _____ for the good behaviour of (name, &c., of the principal), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (name) has forfeited to Her Majesty the Queen the sum of rupees _____ ; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable or immovable property, and an order has been made for the imprisonment of the said (name) in prison for the period of (term of imprisonment) :

This is to authorize and require you to receive the said (name) into your custody, together with this warrant, and him safely to keep in prison for the said period of (term of imprisonment) ; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this _____ day of _____, 18 —.

Signature _____.

24th October, 1883.