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ပြည်ထောင်စု မြန်မာနိုင်ငံ

ဥပဒေ

အတွဲ ၈

THE BURMA CODE

VOLUME VIII

(၁၉၇၄ ခုနှစ်အထိ ပြင်ဆင်ပြီး)

၁၉၇၉ ခုနှစ်တွင် မြန်လည်ရိုက်နှိပ်သည်။

ပြည်ထောင်စု မြန်မာနိုင်ငံအစိုးရ အမိန့်အရ ပုံနှိပ်ဖြန့်ချိသည်

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နိဒါန်း

ဤဥပဒေအတွဲ ၈ တွင်ပါရှိသည့် အက်ဥပဒေများမှာ ရာဇဝတ်ဥပဒေ တရပ်တည်းနှင့်သာ သက်ဆိုင်သောဥပဒေများဖြစ်ပါသည်။

၎င်းဥပဒေများကို ၁၉၅၄ ခုနှစ်၊ ဒီဇင်ဘာလ ၃၁ ရက်နေ့ထိ ပြင်ဆင်ထားသည့်အတိုင်း ပုံနှိပ်ခြင်းဖြစ်ပါသည်။

စံညွှန်း

ရန်ကုန်မြို့၊
၁၃၁၉ ခု၊ ဝါဆိုလပြည့်ကျော် ၁၂ ရက်။
(၁၉၅၇ ခု၊ ဇူလိုင်လ ၂၃ ရက်။)

အတွင်းရေးမှူး၊
ဥပဒေပြင်ဆင်ရေးကော်မတီ၊
တရားရေးဝန်ကြီးဌာန။

အခြေခံ

၈ အုပ်နှင့်မီဒီယာ

အမှတ် ၁၄၆ (A) ၃၇-လမ်း၊ အလယ်

ရန်ကုန်၊ ၂၄၉၀၆၈

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- 328. Causing hurt by means of poison, etc., with intent to commit an offence.
- 329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
- 330. Voluntarily causing hurt to extort confession, or to compel restoration of property.
- 331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.
- 332. Voluntarily causing hurt to deter public servant from his duty.
- 333. Voluntarily causing grievous hurt to deter public servant from his duty.
- 334. Voluntarily causing hurt on provocation.
- 335. Voluntarily causing grievous hurt on provocation.
- 336. Act endangering life or personal safety of others.
- 337. Causing hurt by act endangering life or personal safety of others.
- 338. Causing grievous hurt by act endangering life or personal safety of others.

Of Wrongful Restraint and Wrongful Confinement

- 339. Wrongful restraint.
- 340. Wrongful confinement.
- 341. Punishment for wrongful restraint.
- 342. Punishment for wrongful confinement.
- 343. Wrongful confinement for three or more days.
- 344. Wrongful confinement for ten or more days.
- 345. Wrongful confinement of person for whose liberation writ has been issued.
- 346. Wrongful confinement in secret.
- 347. Wrongful confinement to extort property, or constrain to illegal act.
- 348. Wrongful confinement to extort confession, or compel restoration of property.

Of Criminal Force and Assault

- 349. Force.
- 350. Criminal force.
- 351. Assault.
- 352. Punishment for assault or criminal force otherwise than on grave provocation.
- 353. Assault or criminal force to deter public servant from discharge of his duty.
- 354. Assault or criminal force to woman with intent to outrage her modesty.

Sections

- 355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.
- 356. Assault or criminal force in attempt to commit theft of property carried by a person.
- 357. Assault or criminal force in attempt wrongfully to confine a person.
- 358. Assault or criminal force on grave provocation.

Of Kidnapping, Abduction, Slavery and Forced Labour

- 359. Kidnapping.
- 360. Kidnapping from the Union of Burma.
- 361. Kidnapping from lawful guardianship.
- 362. Abduction.
- 363. Punishment for kidnapping.
- 364. Kidnapping or abducting in order to murder.
- 365. Kidnapping or abducting with intent secretly and wrongfully to confine person.
- 366. Kidnapping, abducting or inducing woman to compel her marriage, etc.
- 366A. Procuration of minor girl.
- 366B. Importation of girl from foreign country.
- 367. Kidnapping or abducting in order to subject person to grievous hurt slavery, etc.
- 368. Wrongfully concealing or keeping in confinement kidnapped or abducted person.
- 369. Kidnapping or abducting child under ten years with intent to steal from its person.
- 370. Buying or disposing of any person as a slave.
- 371. Habitual dealing in slaves.
- 372. Selling minor for purposes of prostitution, etc.
- 373. Buying minor for purposes of prostitution, etc.
- 374. Unlawful compulsory labour.

Of Rape

- 375. Rape.
- 376. Punishment for rape.

Of Unnatural Offences

- 377. Unnatural offences.

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

Of Theft

Sections

- 378. Theft.
- 379. Punishment for theft.
- 380. Theft in dwelling-house, etc.
- 381. Theft by clerk or servant of property in possession of master.
- 382. Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.

Of Extortion

- 383. Extortion.
- 384. Punishment for extortion.
- 385. Putting person in fear of injury in order to commit extortion.
- 386. Extortion by putting a person in fear of death or grievous hurt.
- 387. Putting person in fear of death or of grievous hurt, in order to commit extortion.
- 388. Extortion by threat of accusation of an offence punishable with death or transportation, etc.
- 389. Putting person in fear of accusation of offence ; in order to commit extortion.

Of Robbery and Dacoity

- 390. Robbery.
 - When theft is robbery.
 - When extortion is robbery.
- 391. Dacoity.
- 392. Punishment for robbery.
- 393. Attempt to commit robbery.
- 394. Voluntarily causing hurt in committing robbery.
- 395. Punishment for dacoity.
- 396. Dacoity with murder.
- 397. Robbery or dacoity, with attempt to cause death or grievous hurt.
- 398. * * * * *
- 399. Making preparation to commit dacoity.
- 400. Punishment for belonging to gang of dacoits.
- 401. Punishment for belonging to gang of thieves.
- 402. Assembling for purpose of committing dacoity.

*Of Criminal Misappropriation of Property**Sections*

- 403. Dishonest misappropriation of property.
- 404. Dishonest misappropriation of property possessed by deceased person at the time of his death.

Of Criminal Breach of Trust

- 405. Criminal breach of trust.
- 406. Punishment or criminal breach of trust.
- 407. Criminal breach of trust by carrier, etc.
- 408. Criminal breach of trust by clerk or servant.
- 409. Criminal breach of trust by public servant, or by banker, merchant or agent.

Of the Receiving of Stolen Property

- 410. Stolen property.
- 411. Dishonestly receiving stolen property.
- 412. Dishonestly receiving property stolen in the commission of a dacoity.
- 413. Habitually dealing in stolen property.
- 414. Assisting in concealment of stolen property.

Of Cheating

- 415. Cheating.
- 416. Cheating by personation.
- 417. Punishment for cheating.
- 418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
- 419. Punishment for cheating by personation.
- 420. Cheating and dishonestly inducing delivery of property.

Of Fraudulent Deeds and Dispositions of Property

- 421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
- 422. Dishonestly or fraudulently preventing debt being available for creditors.
- 423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
- 424. Dishonest or fraudulent removal or concealment of property.

Of Mischief

Sections

- 425. Mischief.
- 426. Punishment for mischief.
- 427. Mischief causing damage to the amount of fifty rupees.
- 428. Mischief by killing or maiming animal of the value of ten rupees.
- 429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.
- 430. Mischief by injury to works of irrigation or by wrongfully diverting water.
- 431. Mischief by injury to public road, bridge, river, or channel.
- 432. Mischief by causing inundation or obstruction to public drainage attended with damage.
- 433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.
- 434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.
- 435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.
- 436. Mischief by fire or explosive substance with intent to destroy house, etc.
- 437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.
- 438. Punishment for the mischief described in section 437 committed by fire or explosive substance.
- 439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.
- 440. Mischief committed after preparation made for causing death or hurt.

Of Criminal Trespass

- 441. Criminal trespass.
- 442. House-trespass.
- 443. Lurking house-trespass.
- 444. Lurking house-trespass by night.
- 445. House-breaking.
- 446. House-breaking by night.
- 447. Punishment for criminal trespass.
- 448. Punishment for house-trespass.
- 449. House-trespass in order to commit offence punishable with death.
- 450. House-trespass in order to commit offence punishable with transportation for life.
- 451. House-trespass in order to commit offence punishable with imprisonment.

Sections

- 452. House-trespass after preparation for hurt, assault or wrongful restraint.
- 453. Punishment for lurking house-trespass or house-breaking.
- 454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.
- 455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.
- 456. Punishment for lurking house-trespass or house-breaking by night.
- 457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.
- 458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.
- 459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
- 460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.
- 461. Dishonestly breaking open receptacle containing property.
- 462. Punishment for same offence when committed by person entrusted with custody.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR
PROPERTY MARKS.

- 463. Forgery.
- 464. Making a false document.
- 465. Punishment for forgery.
- 466. Forgery of record of Court or of public register. etc.
- 467. Forgery of valuable security, will, etc.
- 468. Forgery for purpose of cheating.
- 469. Forgery for purpose of harming reputation.
- 470. Forged document.
- 471. Using as genuine a forged document.
- 472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.
- 473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.
- 474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.
- 475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.

Sections

- 476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.
- 477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.
- 477A. Falsification of accounts.

Of Trade, Property and Other Marks.

- 478. Trade mark.
- 479. Property mark.
- 480. Using a false trade mark.
- 481. Using a false property mark.
- 482. Punishment for using a false trade mark or property mark.
- 483. Counterfeiting a trade mark or property mark used by another.
- 484. Counterfeiting a mark used by a public servant.
- 485. Making or possession of any instrument for counterfeiting a trade mark or property mark.
- 486. Selling goods marked with a counterfeit trade mark or property mark.
- 487. Making a false mark upon any receptacle containing goods.
- 488. Punishment for making use of any such false mark.
- 489. Tampering with property mark with intent to cause injury.

Of Currency-Notes and Bank-Notes

- 489A. Counterfeiting currency-notes or bank-notes.
- 489B. Using as genuine forged or counterfeit currency-notes or bank-notes.
- 489C. Possession of forged or counterfeit currency-notes or bank-notes.
- 489D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.

CHAPTER XIX

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

- 490. * * * *
- 491. Breach of contract to attend on and supply wants of helpless person.
- 492. * * * *

CHAPTER XX

OF OFFENCES RELATING TO MARRIAGE

Sections:

- 493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.
- 494. Marrying again during life-time of husband or wife.
- 495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.
- 496. Marriage ceremony fraudulently gone through without lawful marriage.
- 497. Adultery.
- 498. Enticing or taking away or detaining with criminal intent a married woman.

CHAPTER XXI

OF DEFAMATION

- 499. Defamation.
 - Imputation of truth which public good requires to be made or published.
 - Public conduct of public servants.
 - Conduct of any person touching any public question.
 - Publication of reports of proceedings of Courts.
 - Merits of case decided in Court, or conduct of witnesses and others concerned.
 - Merits of public performance.
 - Censure passed in good faith by person having lawful authority over another.
 - Accusation preferred in good faith to authorized person.
 - Imputation made in good faith by person for protection of his or other's interests.
 - Caution intended for good of person to whom conveyed or for public good.
- 500. Punishment for defamation.
- 501. Printing or engraving matter known to be defamatory.
- 502. Sale of printed or engraved substance containing defamatory matter.

CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

- 503. Criminal intimidation.
- 504. Intentional insult with intent to provoke breach of the peace.

- 505. Statements conducing to public mischief.
- 506. Punishment for criminal intimidation.
If therat be to cause death or grievous hurt, etc.
- 507. Criminal intimidation by an anonymous communication.
- 508. Act caused by inducing person to believe that he will be rendered an object of Divine displeasure.
- 509. Word, gesture or act intended to insult the modesty of a woman.
- 510. Misconduct in public by a drunken person.

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES

- 511. Punishment for attempting to commit offences punishable with transportation or imprisonment.

THE PENAL CODE

(INDIA ACT XLV. 1860) (1st May. 1861)

CHAPTER I

INTRODUCTION

I. * * * *

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, which he shall be guilty within the Union of Burma.

Punishment of offences committed within the Union of Burma.

3. Any person liable, by any law in force in the Union of Burma, to be tried for an offence committed beyond the limits of the Union of Burma shall be delth with according to the provisions of this Code for any act committed beyond the Union of Burma in the same manner as if such act had been committed within the Union of Burma.

Punishment of offences committed beyond, but which by law may be tried within the Union of Burma.

4. The provisions of this Code apply also to any offence committed by (any citizen of the Union wherever he may be)¹.

Extension of Code to extra-territorial offences.

* Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

Explanation.—In this section the word “offence” includes every act committed outside the Union of Burma which, if committed in the Union of Burma, would be punishable under this Code.

Certain laws
not to be
affected by
this Code.

5. Nothing in this Code is intended to affect any Act for punishing officers, soldiers, sailors or airmen in the service of (the Government)¹ or any special or local law.

CHAPTER II

GENERAL EXPLANATIONS

Definitions
in the Code
to be under-
stood
subject to
exceptions.

6. Throughout this Code every definition of an offence, penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled “General Exceptions,” though those exceptions are not repeated in such definition, penal provision or illustration.

Illustrations

(a) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police officer, without warrant, apprehends Z who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that “nothing is an offence which is done by a person who is bound by law to do it.”

Sense of ex-
pression once
explained.

7. Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.

Gender.

8. The pronoun “he” and its derivatives are used of any person, whether male or female.

Number.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

“Man.”
“Woman.”

10. The word “man” denotes a male human being of any age; the word “woman” denotes a female human being of any age.

“Person.”

11. The word “person” includes any company or association, or body of persons, whether incorporated or not.

“Public.”

12. The word “public” includes any class of the public or any community.

13. * * *

Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.
Omitted *ibid*.

¹14. The words "servant of the Government" include all officers or servants continued, appointed or employed under the authority of the Constitution, or by or under the authority of the President of the Union. "Servant of the Government."

15-16. * * *

17. The word "Government"² denotes the person or persons authorized by law to administer executive government in any part of the Union of Burma. "Government."

18. * * *

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations

- (a) A Collector exercising jurisdiction in a suit under Act X of 1859³ is a Judge.
- (b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.
- (c) *
- (d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court is not a Judge.

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body when such Judge or body of Judges is acting judicially. "Court of Justice."

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following namely :— "Public servant."

First.—Every covenanted servant of the Government :

⁴ *Second.*—Every commissioned Officer in the Military, Naval or Air Forces of the State :

Third.—Every Judge :

Fourth.—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court : and every person specially authorized by a Court of Justice to perform any of such duties :

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² See also s. 263A (4) *infra*.

³ The Bengal Rent Act, 1859.

⁴ Amended by the Union of Burma (Adaptation of Laws) Order, 1948.

Fifth.—Every juryman, assessor, or member of a village committee assisting a Court of Justice or public servant ;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

Eighth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty (or every member of the Government) ;¹

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district ;

Eleventh.—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.

Illustration

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation 3.—The word “election” means the selection, by any method which is by law prescribed as by election, of any person as a member or officer of or to any office in the Union Parliament or any municipal or other public authority.

¹ Added by the Union of Burma (Adaptation of Laws) Order, 1948.

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth. "Moveable property."

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled. "Wrongful gain."

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled. "Wrongful loss."

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property. Gaining wrongfully. Losing wrongfully.

24. Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly." "Dishonesty."

25. A person is said to do a thing "fraudulently" if he does that thing with intent to defraud but not otherwise. "Fraudulently."

26. A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing but not otherwise. "Reason to believe."

27. When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code. Property in possession of wife, clerk or servant.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.

28. A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception or knowing it to be likely that deception will thereby be practised. "Counterfeit."

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter. "Document."

Explanation 1—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-attorney is a document.

A map or plan, which is intended to be used which or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section although the same may not be actually expressed.

Illustration

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature.

"Valuable security."

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A will."

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions.

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act."
"Omission."

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

Acts done by several persons in furtherance of common intention.

34. When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Effect caused partly by act and partly by omission.

Illustration

* A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Co-operation by doing one of several acts constituting an offence.

Illustrations

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B, A is guilty only of an attempt to commit murder.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Persons concerned in criminal act may be guilty of different offences.

Illustration

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

39. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

"Voluntarily."

Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating robbery and thus causes the death of a person. Here, *A* may not have intended to cause death, and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

- " Offence." 40. Except in the chapters and sections mentioned in clauses 2 and 3 of this section, the word " offence " denotes a thing made punishable by this Code.
- In Chapter IV, Chapter VA, and in the following sections, namely, sections 64, 65, 66, 67, 71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word " offence " denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.
- And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word " offence " has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.
- " Special law ." 41. A " special law " is a law applicable to a particular subject.
- " Local law ." 42. A " local law " is a law applicable only to a particular part of the Union of Burma.
- " Illegal ." 43. The word " illegal " is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action ; and a person is said to be " legally bound to do " whatever it is illegal in him to omit.
- " Legally bound to do ." 43. The word " illegal " is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action ; and a person is said to be " legally bound to do " whatever it is illegal in him to omit.
- " Injury ." 44. The word " injury " denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.
- " Life ." 45. The word " life " denotes the life of a human being, unless the contrary appears from the context.
- " Death ." 46. The word " death " denotes the death of a human being, unless the contrary appears from the context.
- " Animal ." 47. The word " animal " denotes any living creature, other than a human being.
- " Vessel ." 48. The word " vessel " denotes anything made for the conveyance by water of human beings or of property.
- " Year ." 49. Wherever the word " year " or the word " month " is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.
- " Month ." 49. Wherever the word " year " or the word " month " is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.
50. * * * *
- " Oath ." 51. The word " oath " includes a solemn affirmation substituted by law, for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.

52. Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention. "Good faith."

¹52A. Except in section 130 and in section 157 in the case in which the harbour is given by the wife or husband of the person harboured, the word 'harbour' includes supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting of a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension. "Harbour."

CHAPTER III

OF PUNISHMENTS

53. The punishments to which offenders are liable under the provisions of this Code are :— Punish-
men ts

First.—Death ;

Secondly.—Transportation ;

²[* * * *]

Fourthly.—Imprisonment, which is of two descriptions, namely :—

(1) Rigorous, that is, with hard labour ;

(2) Simple ;

²[* * * *]

Sixthly.—Fine.

54. In every case in which sentence of death shall have been passed, the President of the Union may, without the consent of the offender, commute the punishment for any other punishment provided by this Code. Commuta-
tion of
sentence of
death.

55. In every case in which sentence of transportation for life shall have been passed, the President of the Union may, without the consent of the offender commute the punishment for imprisonment of either description for a term not exceeding fourteen years. Commuta-
tion of
senten- ce of
trans- portat
ion for life.

³56. * * * *

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years. Fractions of
terms of
punishment.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been under-going his sentence of transportation during the term of his imprisonment. Offenders
sentenced to
transporta-
tion how
dealt with
until trans-
ported.

¹ Inserted by Act, XX, 1950.

² Clauses "Thirdly.—Penal Servitude ; and "Fifthly.—Forfeiture of Property ;" were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

³ Omitted *ibid*.

Transportation instead of imprisonment.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

61-62. * * *

Amount of fine.

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

Sentence of imprisonment for non-payment of fine.

64. In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine,

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth or the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for non-payment of fine.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Imprisonment for non-payment of fine when offence punishable with fine only.

67. If the offence be punishable with fine only, the imprisonment which the Court imposes in default of payment of the fine shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Imprisonment to terminate on payment of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Termination of imprisonment on payment of proportional part of fine.

Illustration

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, *A* will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while *A* continues in imprisonment, *A* will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, *A* will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while *A* continues in imprisonment, *A* will be immediately discharged.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Fine leviable within six years or during imprisonment. Death not to discharge property from liability.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Limit of punishment of offence made up of several offences.

Where anything is 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, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

Illustrations

(a) *A* gives *Z* fifty strokes with a stick. Here, *A* may have committed the offence of voluntarily causing hurt to *Z* by the whole beating, and also be by each of the blows which make up the whole beating. If *A* were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while *A* is beating *Z*, *Y* interferes, and *A* intentionally strikes *Y*, here, as the blow given to *Y* is no part of the act where by *A* voluntarily causes hurt to *Z*, *A* is liable to one punishment for voluntarily causing hurt to *Z*, and to another for the blow given to *Y*.

Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.

Solitary confinement.

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

a time not exceeding one month if the term of imprisonment shall not exceed six months :

a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year :

a time not exceeding three months if the term of imprisonment shall exceed one year.

Limit of solitary confinement.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

75. Whoever, having been convicted—

Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.

(a) by a Court in the Union of Burma, of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards. (* *)¹

¹ (b) * * * *

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to transportation for life, or to imprisonment of either description for a term which may extend to ten years.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

CHAPTER IV

GENERAL EXCEPTIONS

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Act done by a person bound, or by mistake of fact believing himself bound, by law.

Illustration

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act of Judge when acting judicially.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done pursuant to the judgment or order of Court.

79. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law, in doing it.

Act done by a person justified, or by mistake of fact believing himself justified, by law.

Illustration

A sees Z commit what appears to A to be a murder. A in the exercise, to the best of his judgment, exerted in good faith of the power which the law gives to all persons of apprehending murderers in the act, seizes Z in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge, in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Accident in doing a lawful act.

Illustration

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Act likely to cause harm, but done without criminal intent, and to prevent other harm.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

(a) *A*, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that before he can stop his vessel he must inevitably run down a boat *B*, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat *C* with only two passengers on board, which he may possibly clear. Here, if *A* alters his course without any intention to run down the boat *C* and in good faith for the purpose of avoiding the danger to the passengers in the boat *B*, he is not guilty of an offence, though he may run down the boat *C* by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down *C*.

(b) *A* in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse *A*'s act, *A* is not guilty of an offence.

Act of a child under seven years of age.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child above seven and under twelve of immature understanding.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act or that he is doing what is either wrong or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring particular intent or knowledge committed by one who is intoxicated.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death

87. Nothing which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given

consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

or grievous hurt, done by consent.

Illustration

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Act not intended to cause death, done by consent in good faith for person's benefit.

Illustration

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending in good faith Z's benefit, performs that operation on Z with Z's consent. A has committed no offence.

89. Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person; Provided—

Act done in good faith for benefit of child or insane person, by or by consent of guardian.

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Proviso.

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt of the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt or the curing of any grievous disease or infirmity;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, in as much as his object was the cure of the child.

90. A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason

Consent known to be given under fear or

misconception.	to believe, that the consent was given in consequence of such fear or misconception ; or
Consent of insane person.	if the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent ; or
Consent of child.	unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.
Exclusion of acts which are offences independently of harm caused.	91. The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for benefit of a person without consent.	92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit : Provided—
Provisos.	<i>First.</i> —That this exception shall not extend to the intentional causing of death, or the attempting to cause death ; <i>Secondly.</i> —That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity ; <i>Thirdly.</i> —That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt ; <i>Fourthly.</i> —That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations

- (a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A not intending Z's death but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.
- (b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.
- (c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is no time to apply to the child's guardian. A performs

the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. *A* has committed no offence.

(d) *A* is in a house which is on fire, with *Z*, a child. People below hold out a blanket. *A* drops the child from the housetop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here even if the child is killed by the fall, *A* has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made, for the benefit of that person.

Communication made in good faith.

Illustration

A, a surgeon, in good faith communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. *A* has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Act to which a person is compelled by threats.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Act causing slight harm.

Of the Right of Private Defence

96. Nothing is an offence which is done in the exercise of the right of private defence.

Things done in private defence.

97. Every person has a right, subject to the restrictions contained in section 99, to defend—

Right of private defence of the body and of property.

First.—His own body, and the body of any other person, against any offence affecting the human body;

Secondly.—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

Right of
Private
defence
against the
act of a
person of
unsound
mind, etc.

98. When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

(a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

Acts against
which there
is no right of
private
defence.

99. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done or attempted to be done by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done or attempted to be done by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to
which the
right may be
exercised.

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done or attempted to be done by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done or attempted to be done by the direction of a public servant unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority if demanded.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :—

When the right of private defence of the body extends to causing death.

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault ;

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault ;

Thirdly.—An assault with the intention of committing rape ;

Fourthly.—An assault with the intention of gratifying unnatural lust ;

Fifthly.—An assault with the intention of kidnapping or abducting ;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

When such right extends to causing any harm other than death.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed ; and it continues as long as such apprehension of danger to the body continues.

Commencement and continuance of the right of private defence of the body.

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

When the right of private defence of property extends to causing death.

First.—Robbery ;

Secondly.—House-breaking by night ;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling or as a place for the custody of property ;

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence if such right of private defence is not exercised.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of

When such right extends to causing any harm other than death.

death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

Commence-
ment and
continuance
of the right
of private
defence of
property.

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property, or either the assistance of the public authorities is obtained or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of
private
defence
against
deadly
assault when
there is risk
of harm to
innocent
person.

106. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. *A* commits no offence if by so firing he harms any of the children.

CHAPTER V

OF ABETMENT

Abetment of
a thing.

107. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend *Z*. *B* knowing that fact and also that *C* is not *Z*, wilfully represents to *A* that *C* is *Z*, and thereby intentionally causes *A* to apprehend *C*. Here *B* abets by instigation the apprehension of *C*.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

108. A person abets an offence, who abets either the commission of an Abettor. offence, or the commission of an act which would be an offence if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

- (a) *A* instigates *B* to murder *C*. *B* refuses to do so. *A* is guilty of abetting *B* to commit murder.
- (b) *A* instigates *B* to murder *D*. *B* in pursuance of the instigation stabs *D*. *D* recovers from the wound. *A* is guilty of instigating *B* to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

- (a) *A*, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as *A*. Here *A*, whether the act be committed or not, is guilty of abetting an offence.
- (b) *A*, with the intention of murdering *Z*, instigates *B*, a child under seven years of age, to do an act which causes *Z*'s death. *B*, in consequence of the abetment, does the act in the absence of *A* and thereby causes *Z*'s death. Here, though *B* was not capable by law of committing an offence, *A* is liable to be punished in the same manner as if *B* had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.
- (c) *A* instigates *B* to set fire to a dwelling-house. *B* in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of *A*'s instigation. *B* has committed no offence, but *A* is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.
- (d) *A*, intending to cause a theft to be committed, instigates *B* to take property belonging to *Z* out of *Z*'s possession. *A* induces *B* to believe that the property belongs to *A*. *B* takes the property out of *Z*'s possession, in good faith, believing it to be *A*'s property. *B*, acting under the misconception, does not take dishonestly, and therefore does not commit theft. But *A* is guilty of abetting theft, and is liable to the same punishment as if *B* had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration

A instigates *B* to instigate *C* to murder *Z*. *B* accordingly instigates *C* to murder *Z*, and *C* commits that offence in consequence of *B*'s instigation. *B* is liable to be punished for his offence with the punishment for murder; and, as *A* instigated *B* to commit offence, *A* is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration.

A consents with *B* a plan for poisoning *Z*. It is agreed that *A* shall administer the poison. *B* then explains the plan to *C* mentioning that a third person is to administer the poison, but without mentioning *A*'s name. *C* agrees to procure the poison, and procures and delivers it to *B* for the purpose of its being used in the manner explained. *A* administers the poison; *Z* dies in consequence. Here though *A* and *C* have not conspired together, yet *C* has been engaged in the conspiracy in pursuance of which *Z* has been murdered. *C* has therefore committed the offence defined in the section and is liable to the punishment for murder.

108A. A person abets an offence within the meaning of this Code who, in the Union of Burma, abets the commission of any act without and beyond the Union of Burma which would constitute an offence if committed in the Union of Burma.

Abetment in the Union of Burma of offences outside it.

Illustration

A, in the Union of Burma instigates *B*, a foreigner in Goa, to commit a murder in Goa. *A* is guilty of abetting murder.

Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(a) *A* offers a bribe to *B*, a public servant, as a reward for showing *A* some favour in the exercise of *B*'s official functions. *B* accepts the bribe. *A* has abetted the offence defined in section 161.

(b) *A* instigates *B* to give false evidence. *B*, in consequence of the instigation, commits that offence. *A* is guilty of abetting that offence, and is liable to the same punishment as *B*.

(c) *A* and *B* conspire to poison *Z*. *A*, in pursuance of the conspiracy, procures the poison and delivers it to *B* in order that he may administer it to *Z*. *B*, in pursuance of the conspiracy, administers the poison to *Z* in *A*'s absence and thereby causes *Z*'s death. Here *B* is guilty of murder. *A* is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Punishment of abetment if person abetted does act with different intention from that of abettor.

111. When an act is abetted and a different act is done, the abettor is liable for the act done in the same manner and to the same extent as if he had directly abetted it :

Liability of abettor when one act is abetted and different act done.

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Proviso.

Illustrations

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft ; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Abettor when liable to cumulative punishment for act abetted and for act done.

Illustration

A instigates B to resist by force a distress made by a public servant. B in consequence resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences ; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor,

Illustration

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

Abettor present when offence is committed.

114. Whenever any person, who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abetment of offence punishable with death or transportation for life—if offence not committed.

115. Whoever abets the commission of an offence punishable with death or transportation for life shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

If act causing harm be done in consequence.

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subjected to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine ; and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Abetment of offence punishable with imprisonment—if offence be not committed.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence ; or with such fine as is provided for that offence, or with both ;

If abettor or person abetted be a public servant whose duty it is to prevent offence.

and if the abettor or the person abetted is a public servant whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustration

(a) *A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions B refuses to accept the bribe. A is punishable under this section.*
 (b) *A instigates B to give false evidence. Here if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.*
 (c) *A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.*

(d) *B* abets the commission of a robbery by *A*, a police officer, whose duty it is to prevent that offence. Here though the robbery be not committed, *B* is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Abetting commission of offence by the public, or by more than ten persons.

Illustration

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect while engaged in a procession. *A* has committed the offence defined in this section.

118. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life,

Concealing design to commit offence punishable with death or transportation for life.

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design,

shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years ; and in either case shall also be liable to fine.

If offence be committed ;
If offence be not committed.

Illustration

A, knowing that dacoity is about to be committed at *B*, falsely informs the Magistrate that a dacoity is about to be committed at *C*, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at *B* in pursuance of the design. *A* is punishable under this section.

119. Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

Public servant concealing design to commit offence which it is his duty to prevent.

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished with imprisonment of any description provided for the offence for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both ;

If offence be committed ;

or, if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years ;

If offence be punishable with death, etc.

If offence be
not com-
mitted.

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Illustration

A, an officer of police being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that *B* designs to commit robbery, omits to give such information with intent to facilitate the commission of that offence. Here *A* has by an illegal omission concealed the existence of *B*'s design, and is liable to punishment according to the provision of this section.

Concealing
design to
commit
offence
punishable
with im-
prisonment.

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

If offence be
committed ;
If offence be
not com-
mitted.

shall, if the offence be committed, be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

CHAPTER VA

CRIMINAL CONSPIRACY

Definition of
criminal
conspiracy.

120A. When two or more persons agree to do, or cause to be done,—

(1) an illegal act, or

(2) an act which is not illegal by illegal means,

such an agreement is designated a criminal conspiracy;

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

Punishment
of criminal
conspiracy.

120B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine, or with both.

CHAPTER VI

OF OFFENCES AGAINST THE STATE

¹121. Whoever wages war against the Union of Burma or any constituent unit thereof, or assists any State or person or incites or conspires with any person within or without the Union to wage war against the Union or any constituent unit thereof, or attempts or otherwise prepares by force of arms or other violent means to overthrow the organs of the Union or of its constituent units established by the Constitution, or takes part or is concerned in or incites or conspires with any person within or without the Union to make or to take part or be concerned in any such attempt shall be guilty of the offence of High Treason.

¹121A. * * *

* 122. (1) Whoever commits High Treason within the Union of Burma shall be punished with death or transportation for life.

(2) Whoever, being a citizen of the Union of Burma or ordinarily resident within the Union, commits High Treason outside the Union shall be punished with death or transportation for life."

¹123. (1) Whoever encourages, harbours or comforts any person whom he knows or has reasonable grounds for believing to be engaged in committing High Treason shall be punished with transportation for life or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Exception.—This provision does not apply to the case in which the person who harbours is the husband or wife of the offender.

(2) * * *

¹124. Whoever, knowing that any act, the commission of which would be High Treason, is intended or proposed to be, or is being, or has been committed, does not forthwith disclose the same, together with all particulars thereof known to him, to a Magistrate, or to any police-officer, or some other person lawfully engaged on dutie relating to the preservation of peace and order shall be guilty of the offence of misprision of High Treason and shall be punished with rigorous imprisonment which may extend to seven years, and shall also be liable to fine.

¹124 A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, bring or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards [the

¹ Original sections 121, 121A, 122, 123 and 124 were repealed by Act XIV, 1948, and new sections 121, 122, 123 and 124 were inserted by Act XX, 1950.

² Sub-section (2) of section 123 was deleted by Act X, 1951.

* Substituted by Act v 1961.

Government established by law for the Union or for the constituent units thereof,¹ shall be punished with transportation for life or an shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

²124 B. Whoever—

Advocating
overthrow of
the organs of
the Union or
of its consti-
tuent units
by force.

- (a) knowingly or wilfully advocates, (* *)³ advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the organs of the Union or of its constituent units by force or violence or by the assassination of any officer of any such organ, or
- (b) knowingly or wilfully prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter which advocates, advises, or teaches the duty, necessity, desirability or propriety of overthrowing or destroying any such organ by force or violence, or
- (c) organizes or helps to organize any society, group or assembly of persons who teach, advocate or encourage the overthrow or destruction of any such organ by force or violence, or
- (d) becomes a member of, or affiliates with any such society, group or assembly of persons, knowing the purpose thereof,

shall be punished with imprisonment of either description for a term which may extend to not less than three years and not more than ten years, and shall also be liable to fine.

Explanation.—For the purposes of this section, the term “the organs of the Union or of its constituent units” means the organs of the Union or of its constituent units established by the Constitution of the Union of Burma.

Waging war
against any
Asiatic
Power in
alliance with
the State.

125. Whoever wages war against any Asiatic Power in alliance or at peace with the State, or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

¹ Substituted by Act XX, 1950.

² Inserted by Act LXV, 1953.

³ Deleted by Act XXXIX, 1954.

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the State, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

Committing depredation on territories of Power at peace with the State.

127. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126 shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Receiving property taken by war or depredation mentioned in section 125 and 126.

128. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, Voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant voluntarily allowing prisoner of State or war to escape.

129. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years and shall also be liable to fine.

Public servant negligently suffering such prisoner to escape.

130. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Aiding escape of, rescuing or harbouring such prisoner.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in the Union of Burma, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VIA ¹

OFFENCES RELATING TO CERTAIN PROVISIONS CONTAINED IN THE CONSTITUTION AND ACTS OF THE PARLIAMENT

¹130A. Except where penalty or other mode of punishment is expressly prescribed by law, whoever, without any reasonable excuse, contravenes any provisions contained in sections 15, 17, 19, 20, or sub-sections (2) and (3) of section 23 of the Constitution of the Union of Burma or in any Act enacted by

Offences relating to certain provisions contained in the Constitution and Acts

Inserted by Act XX, 1950.

of the Parliament. the Parliament of the Union of Burma by wilfully doing any act which it forbids, or by wilfully omitting to do any act which it requires to be done, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER VIB ¹

LIBEL AGAINST FOREIGN POWERS

Libel against Foreign Powers. ¹ 130B. Whoever, by words either spoken or intended to be read or by signs or by visible representations, publishes anything tending to degrade, revile or to expose to hatred or contempt any Foreign State, Head of State, Ambassador or other dignitary of a Foreign State, with intent to disturb peaceful and friendly relationship between the Union of Burma and that Foreign State, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

First Exception.—It is not an offence under this section to publish any fair comment on a matter of public interest without any intent to disturb peaceful or friendly relationship between the Union of Burma and that State.

Second Exception.—It is not an offence under this section to publish anything which is true, if it be for the public good that the publication should be made. Whether or not it is for the public good is a question of fact.

CHAPTER VII

OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

Abetting mutiny or attempting to seduce a soldier, sailor or airman from his duty. 131. Whoever abets the committing of mutiny by an officer, soldier, sailor or airman, in the Army, Navy or Air Force [* * * *]², or attempts to seduce any such officer, soldier, sailor or airman from his allegiance or his duty, shall be punished with transportation or life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

² [* * * *]

Abetment of mutiny, if mutiny is committed in consequence thereof. 132. Whoever abets the committing of mutiny by an officer, soldier, sailor or airman, in the Army, Navy or Air Force [* * * *]², shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

¹ Inserted by Act XX, 1950.

² Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

133. Whoever abets an assault by an officer, soldier, sailor or airman, in the Army, Navy or Air Force [* * *]¹, on any superior officer being in the execution of his office shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.

134. Whoever abets an assault by an officer, soldier, sailor or airman, in the Army, Navy or Air Force [* * *]¹, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed

135. Whoever abets the desertion of any officer, soldier, sailor or airman, in the Army, Navy or Air Force [* * *]¹, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

Abetment of desertion of soldier, sailor or airman.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, sailor or airman, in the Army, Navy or Air Force [* * *]¹, has deserted, harbours such officer, soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring deserter.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army, Navy or Air Force (* * *)¹, is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Deserter concealed on board merchant vessel through negligence of master.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, sailor or airman, in the Army, Navy or Air Force [* * *]¹, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Abetment of act of insubordination by soldier, sailor or airman.

² 139. No person subject to the Burma Army Act, the Burma Naval Volunteer Reserve (Discipline) Act or the Burma Air Force (Discipline) Act, 1947, is subject to punishment under this Code for any of the offences defined in this Chapter.

Persons subject to certain Acts.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted *ibid*.

Wearing
garb or
carrying
token used
by soldier,
sailor or
airman.

140. Whoever, not being a soldier, sailor or airman, in the Military, Naval or Air service [* * *]¹ wears any garb or carries any token resembling any garb or token used by such a soldier, sailor or airman, with the intention that it may be believed that he is such a soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

Unlawful
assembly.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, the Union Parliament or the Government, or any public servant in the exercise of the lawful power of such public servant ; or

Second.—To resist the execution of any law, or of any legal process ; or

Third.—To commit any mischief or criminal trespass, or other offence ; or

Fourth.—By means of criminal force, or shown of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right ; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled may subsequently become an unlawful assembly.

Being
member of
unlawful
assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment.

143. Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Joining
unlawful
assembly
armed with
deadly
weapon.

144. Whoever, being armed with any deadly weapon, or with anything which used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of their description for a term which may extend to two years, or with fine, or with both.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Rioting.

147. Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Punishment for rioting.

148. Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Rioting, armed with deadly weapon.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly is guilty of that offence.

Every member of unlawful assembly guilty of offence committed in prosecution of common object.

150. Whoever hires or engages, or employs or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of an unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Hiring, or conniving at hiring, of persons to join unlawful assembly.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

Assaulting
or obstruct-
ing public
servant when
suppressing
riot, etc.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Wantonly
giving pro-
vocation
with intent
to cause
riot—if
rioting be
committed,
if not
committed.

153. Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both : and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Promoting
enmity
between
classes.

153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of [persons resident in the Union]¹ shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of [persons resident in the Union].¹

Owner or
occupier of
land on
which an
unlawful
assembly is
held.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of person for whose benefit riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

Liability of agent of owner or occupier for whose benefit riot is committed.

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

157. Whoever harbours, receives or assembles, in any house or premises in his occupation or charge or under his control, any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Harbouring persons hired for an unlawful assembly.

158. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both,

Being hired to take part in an unlawful assembly or riot,

and whoever, being so engaged or hired as aforesaid, goes armed or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

or to go armed.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Affray.

160. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Punishment for committing affray.

CHAPTER IX

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

Public servant taking gratification other than legal remuneration in respect of an official act.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Union Parliament or the Government or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in Office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intended to do, or as a reward for doing what he has not done, comes within these words.

Illustrations

(a) A, a Magistrate, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(b) A, holding the office of Resident at the Court of a subsidiary Power, accepts a lakh of rupees from the Minister of that Power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.

(c) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

Taking gratification in order, by corrupt or illegal means, to influence public servant.

162. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Union Parliament or the Government or with any public

servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

163. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Union Parliament or the Government or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Taking gratification for exercise of personal influence with public servant.

Illustration

An advocate who receives a fee for arguing a case before a Judge ; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist ; a paid agent for a condemned criminal who lays before the Government statements tending to show that the condemnation was unjust—are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for abetment by public servant of offences defined in section 162 or 163.

Illustration

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be, concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant.

Illustrations

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Public servant disobeying law, with intent to cause injury to any person.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury.

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade.

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound as such public servant not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both, and the property, if purchased, shall be confiscated.

Personating a public servant.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent.

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class or public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

CHAPTER IXA

OF OFFENCES RELATING TO ELECTION

171A. For the purposes of this Chapter—

- (a) "candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat; provided that he is subsequently nominated as a candidate at such election;
- (b) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

"Candidate"
"Electoral
right",
defined.

171B. (1) Whoever—

Bribery.

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or
 - (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right
- commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171C. (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

Undue
influence at
elections.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

- (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
 - (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,
- shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

Personation
at elections.

171D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

Punishment
for bribery.

171E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both :

Provided that bribery by treating shall be punished with fine only.

Explanation.—"Treating" means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment
for undue
influence or
personation
at an elec-
tion.

171F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both :

¹ Provided that if the offence of personation is committed in respect of an election to either Chamber of Parliament, the offender shall be punished with rigorous imprisonment for a term which may extend to two years, and may also be liable to fine.

False state-
ment in con-
nection with
an election.

171G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, shall be punished with fine.

Illegal pay-
ments in con-
nection with
an election.

171H. Whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting, or upon an advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees :

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

¹ Inserted by Act XXIV, 1951.

171I. Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.

Failure to keep election accounts.

¹ 171J. Whoever, without lawful excuse, the burden of proof thereof being on him, has or retains in his possession, inside a polling station, where votes are being recorded at an election [* * *]² one or more voting tokens or ballot papers or colourable imitation thereof except for the lawful purpose of recording his vote or has in his possession outside such polling station, one or more voting tokens or ballot papers or colourable imitation thereof shall be punished with rigorous imprisonment for a term which may extend to two years, and may also be liable to fine.

Illegal possession at election to either Chamber of Parliament of voting tokens, ballot papers or colourable imitation thereof.

CHAPTER X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172. Whoever absconds in order to avoid being served with a summons notice or order proceeding from any public servant legally competent, as such, public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

Absconding to avoid service of summons or other proceeding.

or, if the summons or notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

173. Whoever in any manner intentionally prevents the serving on himself or on any other person of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,

Preventing service of summons or other proceeding, or preventing publication thereof.

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both ;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

¹ Inserted by Act XXIV, 1951.

² Deleted by Act XXXVIII, 1957.

Non-attendance in obedience to an order from public servant.

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Omission to produce document to public servant by person legally bound to produce it.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Omission to give notice or information to public servant by person legally bound to give it.

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Furnishing false information.

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ;

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Illustration

A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. *A* is guilty of the offence defined in this section.

Explanation.—In section 176 and in this section the word “offence” includes any act committed at any place out of the Union of Burma, which, if committed in the Union of Burma, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word “offender” includes any person who is alleged to have been guilty of any such act.

178. Whoever refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Refusing oath or affirmation when duly required by public servant to make it.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Refusing to answer public servant authorized to question.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Refusing to sign statement.

181. Whoever, being legally bound by an oath or affirmation to state the truth on any subject to any public servant or other person authorized by law to administer such oath or affirmation, makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant—

False information with intent to cause public servant to use his lawful power to the injury of another person.

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations

(a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(b) A falsely informs a public servant that Z has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

Resistance to the taking of property by the lawful authority of a public servant.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Obstructing sale of property offered for sale by authority of public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of public servant.

185. Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Obstructing public servant in discharge of public functions.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both ;

Omission to assist public servant when bound by law to give assistance.

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

188. Whoever, knowing that by an order promulgated by a public servant lawfully empowered to promulgate such order he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

Disobedience to order duly promulgated by public servant.

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both,

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order and thereby causes danger of riot. A has committed the offence defined in this section.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to public servant.

Threat of injury to induce person to refrain from applying for protection to public servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

Giving false evidence.

191. Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation. 1.—A statement is within the meaning of this section whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations

(a) *A*, in support of a just claim which *B* has against *Z* for one thousand rupees, falsely swears on a trial that he heard *Z* admit the justice of *B*'s claim. *A* has given false evidence.

(b) *A*, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of *Z*, when he does not believe it to be the handwriting of *Z*. Here *A* states that which he knows to be false, and therefore gives false evidence.

(c) *A*, knowing the general character of *Z*'s handwriting, states that he believes a certain signature to be the handwriting of *Z*, *A* in good faith believing it to be so. Here *A*'s statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of *Z*, *A* has not given false evidence.

(d) *A*, being bound by an oath to state the truth, states that he knows that *Z* was at a particular place on a particular day, not knowing anything upon the subject. *A* gives false evidence whether *Z* was at that place on the day named or not.

(e) *A*, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. *A* has given false evidence.

Fabricating false evidence.

192. Whoever causes any circumstance to exist or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person

who in such proceeding is to form an opinion upon the evidence to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricated false evidence."

Illustrations

(a) *A* puts jewels into a box belonging to *Z*, with the intention that they may be found in that box, and that this circumstance may cause *Z* to be convicted of theft. *A* has fabricated false evidence.

(b) *A* makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. *A* has fabricated false evidence.

(c) *A*, with the intention of causing *Z* to be convicted of a criminal conspiracy, writes a letter in imitation of *Z*'s handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. *A* has fabricated false evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine :

Punishment
for false
evidence.

and whoever intentionally gives or fabricates false evidence in any other case shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court-martial is a judicial proceeding.

Explanation 2.—An investigation directed by law, preliminary to a proceeding before a Court of Justice, is a stage of judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an enquiry before a Magistrate for the purpose of ascertaining whether *Z* ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, *A* has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, *A* has given false evidence.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by the law of the Union of Burma [* *]¹ shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine ;

Giving or
fabricating
false
evidence
with intent
to procure
conviction
offence ;

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

if innocent person be thereby convicted and executed.

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment herein before described.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with transportation or imprisonment.

195. Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by the law of the Union of Burma [* *]¹ is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration

A gives false evidence before a Court of Justice, intending thereby to cause *Z* to be convicted of a dacoity. The punishment for dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. *A*, therefore, is liable to such transportation or imprisonment, with or without fine.

Using evidence known to be false.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing false certificate.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true a certificate known to be false.

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

False statement made in declaration which is by law receivable as evidence.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

Using as true such declaration knowing it to be false.

200. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality is a declaration within the meaning of sections 199 and 200.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

Causing disappearance of evidence of offence, or giving false information to screen offender— if a capital offence ;

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine :

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

if punishable with transportation ;

and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

if punishable with less than ten years, imprisonment.

Illustration

A, knowing that *B* has murdered *Z*, assists *B* to hide the body with the intention of screening *B* from punishment. *A* is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Intentional omission to give information of offence by person bound to inform.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

Explanation.—In sections 201 and 202 and in this section the word “offence” includes any act committed at any place out of the Union of Burma, which, if committed in the Union of Burma, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully

Destruction of document to prevent its production as evidence.

summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False person-
ation for
purpose of
act or
proceeding
in suit or
prosecution.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent
removal or
concealment
of property
to prevent
its seizure as
forfeited or
in execution.

206. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made, by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent
claim to pro-
perty to
prevent its
seizure as
forfeited or
in execution.

207. Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made, by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently
suffering
decree for
sum not due.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against *Z*. *Z*, knowing that *A* is likely to obtain a decree against him fraudulently suffers a judgment to pass against him for larger amount at the suit of *B*, who has no just claim against him in order that *B*, either on his own account or for the benefit of *Z*, may share in the proceeds of any sale of *Z*'s property which may be made under *A*'s decree. *Z* has committed an offence under this section.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Dishonestly making false claim in Court.

210. Whoever fraudulently obtains a decree or order against any person or a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently obtaining decree for sum not due.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is not just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

False charge of offence made with intent to injure.

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

Harbouring offender—

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine ;

if a capital offence ;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

if punishable with transportation for life, or with imprisonment.

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

“ Offence ” in this section includes any act committed at any place out of the Union of Burma, which, if committed in the Union of Burma, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in the Union of Burma.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration

A, knowing that *B* has committed decoity, knowingly conceals *B* in order to screen him from legal punishment. Here, as *B* is liable to transportation for life, *A* is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, ect., to screen an offender from punishment—

213. Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment.

if a capital offence ;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if punishable with transportation for life, or with imprisonment.

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in consideration of screening offender—

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

if a capital offence ;

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if punishable with transportation for life, or with imprisonment.

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.

215. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Taking gift to help to recover stolen property, etc.

216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say.

Harbouring offender who has escaped from custody or whose apprehension has been order—

if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if a capital offence;

if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine ;

if punishable with transportation for life, or with imprisonment.

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

“Offence” in this section includes also any act or omission of which a person is alleged to have been guilty out of the Union of Burma which, if he had been guilty of it in the Union of Burma, would have been punishable as an offence, and for which he is, under any law relating to extradition. [* *] ¹ or otherwise, liable to be apprehended or detained in custody in the Union of Burma, and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in the Union of Burma.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penalty for harbouring robbers or dacoits.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without the Union of Burma.

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

¹ 216B. * * * * *

Public
servant
disobeying
direction of
law with
intent to
save person
from punish-
ment or pro-
perty from
forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public
servant
framing
incorrect
record or
writing with
intent to save
person from
punishment
or property
from
forfeiture.

218. Whoever, being a public servant, and being as such public servant charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public
servant
in judicial
proceeding
corruptly
making
report, etc.,
contrary
to law.
Commitment
for trial or
confinement
by person
having
authority
who knows
that he is
acting con-
trary to law.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces, in any stage of a judicial proceeding, any report, order, verdict or decision which he knows to be contrary to law shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional
omission to
apprehend
on the part
of public.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such

¹ Repealed by Act XX, 1950.

person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death ; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with transportation for life or imprisonment for a term which may extend to ten years ; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence or lawfully committed to custody, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

with transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death ; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life [* * * * *]¹ or to transportation [* * * * *]¹ or imprisonment for a term of ten years or upwards ; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years or if the person was lawfully committed to custody.

223. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

servant bound to apprehend.

Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.

Escape from confinement or custody negligently suffered by public servant.

¹ The words "or penal servitude for life" and "or penal servitude" were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Resistance
or obstruction
by a
person to his
lawful
apprehen-
sion.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

Resistance
or obstruction
to
lawful
apprehension
of another
person.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term with may extend to seven years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, [* *]¹, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Omission to
apprehend,
or sufferance
of escape, on
part of public
servant, in
cases not
otherwise
provided for.

225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both ; and

¹ 1 The words " penal servitude " were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

225B. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

Unlawful return from transportation.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Violation of condition of remission of punishment.

Whoever is convicted of absconding in violation of a condition of a remission of punishment under this section shall, in addition to the punishment prescribed by this section, be punished by the convicting Magistrate with rigorous imprisonment for a term which may extend to one year.

228. Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any state of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Intentional insult or interruption to public servant sitting in judicial proceeding.

229. Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a juror or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or, knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Personation of a juror or assessor.

CHAPTER XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

- "Coin" defined.** 230. Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.
- Coin of the Union.** ["Coin of the Union" is metal stamped or issued by the authority of the Government in order to be used as money; and metal which has been so stamped or issued shall continue to be the coin of the Union for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]¹

Illustrations

- (a) Cowries are not coin.
 (b) Lumps of unstamped copper, though used as money, are not coin.
 (c) Medals are not coin, inasmuch as they are not intended to be used as money.

- Counterfeiting coin.** 231. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence who, intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

- Counterfeiting coin of the Union.** 232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting the coin of the Union,¹ shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

- Making or selling instrument for counterfeiting coin.** 233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

- Making or selling instrument for counterfeiting coin of the Union.** 234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the coin of the Union,¹ shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;
- Possession of instrument or material for the purpose of using the same for counterfeiting coin ;
- and if the coin to be counterfeited is the coin of the Union,¹ shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
- if coin of the Union.
236. Whoever, being within the Union of Burma, abets the counterfeiting of coin out of the Union of Burma shall be punished in the same manner as if he abetted the counterfeiting of such coin within the Union of Burma.
- Abetting in the Union of Burma the counterfeiting out of the Union of Burma of coin.
237. Whoever imports into the Union of Burma, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.
- Import or export of counterfeit coin.
238. Whoever imports into the Union of Burma, or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of the coin of the Union,¹ shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
- Import or export of counterfeit of the coin of the Union.
239. Whoever, having any counterfeit coin which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.
- Delivery of coin, possessed with knowledge that it is counterfeit.
240. Whoever, having any counterfeit coin which is a counterfeit of the coin of the Union,¹ and which at the time when he became possessed of it he knew to be a counterfeit of the coin of the Union,¹ fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
- Delivery of coin of the Union possessed with knowledge that it is counterfeit.
241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment
- Delivery of coin as genuine, which, when first possessed, the

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

deliverer did, not know to be counterfeit. of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited or with both.

Illustration

A, a coiner, delivers counterfeit rupees to his accomplice *B*, for the purpose of uttering them. *B* sells the rupees to *C*, another utterer, who buys them knowing them to be counterfeit. *C* pays away the rupees for goods to *D*, who receives them, not knowing them to be counterfeit. *D* after receiving the rupees discovers that they are counterfeit and pays them away as if they were good. Here *D* is punishable only under this section, but *B* and *C* are punishable under section 239 or 240, as the case may be.

Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of coin of the Union by person who knew it to be counterfeit when he became possessed thereof.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the coin of the Union,¹ having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in mint causing coin to be of different weight or composition from that fixed by law.

244. Whoever, being employed in any mint lawfully established in the Union of Burma, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking coining instrument from mint.

245. Whoever, without lawful authority, takes out of any mint lawfully established in the Union of Burma any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing weight or altering composition of coin.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

247. Whoever fraudulently or dishonestly performs on any of the coin of the Union¹ any operation which diminishes the weight or alters the composition of that coin shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing weight or altering composition of coin of the Union.

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of coin with intent that shall pass as coin of different description.

249. Whoever performs on any of the coin of the Union¹ any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of coin of the Union with intent that it shall pass as coin of different description.

250. Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of coin, possessed with knowledge that it is altered.

251. Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of coin of the Union possessed with knowledge that it is altered.

252. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of coin by person who knew it to be altered when he became possessed thereof.

253. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed, having known at the time of

Possession of coin of the Union by person who knew it

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

to be altered when he became possessed thereof. becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

Counterfeiting Government stamp.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Having possession of instrument or material for counterfeiting Government stamp.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for counterfeiting Government stamp.

257. Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of counterfeit Government stamp.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Using as genuine a Government stamp known to be counterfeit.

261. Whoever, fraudulently or with intent to cause loss to the Government removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.

262. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Using Government stamp known to have been before used.

263. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Erasure of mark denoting that stamp has been used.

263A. (1) Whoever—

- (a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or
 - (b) has in his possession, without lawful excuse, any fictitious stamp, or
 - (c) makes or without lawful excuse has in his possession any die, plate, instrument or materials for making any fictitious stamp,
- shall be punished with fine which may extend to two hundred rupees.

Prohibition of fictitious stamps.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

(3) In this section "fictitious stamp" means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word "Government", when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India or Pakistan, and also in any part of His Britannic Majesty's dominions or in any foreign country.

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

Fraudulent use of false instrument for weighing.

264. Whoever fraudulently uses any instrument for weighing which he knows to be false shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false weight or measure.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weight or measure.

266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weight or measure.

267. Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

Public nuisance.

268. A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy

property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Negligent act likely to spread infection of disease dangerous to life.

270. Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Malignant act likely to spread infection of disease dangerous to life.

271. Whoever knowingly disobeys any rule made and promulgated by the Government for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Disobedience to quarantine rule.

272. Whoever adulterates any article of food or drink so as to make such article noxious as food or drink, intending to sell such article as food or drink or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Adulteration of food or drink intended for sale.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of noxious food or drink.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Adulteration of drugs.

Sale of
adulterated
drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of drug
as a different
drug or pre-
paration.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Fowling
water of
public spring
or reservoir.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Making
atmosphere
noxious to
health.

278. Whoever voluntarily vitiates the atmosphere in any place, so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

Rash driving
or riding on
a public way.

279. Whoever drives any vehicle or rides on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to [two years],¹ or with fine which may extend to one thousand rupees, or with both.

Throwing
dangerous
article on
moving
vehicle.

279A. Whoever throws or causes to fall or strike at, against, into or upon any vehicle in a public place, any wood, stone, acid or other matter or thing, with intent or knowledge that he is likely to endanger the safety of any person being in or upon such vehicle, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Explanation 1.—For the purposes of this section, “vehicle” means a wheeled conveyance capable of being used on a street.

Explanation 2.—It is not an offence punishable under this section to throw water at any vehicle in a public place during the Thingyan Festival.

Explanation 3.—Nothing contained in this section shall be deemed to prevent any person from being prosecuted under any other section of this Code or under any other law for any act or omission.

¹ Substituted by Act LII, 1948.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Rash navigation of vessel.

281. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exhibition of false light, mark or buoy.

282. Whoever knowingly or negligently conveys or causes to be conveyed for hire any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Conveying person by water for hire in unsafe or overloaded vessel.

283. Whoever, by doing any act or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation shall be punished with fine which may extend to two hundred rupees.

Danger or obstruction in public way or line of navigation.

284. Whoever does with any poisonous substance any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

Negligent conduct with respect to poisonous substance.

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

285. Whoever does with fire or any combustible matter any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to fire or combustible matter.

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description [for a term which may extend to three years, and shall also be liable to fine.]*

286. Whoever does with any explosive substance any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to explosive substance.

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

* Substituted by R.C law VII, 1963.

shall be punished with imprisonment of either description for a term which may extend to [three years, and shall also be liable to fine.]¹

Negligent
conduct with
respect to
machinery.

287. Whoever does with any machinery any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent
conduct with
respect to
pulling down
or repairing
buildings.

288. Whoever in pulling down or repairing any building knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent
conduct with
respect to
animal.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Punishment
for public
nuisance in
case not
otherwise
provided for.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code shall be punished with fine which may extend to two hundred rupees.

Continuance
of nuisance
after injunc-
tion to
discontinue.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Sale, etc., of
obscene
book, etc.

292. Whoever—

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or, for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or
- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

¹ Substituted by R.C Law VII, 1963.

- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or
- (e) offers or attempts to do any act which is an offence under this section, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any book, pamphlet, writing, drawing or painting kept or used *bona fide* for religious purposes, or any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Sale, etc., of obscene objects to young person.

294. Whoever, to the annoyance of others,—

Obscene acts and songs.

- (a) does any obscene act in any public place, or
- (b) sings, recites or utters any obscene songs, ballad or words in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

294 A. Whoever keeps any office or place for the purpose of drawing any lottery [or promoting or conducting any lottery]¹ not authorized by Government shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Keeping lottery office.

[Whoever]² publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery [or to the conduct of any such lottery]¹, shall be punished with fine which may extend to one thousand rupees.

[Whoever distributes or offers or advertises for distribution any tickets or chances in any lottery otherwise than by way of sale, upon receipt of the full sale price thereof, as stated on the ticket, shall be punished with fine which may extend to one thousand kyats.]¹

¹ Inserted by Act XXXII, 1960.

² Substituted by Act XXXII, 1960.

CHAPTER XV

OF OFFENCES RELATING TO RELIGION

Injuring or defiling place of worship, with intent to insult the religion of any class.

295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class or persons, with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

295A. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [persons resident in the Union]¹, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disturbing religious assembly.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial places, etc.

297. Whoever, with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words, etc. with deliberate intent to wound religious feelings.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may be extend to one year, or with fine, or with both.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

CHAPTER XVI

OF OFFENCES AFFECTING THE HUMAN BODY

¹ 299. (1) Whoever causes death by doing an Act with the intention of causing such bodily injury as is likely to cause death commits the offence of culpable homicide not amounting to murder.

(2) Whoever causes death by doing an Act with the intention of causing death, or with the intention of causing such bodily injury as in fact is sufficient in the ordinary course of nature to cause death, commits the offence of culpable homicide not amounting to murder in any of the following cases :—

(A) If he, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident :

Provided—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person ;

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant ; and

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to deprive the offender of the power of self-control is a question of fact.

(B) If he, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without pre-meditation and without any intention of doing more harm than is necessary for the purpose of such defence.

(C) If he, being a public servant or aiding a public servant for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of the duty of such public servant and without ill-will towards the person whose death is caused.

(D) If he, acts without premeditation in a sudden fight the heat of passion upon a sudden quarrel and without having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

(E) If he, causes the death of a person who is above the age of eighteen years and who suffers death or takes the risk of death with his own consent.

¹ Substituted by Act XXVII, 1960.

Murder.

1300. Whoever, in the absence of any circumstance which makes the act one of culpable homicide not amounting to murder, causes death by doing an act with the intention of causing death, or with the intention of causing bodily injury as in fact is sufficient in the ordinary course of nature to cause death, commits the offence of murder.

Explanations
of culpable
homicide.

1300A. In sections 299 and 300—

- (a) a person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death ;
- (b) where death is caused by bodily injury, the offender's knowledge of the weakness or infirmity of the person on whom the bodily injury is inflicted is a relevant factor in proving the nature of his intention ;
- (c) the offender's knowledge that an act is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, is a relevant factor in proving the nature of his intention ;
- (d) where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death although by resorting to proper remedies and skilful treatment the death might have been prevented ;
- (e) the causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Culpable
homicide
by causing
death of
person other
than person
whose death
was
intended.

1301. If a person, by doing anything which he intends or knows to be likely to cause death, commits an offence by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the offence committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself, to be likely to cause.

Explanation.—In this section the word "offence" means an offence described in section 299 or section 300 or section 304A.

Punishment
for murder.

1302. (1) Whoever commits murder—

- (a) being under sentence of transportation for life, or
- (b) with premeditation, or
- (c) in the course of committing any offence punishable under this Code with imprisonment for a term which may extend to seven years, shall be punished with death, and shall also be liable to fine.

¹ Substituted by Act XXVII, 1960.

- (2) Whoever commits murder in any other case shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Explanation—Whether an act is premeditated is a question of fact.

303. * * *

¹304. Whoever commits culpable homicide not amounting to murder shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Punishment for culpable homicide not amounting to murder.

²304A. Whoever causes the death of any person by doing any rash or negligent act not punishable as culpable homicide or murder shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine : provided that, if such act is done with the knowledge that it is likely to cause death, the term of imprisonment may extend to ten years.

Causing death by negligence.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide of child or insane person.

306. If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of suicide.

307. Whoever does any act with such intention [* * *]³ and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine : and, if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned.

Attempt to murder.

When any person offending under this section is under sentence of transportation for life he may, if hurt is caused, be punished with death.

Attempts by life-convicts.

Illustrations

(a) A should at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(b) A with the intention of causing the death of a child of tender years exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to murder Z, buys gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and if by such firing he wounds Z he is liable to the punishment provided by the latter part of the first paragraph of this section.

¹ Substituted by Act XXVII, 1960.

² Substituted by Act LII, 1948.

³ The words " or knowledge " were omitted by Act XXXIII, 1947.

(d) *A*, intending to murder *Z* by poison, purchases poison and mixes the same with food which remains in *A*'s keeping; *A* has not yet committed the offence in this section. *A* places the food on *Z*'s table or delivers it to *Z*'s servants to place it on *Z*'s table. *A* has committed the offence defined in this section.

Attempt to
commit
culpable
homicide.

308. Whoever does any act with such intention (* * *)¹ and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration

A, on grave and sudden provocation, fires a pistol at *Z*, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. *A* has committed the offence defined in this section.

Attempt to
commit
suicide.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Thug.

310. Whoever shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder is a thug.

Punishment.

311. Whoever is a thug shall be punished with transportation for life, and shall also be liable to fine.

Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

Causing
miscarriage.

312. Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this section.

Sterilization
of a woman
surgery.

²312A. Whoever intentionally does sterilization by surgery to a woman shall, unless such sterilization is certified by the Board appointed by the Government

¹ The words "or knowledge" were omitted by Act XXXIII, 1947.

² Inserted by R.C. Law VII, 1963.

in this behalf to be necessary for reasons of physical or mental health, be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine : Provided that in cases where immediate action must be taken in order to save the life of the woman no such certificate is necessary.

1312B. Whoever intentionally does sterilization by surgery to a man shall, unless such sterilization is certified by the Board appointed by Government in this behalf to be necessary for reasons of physical or mental health, be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Sterilization of a man by surgery.

1312C. Whoever voluntarily allows oneself to be sterilized by surgery, unless such sterilization is certified by the Board appointed by Government in this behalf to be necessary for reasons of physical or mental health, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Allowing oneself to be sterilized by surgery.

1312D. Whoever intentionally does sterilization by surgery to any person thereby causing the death of such person shall, unless such sterilization is certified by the Board appointed by Government in this behalf to be necessary for reasons of physical or mental health, be punished with imprisonment for a term which may extend to ten years, and shall also be liable to fine."

Death caused by sterilization by surgery.

313. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing miscarriage without woman's consent.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ;

Death caused by act done with intent to cause miscarriage.

and if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above mentioned.

If act done without woman's consent.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with

Act done with intent to prevent child being born alive or to cause it.

¹ Inserted by R.C. Law VII, 1963.

To die after birth. imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Causing death of quick unborn child by doing act likely to cause death of pregnant woman. **316.** Whoever without lawful excuse does any act knowing that he is likely to cause death to a pregnant woman, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Exposure and abandonment of child under twelve years, by parent or person having care of it. **317.** Whoever, being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Concealment of birth by secret disposal of dead body. **318.** Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Hurt

Hurt. **319.** Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Grievous hurt. **320.** The following kinds of hurt only are designated as "grievous":—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

¹ Substituted by Act XXXIII, 1947.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt." Voluntarily causing hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt." Voluntarily causing grievous hurt.

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if intending or knowing himself to be likely to cause grievous hurt of one kind he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Whoever, except in the case provided for by section 334, voluntarily causes hurt shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both. Punishment for voluntarily causing hurt.

324. Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Voluntarily causing hurt by dangerous weapons or means.

325. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Punishment for voluntarily causing grievous hurt.

Voluntarily
causing
grievous hurt
by dangerous
weapons or
means.

326. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animals, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily
causing hurt
to extort
property, or
to constrain
to an illegal
act.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt
by means of
poison, etc.,
with intent
to commit an
offence.

328. Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily
causing
grievous hurt
to extort
property, or
to constrain
to an illegal
act.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily
causing hurt
to extort
confession,
or to compel
restoration
of property.

330. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations

- (a) *A*, a police-officer tortures *Z* in order to induce *Z* to confess that he committed a crime *A* is guilty of an offence under this section.
 (b) *A*, a police-officer, tortures *B* to induce him to point out where certain stolen property is deposited, *A* is guilty of an offence under this section.
 (c) *A*, a revenue officer, tortures *Z* in order to compel him to pay certain arrears of revenue due from *Z*. *A* is guilty of an offence under this section.
 (d) *A*, a landlord, tortures a tenant in order to compel him to pay his rent. *A* is guilty of an offence under this section.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing hurt to deter public servant from his duty.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to deter public servant from his duty.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Voluntarily causing hurt on provocation.

335. Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Voluntarily causing grievous hurt on provocation.

Explanation.—The last two sections are subject to the same provisos as (Exception 1, section 300.)¹

Act endangering life or personal safety of others.

²336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Causing hurt by act endangering life or personal safety of others.

²337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Causing grievous hurt by act endangering life or personal safety of others.

²338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of Wrongful Restraint and Wrongful Confinement

Wrongful restraint.

339. Whoever voluntarily obstructs any person, so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception.—The obstruction of a private way over land or water, which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

Wrongful confinement.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said "wrongfully to confine" that person.

Illustrations

(a) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.
(b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for wrongful restraint.

341. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

¹ Now clause (A), sub-section (2), sections 299.

² Amended by Act LII, 1948.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Punishment for wrongful confinement.

343. Whoever wrongfully confines any person for three days or more shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for three or more days.

344. Whoever wrongfully confines any person for ten days or more shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for ten or more days.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

Wrongful confinement of person for whose liberation writ has been issued.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement in secret.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement to extort property, or constrain to illegal act.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement to extort confession, or compel restoration of property.

Of Criminal Force and Assault

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling : Provided that the person causing the motion, or change of motion, or cessation of motion causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described :

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(c) Z is riding in a palanquin. A intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(f) *A* intentionally pulls up a woman's veil. Here *A* intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.

(g) *Z* is bathing. *A* pours into the bath water which he knows to be boiling. Here *A* intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with *Z*, or with other water so situated that such contact must affect *Z*'s sense of feeling. *A* has therefore intentionally used force to *Z*; and if he has done this without *Z*'s consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to *Z*, *A* has used criminal force.

(h) *A* incites a dog to spring upon *Z*, without *Z*'s consent. Here if *A* intends to cause injury, fear or annoyance to *Z*, he uses criminal force to *Z*.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. Assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Illustrations

(a) *A* shake his fist at *Z*, intending or knowing it to be likely that he may thereby cause *Z* to believe that *A* is about to strike *Z*. *A* has committed an assault.

(b) *A* begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause *Z* to believe that he is about to cause the dog to attack *Z*. *A* has committed an assault upon *Z*.

(c) *A* takes up a stick, saying to *Z*, "I will give you a beating." Here though the words used by *A* could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both. Punishment for assault or criminal force otherwise than on grave provocation.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence is a question of fact.

Assault or criminal force to deter public servant from discharge of his duty.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force to woman with intent to outrage her modesty.

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

356. Whoever assaults or uses criminal force to any person in attempting to commit theft of any property which that person is then wearing or carrying shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine a person.

357. Whoever assaults or uses criminal force to any person in attempting wrongfully to confine that person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Assault or criminal force on grave provocation.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Explanation.—The last section is subject to the same explanation as section 352.

Of Kidnapping, Abduction, Slavery and Forced Labour

Kidnapping.

359. Kidnapping is of two kinds : kidnapping from the Union of Burma, and kidnapping from lawful guardianship.

Kidnapping from the Union of Burma.

360. Whoever conveys any person beyond the limits of the Union of Burma without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from the Union of Burma.

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Kidnapping from lawful guardianship.

Explanation.—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place is said to abduct that person.

Abduction.

363. Whoever kidnaps any person from the Union of Burma or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for kidnapping.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to murder.

Illustrations

(a) *A* kidnaps *Z* from the Union of Burma, intending or knowing it to be likely that *Z* may be sacrificed to an idol. *A* has committed the offence defined in this section.

(b) *A* forcibly carries or entices *B* away from his home in order that *B* may be murdered. *A* has committed the offence defined in this section.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting with intent secretly and wrongfully to confine person.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to

Kidnapping, abducting or inducing woman to compel her marriage, etc.

go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.

Procuration
of minor girl.

366A. Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

Importation
of girl from
foreign
country.

366B. Whoever imports into the Union of Burma from any country outside the Union of Burma any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, [* * * *]¹ [whether by himself or by another person,] shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

Kidnapping
or abducting
in order to
subject
person to
grievous
hurt,
slavery, etc.

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Wrongfully
concealing
or keeping in
confinement
kidnapped
or abducted
person.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping
or abducting
child under
ten years
with intent
to steal from
its person.

369. Whoever kidnaps or abducts any child under the age of ten years, with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or
disposing of
any person
as a slave.

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual
dealing in
slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² The words in brackets should also have been omitted.

372. Whoever sells, lets to hire, or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Selling minor for purposes of prostitution, etc.

Explanation 1.—When a female under the age of eighteen years is sold, let for hire or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation 2.—For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a *quasi*-marital relation.

373. Whoever buys, hires or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Buying minor for purposes of prostitution, etc.

Explanation 1.—Any prostitute or any person keeping or managing a brothel who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation 2.—“ Illicit intercourse ” has the same meaning as in section 372.

374. Whoever unlawfully compels any person to labour against the will of that person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Unlawful compulsory labour.

Of Rape

375. A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :—

First.—Against her will.

Secondly.—Without her consent.

Rape.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under fourteen years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

Punishment
for rape.

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Unnatural Offences

Unnatural
offences.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

Of Theft

Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person who by any means causes an animal to move is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking he has committed theft.

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow him. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(d) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the high-road, not in the possession of any person. A by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, in as much as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retain the watch lawfully as security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, in as much as he takes it dishonestly.

(k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, in as much as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) *A* asks charity from *Z*'s wife. She gives *A* money, food and clothes, which *A* knows to belong to *Z*, her husband. Here it is probable that *A* may conceive that *Z*'s wife is authorized to give away alms. If this was *A*'s impression, *A* has not committed theft.

(o) *A* is the paramour of *Z*'s wife. She gives *A* valuable property, which *A* knows to belong to her husband *Z*, and to be such property as she has not authority from *Z* to give. If *A* takes the property dishonestly, he commits theft.

(p) *A*, in good faith, believing property belonging to *Z* to be *A*'s own property, takes that property out of *B*'s possession. Here, as *A* does not take dishonestly, he does not commit theft.

Punishment
for theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Theft in
dwelling
house, etc.

380. Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by
clerk or
servant of
property in
possession of
master.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft after
preparation
made for
causing
death, hurt
or restraint
in order to
the committing
of the
theft.

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations

(a) *A* commits theft of property in *Z*'s possession; and, while committing this theft he has a loaded pistol under his garment having provided this pistol for the purpose of hurting *Z* in case *Z* should resist. *A* has committed the offence defined in this section.

(b) *A* picks *Z*'s pocket, having posted several of his companions near him in order that they may restrain *Z* if *Z* should perceive what is passing and should resist or should attempt to apprehend *A*. *A* has committed the offence defined in this section.

Of Extortion

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion."

Illustrations

(a) *A* threatens to publish a defamatory libel concerning *Z* unless *Z* gives him money. He thus induces *Z* to give him money. *A* has committed extortion.

(b) *A* threatens *Z* that he will keep *Z*'s child in wrongful confinement, unless *Z* will sign and deliver to *A* a promissory note binding *Z* to pay certain money to *A*. *Z* signs and delivers the note. *A* has committed extortion.

(c) *A* threatens to send club-men to plough up *Z*'s field unless *Z* will sign and deliver to *B* a bond binding *Z* under a penalty to deliver certain produce to *B*, and thereby induces *Z* to sign and deliver the bond. *A* has committed extortion.

(d) *A*, by putting *Z* in fear of grievous hurt, dishonestly induces *Z* to sign or affix his seal to a blank paper and deliver it to *A*. *Z* signs and delivers the paper to *A*. Here, as the paper so signed may be converted into a valuable security, *A* has committed extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Punishment for Extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Putting person in fear of injury in order to commit extortion.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Extortion by putting a person in fear of death or grievous hurt.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Putting person in fear of death or of grievous hurt, in order to commit extortion.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377, may be punished with transportation for life. Extortion by threat of accusation of an offence punishable with death or transportation, etc.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, any offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377, may be punished with transportation for life. Putting person in fear of accusation of offence in order to commit extortion.

Of Robbery and Dacoity

Robbery. 390. In all robbery there is either theft or extortion.

When theft is robbery. Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint.

When extortion is robbery. Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high-road. A takes the child, and threatens to fling it down a precipice unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying— "Your child is in the hands of my gang and will be put to death unless you send us ten thousand rupees." This is extortion, and punishable as such; but it is not robbery unless Z is put in fear of the instant death of his child.

Dacoity. 391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery and persons present and aiding such commission or attempt amount to five or more, every person so committing, attempting or aiding is said to commit "dacoity."

Punishment for robbery. 392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine. Attempt to commit robbery.

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Voluntarily causing hurt in committing robbery.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Punishment for dacoity.

396. If any one of five or more person, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Dacoity with murder.

397. If, at the time of committing robbery or dacoity, the offender * * * causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years. Robbery or dacoity, with attempt to cause death or grievous hurt.

398. * * *

399. Whoever makes any preparation for committing dacoity shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Making preparation to commit dacoity.

400. Whoever shall belong to a gang of persons associated for the purpose of habitually committing dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Punishment for belonging to gang of dacoits.

401. Whoever shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of *thugs* or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine. Punishment for belonging to gang of thieves.

Assembling
for purpose
of committing
dacoity.

402. Whoever shall be one of five or more persons assembled for the purpose of committing dacoity shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Of Criminal Misappropriation of Property

Dishonest
misappropriation of
property.

403. Whoever dishonestly misappropriates or converts to his own use any moveable property shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

(a) *A* takes property belonging to *Z* out of *Z*'s possession in good faith, believing, at the time when he takes it, that the property belongs to himself. *A* is not guilty of theft; but if *A*, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(b) *A*, being on friendly terms with *Z*, goes into *Z*'s library in *Z*'s absence, and takes away a book without *Z*'s express consent. Here, if *A* was under the impression that he had *Z*'s implied consent to take the book for the purpose of reading it, *A* has not committed theft. But, if *A* afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(c) *A* and *B* being joint owners of a horse, *A* takes the horse out of *B*'s possession, intending to use it. Here, as *A* has a right to use the horse, he does not dishonestly misappropriate it. But, if *A* sells the horse and appropriate the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration

A finds a Government promissory note belonging to *Z*, bearing a blank endorsement. *A*, knowing that the note belongs to *Z*, pledges it with a banker as a security for a loan, intending at a future time to restore it to *Z*. *A* has committed an offence under this section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence: but he is guilty of the offence above defined if he appropriates it to his own use when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means of what is a reasonable time in such a case is a question of fact.

It is not necessary that the finder should know who is the owner of the property or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

Illustrations

- (a) *A* finds a rupee on the high-road, not knowing to whom the rupee belongs. *A* picks up the rupee. Here *A* has not committed the offence defined in this section.
- (b) *A* finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.
- (c) *A* finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. *A* knows that this person can direct him to the person in whose favour the cheque was drawn. *A* appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.
- (d) *A* sees *Z* drop his purse with money in it. *A* picks up the purse with the intention of restoring it to *Z*, but afterwards appropriates it to his own use. *A* has committed an offence under this section.
- (e) *A* finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to *Z*, and appropriates it to his own use. *A* is guilty of an offence under this section.
- (f) *A* finds a valuable ring, not knowing to whom it belongs. *A* sells it immediately without attempting to discover the owner. *A* is guilty of an offence under this section.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Dishonest misappropriation of property possessed by deceased person at the time of his death.

Illustration

Z dies in possession of furniture and money. His servant *A*, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. *A* has committed the offence defined in this section.

Of Criminal Breach of Trust

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Criminal breach of trust.

Illustrations

- (a) *A*, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. *A* has committed criminal breach of trust.
- (b) *A* is a warehouse-keeper. *Z*, going on a journey, entrusts his furniture to *A*, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room. *A* dishonestly sells the goods. *A* has committed criminal breach of trust.

(c) *A*, residing in Rangoon, is agent for *Z*, residing at Mandalay. There is an express or implied contract between *A* and *Z* that all sums remitted by *Z* to *A* shall be invested by *A* according to *Z*'s direction. *Z* remits a lakh of rupees to *A*, with directions to *A* to invest the same in Government paper. *A* dishonestly disobeys the directions and employs the money in his own business. *A* has committed criminal breach of trust.

(d) But if *A*, in the last illustration, not dishonestly but in good faith, believing that it will be more for *Z*'s advantage to hold shares in a joint stock bank, disobeys *Z*'s directions, and buys shares in a joint stock bank for *Z*, instead of buying Government paper, here, though *Z* should suffer loss, and should be entitled to bring a civil action against *A* on account of that loss, yet *A*, not having acted dishonestly, has not committed criminal breach of trust.

(e) *A*, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. *A* dishonestly appropriate the money. *A* has committed criminal breach of trust.

(f) *A*, a carrier, is entrusted by *Z* with property to be carried by land or by water. *A* dishonestly misappropriates the property. *A* has committed criminal breach of trust.

Punishment
for criminal
breach of
trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Criminal
breach of
trust by
carrier, etc.

407. Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal
breach of
trust by
clerk or
servant.

408. Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal
breach of
trust by
public
servant, or
by banker,
merchant or
agent.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of the Receiving of Stolen Property

Stolen
property.

410. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as "stolen property," whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without the Union of Burma. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years or, with fine, or with both.

Dishonestly receiving stolen property.

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Dishonestly receiving property stolen in the commission of a dacoity.

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Habitually dealing in stolen property.

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Assisting in concealment of stolen property.

Of Cheating

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat."

Cheating.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations

(a) *A*, by falsely pretending to be in the Civil Service, intentionally deceives *Z*, and thus dishonestly induces *Z* to let him have on credit goods for which he does not mean to pay. *A* cheats.

(b) *A*, by putting a counterfeit mark on an article, intentionally deceives *Z* into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces *Z* to buy and pay for the article. *A* cheats.

(c) *A*, by exhibiting to *Z* a false sample of an article, intentionally deceives *Z* into believing that the article corresponds with the sample, and thereby dishonestly induces *Z* to buy and pay for the article. *A* cheats.

(d) *A*, by tendering in payment for an article a bill on a house with which *A* keeps no money, and by which *A* expects that the bill will be dishonoured, intentionally deceives *Z*, and thereby dishonestly induces *Z* to deliver the article, intending not to pay for it. *A* cheats.

(e) *A*, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives *Z*, and thereby dishonestly induces *Z* to lend money. *A* cheats.

(f) *A* intentionally deceives *Z* into a belief that *A* means to repay any money that *Z* may lend to him and thereby dishonestly induces *Z* to lend him money, *A* not intending to repay it. *A* cheats.

(g) *A* intentionally deceives *Z* into a belief that *A* means to deliver to *Z* a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces *Z* to advance money upon the faith of such delivery. *A* cheats; but if *A*, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) *A* intentionally deceives *Z* into a belief that *A* has performed *A*'s part of a contract made with *Z* which he has not performed, and thereby dishonestly induces *Z* to pay money. *A* cheats.

(i) *A* sells and conveys an estate to *B*. *A*, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to *Z* without disclosing the fact of the previous sale and conveyance to *B*, and receives the purchase or mortgage money from *Z*. *A* cheats.

Cheating by personation.

416. A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations

(a) *A* cheats by pretending to be a certain rich banker of the same name. *A* cheats by personation.

(b) *A* cheats by pretending to be *B*, a person who is deceased. *A* cheats by personation.

Punishment for cheating.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates he was bound either by law or by legal contract to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Cheating and dishonestly inducing delivery of property.

Of Fraudulent Deeds and Dispositions of Property

421. Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any, other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing debt being available for creditors.

423. Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

Of Mischief

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief."

Mischief.

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property

injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations

(a) *A* voluntarily burns a valuable security belonging to *Z* intending to cause wrongful loss to *Z*. *A* has committed mischief.

(b) *A* introduces water in to an ice-house belonging to *Z* and thus causes the ice to melt intending wrongful loss to *Z*. *A* has committed mischief.

(c) *A* voluntarily throws into a river a ring belonging to *Z*, with the intention of thereby causing wrongful loss to *Z*. *A* has committed mischief.

(d) *A*, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to *Z*, destroys those effects, with the intention of thereby preventing *Z* from obtaining satisfaction of the debt, and of thus causing damage to *Z*. *A* has committed mischief.

(e) *A*, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. *A* has committed mischief.

(f) *A* causes a ship to be cast away, intending thereby to cause damage to *Z* who has lent money on bottomry on the ship. *A* has committed mischief.

(g) *A*, having joint property with *Z* in a horse, shoots the horse, intending thereby to cause wrongful loss to *Z*. *A* has committed mischief.

(h) *A* causes cattle to enter upon a field belonging to *Z*, intending to cause and knowing that he is likely to cause damage to *Z*'s crop. *A* has committed mischief.

Punishment
for mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Mischief
causing
damage to
the amount
of fifty
rupees.

427. Whoever commits mischief, and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by
killing or
maiming
animal of
the value of
ten rupees.

428. Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by
killing or
maiming
cattle, etc.,
of any value
or any animal
of the value
of fifty
rupees.

429. Whoever commits mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

431. Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, river or channel.

432. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage, attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying, moving or rendering less useful a light-house or sea-mark.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Mischief by destroying or moving, etc., a land-mark fixed by public authority.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards, or (where the property is agricultural produce) ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or

Mischief by fire or explosive substance with

intent to destroy house, etc., as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden. **437.** Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in section 437 committed by fire or explosive substance. **438.** Whoever commits, or attempts to commit, by fire or any explosive substance such mischief as is described in the last preceding section shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc. **439.** Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt. **440.** Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of Criminal Trespass

Criminal trespass. **441.** Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass."

House-trespass. **442.** Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit "house-trespass."

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass."

Lurking
house-
trespass.

444. Whoever commits lurking house-trespass after sunset and before sunrise is said to commit "lurking house-trespass by night."

Lurking
house-
trespass by
night.

445. A person is said to commit "house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

House-
breaking.

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) *A* commits house-trespass by entering *Z*'s house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(f) *A* finds the key of *Z*'s house door, which *Z* had lost, and commits house-trespass by entering *Z*'s house, having opened the door with that key. This is house-breaking.

(g) *Z* is standing in his doorway. *A* forces a passage by knocking *Z* down, and commits house-trespass by entering the house. This is house-breaking.

(h) *Z*, the door-keeper of *Y*, is standing in *Y*'s doorway. *A* commits house-trespass by entering the house, having deterred *Z* from opposing him by threatening to beat him. This is house-breaking.

House break-
ing by night. 446. Whoever commits house-breaking after sunset and before sunrise is said to commit "house-breaking by night."

Punishment
for criminal
trespass. 447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment
for house-
trespass. 448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

House-tres-
pass in order
to commit
offence
punishable
with death. 449. Whoever commits house-trespass in order to the committing of any offence punishable with death shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-tres-
pass in order
to commit
offence
punishable
with trans-
portation
for life. 450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-tres-
pass in order
to commit
offence
punishable
with impri-
sonment. 451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft the term of the imprisonment may be extended to seven years.

House-tres-
pass after
preparation
for hurt,
assault or
wrongful
restraint. 452. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment
for lurking
house-tres-
pass or
house-
breaking. 453. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

454. Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; and if the offence intended to be committed is theft the term of the imprisonment may be extended to ten years.
455. Whoever commits lurking house-trespass or house-breaking having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
456. Whoever commits lurking house-trespass by night or house-breaking by night shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.
457. Whoever commits lurking house-trespass by night or house-breaking by night in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine ; and if the offence intended to be committed is theft the term of the imprisonment may be extended to fourteen years.
458. Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.
459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.

Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.

Punishment for lurking house-trespass or house-breaking by night.

Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.

Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

460. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking in by night shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Dishonestly breaking open receptacle containing property.

461. Whoever dishonestly, or with intent to commit mischief, breaks open or unfastens any closed receptacle, which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

462. Whoever, being entrusted with any closed receptacle which contains, or which he believes to contain, property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS

Forgery.

463. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a false document.

464. A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise alters a document in any material

part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration ; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not, know the contents of the document or the nature of the alteration.

Illustrations

(a) *A* has a letter of credit upon *B* for rupees 10,000 written by *Z*. *A*, in order to defraud *B*, adds a cipher to the 10,000, and makes the sum 1,00,000 intending that it may be believed by *B* that *Z* so wrote the letter. *A* has committed forgery.

(b) *A*, without *Z*'s authority, affixes *Z*'s seal to a document purporting to be a conveyance of an estate from *Z* to *A*, with the intention of selling the estate to *B* and thereby of obtaining from *B* the purchase-money. *A* has committed forgery.

(c) *A* picks up a cheque on a banker signed by *B*, payable to bearer, but without any sum having been inserted in the cheque. *A* fraudulently fills up the cheque by inserting the sum of ten thousand rupees. *A* commits forgery.

(d) *A* leaves with *B*, his agent, a cheque on a banker, signed by *A*, without inserting the sum payable, and authorizes *B* to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. *B* fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. *B* commits forgery.

(e) *A* draws a bill of exchange on himself in the name of *B* without *B*'s authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as *A* draws the bill with intent to deceive the banker by leading him to suppose that he had the security of *B*, and thereby to discount the bill, *A* is guilty of forgery.

(f) *Z*'s will contains these words—"I direct that all my remaining property be equally divided between *A*, *B* and *C*." *A* dishonestly scratches out *B*'s name, intending that it may be believed that the whole was left to himself and *C*. *A* has committed forgery.

(g) *A* endorses a Government promissory note and makes it payable to *Z* or his order by writing on the bill the words "Pay to *Z* or his order" and signing the endorsement. *B* dishonestly erases the words "Pay to *Z* or his order", and thereby converts the special endorsement into a blank endorsement. *B* commits forgery.

(h) *A* sells and conveys an estate to *Z*. *A* afterwards, in order to defraud *Z* of his estate, executes a conveyance of the same estate to *B*, dated six months earlier than the date of the conveyance to *Z*, intending it to be believed that he had conveyed the estate to *B* before he conveyed it to *Z*. *A* has committed forgery.

(i) *Z* dictates his will to *A*. *A* intentionally writes down a different legatee from the legatee named by *Z*, and, by representing to *Z* that he has prepared the will according to his instructions, induces *Z* to sign the will. *A* has committed forgery.

(j) *A* writes a letter and signs it with *B*'s name without *B*'s authority, certifying that *A* is a man of good character and in distressed circumstances from unforeseen misfortune intending by means of such letter to obtain aims from *Z* and other persons. Here, as *A* made a false document in order to induce *Z* to part with property, *A* has committed forgery.

(k) *A* without *B*'s authority writes a letter and signs it in *B*'s name certifying to *A*'s character intending thereby to obtain employment under *Z*. *A* has committed forgery inasmuch as he intended to deceive *Z* by the forged certificate, and thereby to induce *Z* to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations

(a) *A* signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. *A* has committed forgery.

(b) *A* writes the word "accepted" on a piece of paper and signs it with *Z*'s name in order that *B* may afterwards write on the paper a bill of exchange drawn by *B* upon *Z*, and negotiate the bill as though it had been accepted by *Z*. *A* is guilty of forgery; and if *B*, knowing the fact, draws the bill upon the paper pursuant to *A*'s intention, *B* is also guilty of forgery.

(c) *A* picks up a bill of exchange payable to the order of a different person of the same name. *A* endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here *A* has committed forgery.

(d) *A* purchases an estate sold under execution of a decree against *B*. *B*, after the seizure of the estate, in collusion with *Z*, executes a lease of the estate to *Z*, at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud *A*, and to cause it to be believed that the lease was granted before the seizure. *B*, though he executes the lease in his own name, commits forgery by antedating it.

(e) *A*, a trader, in anticipation of insolvency, lodges effects with *B* for *A*'s benefit and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to *B* a sum for value received, and antedates the note, intending that it may be believed to have been made before *A* was on the point of insolvency. *A* has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. *A* commits forgery.

Punishment
for forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of
record of
Court or of
Public re-
gister, etc.

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power-of-attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of
valuable
security,
will, etc.

467. Whoever forges a document which purports to be a valuable security, or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an

acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery for purpose of cheating.

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Forgery for purpose of harming reputation.

470. A false document made wholly or in part by forgery is designated "a forged document."

Forged document.

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document shall be punished in the same manner as if he had forged such document.

Using as genuine a forged document.

472. Whoever makes or counterfeits any seals, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467, or with such intent has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punishable with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.

473. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or with such intent has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 466, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.

Counterfeit-
ing device
or mark used
for authen-
tication
documents
described in
section 467,
or possessing
counterfeit
marked
material.

475. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeit-
ing device
or mark used
for authen-
tication docu-
ments other
than those
described in
section 467,
or possessing
counterfeit
marked
material.

476. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent
cancellation,
destruction,
etc., of will,
authority to
adopt, or
valuable
security.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Falsification
of accounts.

477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud, without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.

Of Trade, Property and Other Marks

478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark [* * * *]¹. Trade mark.

479. A mark used for denoting that moveable property belongs to a particular person is called a property mark. Property mark.

480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark. Using a false trade mark.

481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark. Using a false property mark.

482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Punishment for using a false trade mark or property mark.

483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Counterfeiting a trade mark or property mark used by another.

484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Counterfeiting a mark used by a public servant.

485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to Making or possession of any instrument for counterfeiting a trade mark or property mark.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Selling goods marked with a counterfeit trade mark or property mark.

486. Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the person from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Tampering with property mark with intent to cause injury.

489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Of Currency-Notes and Bank-Notes

Counterfeiting currency-notes or bank-notes

489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine,

Explanation.—For the purposes of this section and of sections 489B, 489C and 489D, the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

489B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Using as genuine forged or counterfeit currency-notes or bank-notes.

489C. Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Possession of forged or counterfeit currency-notes or bank-notes.

489D. Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.

CHAPTER XIX

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. * * *

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Breach of contract to attend on and supply wants of helpless person.

492. * * *

CHAPTER XX

OF OFFENCES RELATING TO MARRIAGE

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him, and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during lifetime of husband or wife.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

Same offence with consent of former marriage from person with whom subsequent marriage is contracted.

495. Whoever commits the offence defined in the last preceding section, having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony fraudulently gone through without lawful marriage.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

498. Whoever takes or entices away any woman, who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Enticing or taking away or detaining with criminal intent a married woman.

CHAPTER XXI

OF DEFAMATION

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Defamation.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state or in a state generally considered as disgraceful.

Illustrations

(a) A says—"Z is an honest man; he never stole B's watch", intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This defamation, unless it fall within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Imputation of truth which public good requires to be made or published. Public conduct of public servants.

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge

of his public functions, or respecting his character, so far as his character appears in that conduct and no further.

Conduct of
any person
touching
any public
question.

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct and no further.

Illustration

It is not defamation in *A* to express in good faith any opinion whatever respecting *Z*'s conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Publication
of reports of
proceedings
of Courts.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Magistrate or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice is a Court within the meaning of the above section.

Merits of
case decided
in Court or
conduct of
witnesses
and others
concerned.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as party, witness or agent in any such case, or respecting the character of such person, as far as his character appears in that conduct and no further.

Illustrations

(a) *A* says—"I think *Z*'s evidence on that trial is so contradictory that he must be stupid or dishonest." *A* is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects *Z*'s character as it appears in *Z*'s conduct as a witness, and no further.

(b) But if *A* says—"I do not believe what *Z* asserted at that trial because I know him to be a man without veracity." *A* is not within this exception, inasmuch as the opinion which he expresses of *Z*'s character is an opinion not founded on *Z*'s conduct as a witness.

Merits of
public per-
formance.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance and no further.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations

(a) A person who publishes a book submits that book to the judgment of the public.

(b) A person who makes a speech in public submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage submits his acting or singing to the judgment of the public.

(d) *A* says of a book published by *Z*—"Z's book is foolish; *Z* must be a weak man. *Z*'s book is indecent; *Z* must be a man of impure mind." *A* is within this exception if he says this in good faith, inasmuch as the opinion which he expresses of *Z* respects *Z*'s character only so far as it appears in *Z*'s book, and no further.

(e) But if *A* says—"I am not surprised that *Z*'s book is foolish and indecent, for he is a weak man and a libertine." *A* is not within this exception, inasmuch as the opinion which he expresses of *Z*'s character is an opinion not founded on *Z*'s book.

Seventh Exception.—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Censure passed in good faith by person having lawful authority over another.

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

Eighth Exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Accusation preferred in good faith to authorized person.

Illustration

If *A* in good faith accuses *Z* before a Magistrate; if *A* in good faith complains of the conduct of *Z*, a servant, to *Z*'s master; if *A* in good faith complains of the conduct of *Z*, a child to *Z*'s father—*A* is within this exception.

Ninth Exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good.

Imputation made in good faith by person for protection of his or other's interests.

Illustrations

(a) *A*, a shopkeeper, says to *B*, who manages his business—"Sell nothing to *Z* unless he pays you ready money, for I have no opinion of his honesty." *A* is within the exception, if he has made this imputation on *Z* in good faith for the protection of his own interests.

(b) *A*, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of *Z*. Here, if the imputation is made in good faith, and for the public good, *A* is within the exception.

Tenth Exception.—It is not defamation to convey a caution in good faith to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Caution intended for good of person to whom conveyed or for public good.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Punishment for defamation.

Printing or engraving matter known to be defamatory.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

Criminal intimidation.

503. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.

Illustration

A, for the purpose of inducing *B* to desist from prosecuting a civil suit, threatens to burn *B*'s house. *A* is guilty of criminal intimidation.

Intentional insult with intent to provoke breach of the peace.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Statements conducing to public mischief.

505. Whoever makes, publishes or circulates any statement, rumour or report,—

- (a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman, in the Army, Navy or Air Force [* * *]¹ to mutiny or otherwise disregard or fail in his duty as such ; or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid.

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

Punishment
for criminal
intimidation,

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

If threat be
to cause
death or
grievous
hurt, etc.

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

Criminal
intimidation
by an anony-
mous com-
munication.

508. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Act caused
by inducing
person to
believe that
he will be
rendered an
object of
Divine dis-
pleasure.

Illustrations

(a) A sits dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

Word, gesture or act intended to insult the modesty of a woman.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Misconduct in public by a drunken person.

510. Whoever in a state of intoxication appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES

Punishment for attempting to commit offences punishable with transportation or imprisonment.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations

(a) *A* makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) *A* makes an attempt to pick the pocket of *Z* by thrusting his hand into *Z*'s pocket. *A* fails in the attempt in consequence of *Z*'s having nothing in his pocket. *A* is guilty under this section.

THE CODE OF CRIMINAL PROCEDURE.

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THE CODE OF CRIMINAL PROCEDURE

[INDIA ACT V, 1898.] (1st July, 1898.)

PART I

Preliminary

CHAPTER I

- Extent.** 1. This Act extends to the whole of the Union of Burma ; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.
- 2—3. * * * *
- Definitions.** 4. (1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context :—
- “Bailable offence.”
“Non-bailable offence.”
- (a) “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:
- Provided that the President of the Union may, by notification declare that an offence punishable under section 188 or section 506 of the Penal Code, when committed in any area specified in the notification, shall be non-bailable.
- * * * *
- “Charge.”
- ¹(b) * * * *
- (c) “charge ” includes any head of charge when the charge contains more heads than one :
- * * * *
- “Clerk of the Court.”
- ²(e) “Clerk of the Court ” means the Registrar of the District Court appointed under the Courts Act, 1945³, and includes any officer specially appointed by the Chief Justice of the High Court to discharge the functions given by this Code to the Clerk of the Court.
- “Cognizable offence.”
“Cognizable case.”
- (f) “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 :
- Provided that the President of the Union may, by notification declare that any offence punishable under sections 186, 188, 189, 190, 228, 295A, 298, 505, 506 or 507 of the Penal Code, when committed in any area specified in the notification, shall be cognizable.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted *ibid.*

³ This Act has been repealed by Act LV, 1950.

- (g) "Commissioner of Police" includes a Deputy Commissioner of Police ; "Commissioner of Police."
- (h) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police-officer : "Complaint."
- ¹(i) * * * *
- (j) * * * *
- (k) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court ; "Inquiry."
- (l) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf : "Investigation."
- (m) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath : "Judicial Proceeding"
- (n) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer may not arrest without warrant : "Non-cognizable offence." "Non-cognizable case."
- (o) "offence" means any act or omission made punishable by any law for the time being in force : "Offence."
- it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act :
- (p) "officer in charge of a police-station" includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the President of the Union so directs, any other police-officer so present : "Officer in charge of a police-station."
- (q) "place" includes also a house, building, tent and vessel : "Place."
- (r) "pleader," used with reference to any proceeding in any Court, means a pleader authorized under any law for the time being in force to practise in such Court, and includes (1) an advocate of the High Court so authorized, and (2) any other person appointed with the permission of the Court to act in such proceeding : "Pleader."
- (s) "police-station" means any post or place declared, generally or specially, by the President of the Union to be a police-station, and includes any local area specified by the President of the Union in this behalf : "Police-Station."

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

- Public, Prosecutor." ^{1(ss)} * * * * *
- (t) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of [the State]² in the High Court in the exercise of its original criminal jurisdiction :
- " Sub-division." (u) "sub-division" means a sub-division of a district :
- " Summons-case." (v) "summons-case" means a case relating to an offence, and not being a warrant-case ; and
- " Warrant-case." (w) "warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.
- Words referring to acts. (2) Words which refer to acts done extend also to illegal omissions ; and
- Words to have same meaning as in Penal Code. all words and expressions used herein and defined in the Penal Code and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.
- Trial of offences under Penal Code. 5. (1) All offences under the Penal Code shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereinafter contained.
- Trial of offences against other laws. (2) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

PART II

Constitution and Powers of Criminal Courts and Offices

CHAPTER II

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES

A.—Classes of Criminal Courts

Classes of criminal Court. 36. Besides the High Court and Courts constituted under any law other than this Code for the time being in force, there shall be four classes of criminal Courts in the Union of Burma, namely :—

- I.—Courts of Session :
- II.—Magistrates of the first class :
- III.—Magistrates of the second class :
- IV.—Magistrates of the third class.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted *ibid.*

³ Substituted by Act XIII, 1945, and amended by the Union of Burma (Adaptation of Laws Order, 1948.

B.—Territorial Divisions

7. (1) The Union of Burma shall consist of sessions divisions : and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

Sessions divisions and districts.

(2) The President of the Union may alter the limits or the number of such divisions and districts.

Power to alter divisions and districts.

(3) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Existing divisions and districts maintained till altered.

8. (1) The President of the Union may divide any district into sub-divisions, or make any portion of any such district a sub-division and may alter the limits of any sub-division.

Power to divide districts into sub-divisions.

(2) All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

Existing sub-divisions maintained.

C.—Courts and Offices

9. (1) The President of the Union shall establish a Court of Session for every sessions division, and appoint a judge of such Court.

Court of Session.

(2) The President of the Union may, by general or special order in the Gazette, direct at what place or places the Court of Session shall hold its sitting ; but, until such order is made, the Courts of Sessions shall hold their sittings as heretofore.

(3) The President of the Union may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(4) A Sessions Judge of one sessions division may be appointed by the President of the Union to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the President of the Union may direct.

10. (1) In every district the President of the Union shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

District Magistrate.

(2) The President of the Union may appoint any Magistrate of the first class to be an Additional District Magistrate, and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force, as the President of the Union may direct.

(3) For the purposes of sections 192, sub-section (1), 407, sub-section (2), and 528, sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.

Officers temporarily succeeding to vacancies in office of District Magistrate.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the President of the Union, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Subordinate Magistrates.

12. (1) The President of the Union may appoint as many persons as he thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district; and the President of the Union or the District Magistrate, subject to the control of the President of the Union, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

1 * * *

Local limits of their jurisdiction.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

² (3) Notwithstanding anything contained in any other law, the appointment of every person as an Honorary Magistrate made prior to the commencement³ of the Code of Criminal Procedure (Amendment) Act, 1947, shall be deemed to have been made under sub-section (1) and for a period of three years only, to be reckoned from the date on which he was so appointed.

Power to put Magistrate in charge of sub-division.

13. (1) The President of the Union may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.

Delegation of powers to District Magistrate.

(2) Such Magistrates shall be called Sub-divisional Magistrates.

(3) The President of the Union may delegate his powers under this section to the District Magistrate.

Special Magistrates.

14. (1) The President of the Union may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area.

(2) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the President of the Union may by general or special order direct.

(3) The President of the Union may delegate, with such limitations as he thinks fit, to any [District Magistrate]⁴ the powers conferred by sub-section (1).

(4) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be

¹ Deleted by Act XXXVII, 1947.

² Inserted *ibid.*

³ 21st July 1947.

⁴ Substituted by Act XIII, 1945.

conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

15. (1) The President of the Union may direct any two or more Magistrates in any place to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the President of the Union thinks fit.

Benches of Magistrates.

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Powers exercisable by Bench in absence of special direction.

16. The President of the Union may, or, subject to the control of the President of the Union, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

Power to frame rules for guidance of Benches.

- (a) the classes of cases to be tried ;
- (b) the times and places of sitting ;
- (c) the constitution of the Bench for conducting trials ;
- (d) the mode of settling differences of opinion which may arise between the Magistrates in session.

17. (1) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and

Subordination of Magistrates and Benches to District Magistrate ;

(2) Every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

to Sub-divisional Magistrate.

(3) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

Subordination of Assistant Sessions Judges to Sessions Judge.

(4) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge, or, if there be no Additional or

Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

18—21. * * *

E.—Justices of the Peace

1 22. * * *

23—27. * * *

CHAPTER III

POWERS OF COURTS

A.—Description of Offences cognizable by each Court.

Offences
under
Penal Code.

28. Subject to the other provisions of this Code, any offence under the Penal Code may be tried—

- (a) by the High Court, or
- (b) by the Court of Session, or
- (c) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

Illustration

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

Offences
under other
laws.

29. (1) Subject to the other provisions of this Code, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried by the High Court or, subject as aforesaid, by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

2 29A. * * *

29B. * * *

Offences not
punishable
with death.

30. The President of the Union may [* * *]² invest the District Magistrate or any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Omitted by Act XIII, 1945.

B.—Sentences which may be passed by Courts of various Classes.

31. (1) The High Court may pass any sentence authorized by law.

Sentences which High Court and Sessions Judges may pass.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(3) An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years.

32. (1) The Courts of Magistrates may pass the following sentences, namely :—

Sentences which Magistrates may pass.

- | | |
|--|---|
| (a) Courts of Magistrates of the first class: | { Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law; Fine not exceeding one thousand rupees; Whipping. |
| (b) Courts of Magistrates of the second-class: | { Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law; Fine not exceeding two hundred rupees. |
| (c) Courts of Magistrates of the third class: | { Imprisonment for a term not exceeding one month; Fine not exceeding fifty rupees. |

(2) The Court of any Magistrate may pass any lawful sentence combining any of the sentences which it is authorized by law to pass.

33. (1) The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law in case of such default :

Power of Magistrates to sentence to imprisonment in default of fine.

Provided that—

- (a) the term is not in excess of the Magistrate's powers under this Code;
- (b) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso as to certain cases.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

34. The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years.

Higher powers of certain District Magistrates.

134A. * * *

Sentence in cases of conviction of several offences at one trial.

35. (1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Penal Code, sentence him for such offences to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment of transportation, to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

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

Maximum term of punishment.

Provided as follows :—

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

(b) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

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

C.—Ordinary and Additional Powers.

Ordinary powers of Magistrates.

36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."

Additional powers conferrable on Magistrates.

37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the President of the Union or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the President of the Union or the District Magistrate.

Control of District Magistrate's investing power.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the President of the Union.

D.—Conferment, Continuance and Cancellation of Powers.

Mode of conferring powers.

39. (1) In conferring powers under this Code the President of the Union may, by order, empower persons specially by name or in virtue of their office or classes of officials generally by their official titles.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

1 Omitted by Act XIII, 1945.

40. Whenever any person holding an office in the service of the Government who has been invested with any powers under this Code throughout any local area is appointed to an equal or higher office of the same nature within a like local area, he shall, unless the President of the Union otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

Powers of officers appointed.

41. (1) The President of the Union may withdraw all or any of the powers conferred under this Code on any person by him or by any officer subordinate to him.

Powers may be cancelled.

(2) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

PART III

General Provisions

CHAPTER IV

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS

42. Every person is bound to assist a Magistrate or police-officer reasonably demanding his aid,—

Public when to assist Magistrate and police.

- (a) in the taking or preventing the escape of any other person whom such Magistrate or police-officer is authorized to arrest ;
- (b) in the prevention or suppression of a breach of the peace, or, in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

43. 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 the warrant.

Aid to person other than police-officer, executing warrant.

44. (1) Every person aware of the commission of, or of the intention of any other person to commit, an offence punishable under any of the following sections of the Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, 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 Magistrate or police-officer of such commission or intention.

Public to give information of certain offences.

(2) For the purposes of this section the term "offence" includes an act committed at any place out of the Union of Burma which would constitute an offence if committed in the Union of Burma.

Village-headmen, landholders and others bound to report certain matters.

45. (1) Every village-headman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier in charge of the management of that land, and every officer employed in the collection of revenue or rent of land on the part of Government, shall, forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may possess respecting—

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent ;
- (b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects to be, a thug, robber, escaped convict or proclaimed offender ;
- (c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147, or 148 of the Penal Code ;
- (d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances, or the discovery in or near such village of any corpse or part of a corpse in circumstances which lead to a reasonable suspicion that such a death has occurred, or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person ;
- (e) the commission of, or intention to commit, at any place out of the Union of Burma near such village any act which, if committed in the Union of Burma, would be an offence punishable under any of the following sections of the Penal Code, namely, 231, 232, 233, 234, 235, 236, 237, 238, 302, 304, 382, 392, 393, 394, 395, 396, 397, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C, and 489D ;
- (f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the President of the Union, has directed him to communicate information.

(2) In this section—

- (i) "village" includes village-lands ; and
- (ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the President of the Union in any part of the Union of Burma in respect of any act which [* * * *]¹

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

would be punishable under any of the following sections of the Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460.

(3) Subject to rules in this behalf to be made by the President of the Union, the District Magistrate or Sub-divisional Magistrate may from time to time appoint one or more persons with his or their consent to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.

Appointment of village-headmen by District or Sub-divisional Magistrate in certain cases for purposes of this section.

CHAPTER V

OF ARREST, ESCAPE AND RETAKING

A.—Arrest generally

46. (1) 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.

Arrest how made.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

Resisting endeavour to arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with transportation for life.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being 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.

Search of place entered by person sought to be arrested.

48. If ingress to such place cannot be obtained under section 47 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-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 or window of any house or place, whether that of the person to be arrested or of any other person, if, after announcement of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Procedure where ingress not obtainable.

I (* * * *)

¹ The proviso was omitted by Act XIII, 1945.

- Power to break open doors and windows for purposes of liberation.** **49.** Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.
- No unnecessary restraint.** **50.** The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.
- Search of arrested persons.** **51.** 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 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 makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.
- Mode of searching women.** **52.** Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.
- Power to seize offensive weapons.** **53.** 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 this Code to produce the person arrested.

B.—Arrest without Warrant

- When police may arrest without warrant.** **54. (1)** Any police-officer may, without an order from a Magistrate and without a warrant, arrest—
- 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 either under this Code or by order of the President of the Union ;
 - 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 ;

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 [the Burma]¹ Army, Navy or Air Force;

seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of the Union of Burma which, if committed in the Union of Burma, would have been punishable as an offence, and for which he is, under any law relating to extradition [* * *]² or otherwise, liable to be apprehended or detained in custody in the Union of Burma;

eighthly, any released convict committing a breach of any rule made under section 565, sub-section (3);

ninthly, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) * * *

55. (1) Any [police-officer]³ may, in like manner, arrest or cause to be arrested—

Arrest of
vagabonds,
habitual
robbers, etc.

(a) any person found taking precautions to conceal his presence [within the limits of the police-station to which such police-officer is attached]³ under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(b) any person [within the limits of the police-station to which such police-officer is attached]³ who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(c) 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 of extortion habitually puts or attempts to put persons in fear of injury.

(2) * * *

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Omitted *ibid.*

³ Substituted by Act XIII, 1945.

Police-officer
may depute
subordinate
to arrest
without
warrant.

¹ 56. An officer in charge of a police-station or any police-officer making an investigation under Chapter XIV may require any officer subordinate to him to arrest without a warrant any person who may lawfully be arrested without a warrant.

Refusal to
give name
and
residence.

57. (1) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such 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 officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in the Union of Burma, the bond shall be secured by a surety or sureties resident in the Union of Burma.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Pursuit of
offenders
into other
jurisdictions.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in the Union of Burma.

Arrest by
private
persons and
procedure on
such arrest.

59. (1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police-station.

(2) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(3) If there is reason to believe that 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 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

Person
arrested to be
taken before
officer in
charge of
police-
station.

60. 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 [* * * *] ² before the officer in charge of a police-station.

¹ Substituted by Act XIII, 1945.

² The words "before a Magistrate having jurisdiction in the case, or" were deleted *ibid*.

61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to [the police-station, and from there to the Magistrate's Court].¹ Person arrested not to be detained more than twenty-four hours.
62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant within the limits of their respective stations, whether such persons have been admitted to bail or otherwise. Police to report apprehensions.
63. 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 Magistrate. Discharge of person apprehended.
64. When any offence is committed in the presence of a 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.
65. Any 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.
66. 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 in the Union of Burma. Power, on escape, to pursue and retake.
67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest. Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

CHAPTER VI

OF PROCESSES TO COMPEL APPEARANCE

A.—*Summons*

68. (1) Every summons issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct. Form of summons.
- (2) Such summons shall be served by a police-officer, or, subject to such rules as the President of the Union may prescribe in this behalf, by an officer of the Court issuing it or other public servant. Summons by whom served.

¹ Substituted by Act XIII, 1945.

- Summons how served.** 69. (1) 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.
- Signature of receipt for summons.** (2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.
- (3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in the Union of Burma. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.
- Service when person summoned cannot be found.** 70. Where the person 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 [* *]¹ member of his family ; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.
- Procedure when service cannot be effected as before provided.** 71. If service in the manner mentioned in sections 69 and 70 cannot be 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 servant of Government or of Railway Administration.** 72. (1) Where the person summoned is in the active service of the Government or of a Railway Administration, 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 69, and shall return it to the Court, under his signature with the endorsement required by that section.
- (2) Such signature shall be evidence of due service.
- Service of summons outside local limits.** 73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.
- Proof of service in such cases and when serving officer not present.** 74. (1) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

¹ The word " male " was deleted by Act XIII, 1945.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest

75. (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates by any member of such Bench; and shall bear the seal of the Court.

Form of warrant of arrest.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Continuance of warrant of arrest.

76. (1) 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 executes 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.

Court may direct security to be taken.

(2) 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; and
- (c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

Recognizance to be forwarded.

77. (1) A warrant of arrest shall ordinarily be directed to one or more police-officers; but the Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

Warrants to whom directed.

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

Warrants to several persons.

78. (1) A District Magistrate or Subdivisional Magistrate may direct a warrant to any landholder, [occupier]¹ or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

Warrant may be directed to landholders, etc.

(2) Such landholder, [occupier]¹ or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued is in, or enters on, his land [* *],² or the land under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall

¹ Substituted by Act XIII, 1945.

² The words "or farm" were deleted *ibid*.

cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

Warrant directed to police-officer.

79. A 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.

Notification of substance of warrant.

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

Person arrested to be brought before Court without delay.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed.

82. A warrant of arrest may be executed at any place in the Union of Burma.

Warrant forwarded for execution outside jurisdiction.

83. (1) When a warrant 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 a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police within the local limits of whose jurisdiction it is to be executed.

(2) The Magistrate or District Superintendent to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

Warrant directed to police-officer for execution outside jurisdiction.

84. (1) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police-officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

85. When a warrant of arrest is executed outside the district in 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 Magistrate or District Superintendent of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or District Superintendent.

Procedure on arrest of person against whom warrant issued.

86. (1) Such Magistrate or District Superintendent 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 Court :

Procedure by Magistrate before whom person arrested is brought.

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate or District Superintendent, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate or District Superintendent shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment

87. (1) 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.

Proclamation for person absconding.

(2) 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.

(3) A statement in writing 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.

88. (1) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

Attachment of property of person absconding.

(2) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made ; and it shall authorize the attachment of any property belonging to such person without such district

when endorsed by the District Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other moveable 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.

(4) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district 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.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure.

(6A) If any claim is preferred to, or objection made to the attachment of any property attached under this section, within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part ;

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6B) Claims or objections under sub-section (6A) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(6C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made ;

Provided that, if it is preferred or made in the Court of a District Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class subordinate to him.

(6D) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (6A) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute ; but subject to the result of such suit, if any, the order shall be conclusive.

(6E) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(7) 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 and until any claim preferred or objection made under sub-section (6A) has been disposed of under that sub-section, 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.

89. If, within two years from the date of the attachment any person whose property is or has been at the disposal of Government, under sub-section (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, 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 nett proceeds of the sale, or, if part only thereof has been sold, the nett 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.

D.—Other Rules regarding Processes

90. 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 [* *]¹, issue, after recording its reasons in writing, a warrant for his arrest—

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

(a) if, either before the issue of such 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.

¹ The words " or assessor " were deleted by Act XIII, 1945.

Power to
take bond for
appearance.

91. 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.

92. 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 of
this Chapter
generally
applicable to
summons
and warrants
of arrest.

93. 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 MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED

A.—Summons to produce

Summons to
produce
document or
other thing.

94. (1) Whenever any Court or any officer in charge of a police-station 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 or officer, such Court may issue a summons, or such officer a written order, 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 or order.

(2) 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 causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Evidence Act, sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities.

Procedure as
to letters and
telegrams.

95. (1) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of the Commissioner of Police or any District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph

Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate or Court.

B.—Search-warrants

96. (1) Where any Court has reason to believe that a person, to whom a summons or order under section 94 or a requisition under section 95, sub-section (1), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

When search-warrant may be issued.

or where such document or 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.

(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

97. 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.

98. (1) If a District Magistrate, Subdivisional Magistrate, or Magistrate of the first class, 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, etc.

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,

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

or if a District Magistrate or a Sub-divisional Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Penal Code or that any such obscene objects are kept or deposited in any place, he may by his warrant authorize any police-officer above the rank of a constable—

- (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, seal, 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 or of any such obscene objects as aforesaid, and
 - (d) to convey such property, documents, seals, stamps, coins, instruments or materials or such obscene objects before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and
 - (e) to take into custody and carry before a 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 or such obscene objects, 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, or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported, or exported.
- (2) The provisions of this section with respect to—
- (a) counterfeit coin,
 - (b) coin suspected to be counterfeit, and
 - (c) instruments or materials for counterfeiting coin,
- shall, so far as they can be made applicable, apply respectively to—
- (a) pieces of metal made in contravention of the Metal Tokens Act, or brought into the Union of Burma in contravention of any notification for the time being in force under section 19 of the Sea Customs Act,
 - (b) pieces of metal suspected to have been so made or to have been so brought into the Union of Burma or to be intended to be issued in contravention of the former of those Acts, and
 - (c) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of
thing found
in search
beyond
jurisdiction.

99. 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 the 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 Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such

Magistrate ; and unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

99A. (1) Where—

- (a) any newspaper, or book as defined in the Press (Registration) Act,
or
(b) any document,

Power to declare certain publications forfeited and to issue search warrants for the same.

wherever printed, appears to the President of the Union to contain any seditious matter [or any matter which advocates, advises or teaches the duty, necessity, desirability or propriety of overthrowing or destroying the organs of the Union or of its constituent units by force or violence]¹ or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of [persons resident in Burma]² or which is deliberately and maliciously intended to outrage the religious feelings of any such class by insulting the religion or the religious beliefs of that class, that is to say, any matter the publication of which is punishable under section 124A [or section 124B]¹ or section 153A or section 295A of the Penal Code, the President of the Union may, by notification in the Gazette stating the grounds of his opinion, declare every copy of the issue of the newspaper containing such matter and every copy of such book or other document to be forfeited to [the State]², and thereupon any police-officer may seize the same wherever found in the Union of Burma and any Magistrate may by warrant authorize any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In sub-section (1) "document" includes also any painting, drawing or photograph, or other visible representation.

99B. Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain any seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A.

Application to High Court to set aside order of forfeiture.

99C. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.

Hearing by Special Bench.

99D. (1) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A, set aside the order of forfeiture.

Order of Special Bench setting aside forfeiture.

¹ Inserted by Act XXXIX, 1954.

² Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

Evidence to prove nature or tendency of newspapers.

99E. On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order of forfeiture was made.

Procedure in High Court.

99F. The High Court shall, as soon as conveniently may be, frame rules¹ to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Jurisdiction barred.

99G. No order passed or action taken under section 99A shall be called in question in any Court otherwise than in accordance with the provisions or section 99B.

C.—Discovery of Persons wrongfully confined

Search for persons wrongfully confined.

100. If any Magistrate of the first class or Subdivisional Magistrate 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 a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.—General Provisions relating to Searches

Direction, etc., of search-warrants.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98, section 99A or section 100.

Persons in charge of closed place to allow search.

102. (1) 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.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

¹ For such rules, see the High Court Rules and Orders, and Burma Gazette, 1940, part IV, p. 253.

103. ¹(1) Before making a search under this Chapter, the officer or other person about to make it shall require two or more persons to attend and witness the search and may issue an order in writing to any inhabitant of the locality in which the place to be searched is situate so to do.

Search to be made in presence of witnesses.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses, but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

¹(3) The occupier of the place searched, or some person on his behalf, shall be permitted to attend during the search, and, if present, shall be required to sign the list prepared under sub-section (2) in token of the correctness thereof, and a copy of the said list shall be delivered to such occupier or person by the officer or other person making the search.

Occupier of place searched may attend.

(4) When any person is searched under section 102, sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

(5) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Penal Code.

E.—Miscellaneous

104. Any Court may, if it thinks fit, impound any document of thing produced before it under this Code.

Power to impound document, etc., produced.

105. Any Magistrate may 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.

Magistrate may direct search in his presence.

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

106. (1) Whenever any person accused of any offence punishable under Chapter VIII of the Penal Code, other than an offence punishable under [* *]², section 149, [* *]² or section 154 thereof, or of assault or

Security for keeping the peace on conviction.

¹ Substituted by Act XIII, 1945.

² The words and figures "section 143" and "section 153A" were deleted *ibid*.

other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before the High Court, a Court of Session, a District Magistrate, a Subdivisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it 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, not exceeding three years, as it thinks fit to fix.

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

(3) An order under this section may also be made by an appellate Court including a Court hearing appeals under section 407 or by the High Court when exercising its powers of revision.

B.—Security for keeping the Peace in other Cases and Security for Good Behaviour

Security for keeping the peace in other cases.

107. (1) Whenever a District Magistrate, Subdivisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding 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 one year as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended are within the local limits of the Magistrate's jurisdiction.

Procedure of Magistrate not empowered to act under sub-section (1).

(3) When any Magistrate not empowered to proceed under sub-section (1) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under sub-section (3) may in his discretion detain such person in custody pending further action by himself under this Chapter.

108. Whenever a District Magistrate [¹ a Sub-divisional Magistrate] or a Magistrate of the first class specially empowered by the President of the Union in this behalf has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of—

Security for good behaviour from persons disseminating seditious matter.

- (a) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Penal Code, or
 - ² (aa) any matter the publication of which is punishable under section 124B of the Penal Code, or
- (b) any matter the publication of which is punishable under section 153A of the Penal Code, or
- (c) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Penal Code,

such Magistrate, if in his opinion there is sufficient ground for proceeding, 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 his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under and edited, printed and published in conformity with, the rules laid down in the Press (Registration) Act, with reference to any matters contained in such publication, except by the order or under the authority of the President of the Union or some officer empowered by the President of the Union in this behalf.

109. Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—

Security for good behaviour from vagrants and suspected persons.

- (a) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any 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,

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 one year, as the Magistrate thinks fit to fix.

¹ Inserted by Act XIII, 1945.

² Inserted by Act XXXIX, 1954.

Security
for good
behaviour
from
habitual
offenders.

110. Whenever a District Magistrate or Subdivisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the President of the Union receives information that any person within the local limits of his jurisdiction—

- (a) is by habit a robber, house-breaker, thief, or forger, or
- (b) is by habit a receiver of stolen property knowing the same to have been stolen, or
- (c) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or
- (d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or
- (e) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or
- (f) is so desperate and dangerous as to render his being at large without security hazardous to the community,

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 three years, as the Magistrate thinks fit to fix.

III. * * * *

Order to be
made.

112. When a Magistrate acting under section 107, section 108, section 109 or section 110 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 pre-
sent in Court.

113. 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 per-
son not so
present.

114. If such person is not present in Court, the 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 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.

115. Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112 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.

Copy of order under section 112 to accompany summons or warrant.

116. The 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.

Power to dispense with personal attendance.

117. (1) When an order under section 112 has been read or explained under section 113 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 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

Inquiry as to truth of information.

(2) Such inquiry shall be made, as nearly as may be practicable, where the order requires security for keeping the peace in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases; and where the order requires security for good behaviour in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

(3) Pending the completion of the inquiry under sub-section (1) the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded :

Provided that :—

- (a) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and
- (b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112.

(4) For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

Order to
give security.

118. (1) 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 :

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 112 :

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.

Discharge
of person
in formed
against.

119. If, on an inquiry under section 117, 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.

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

Commence-
ment of
period for
which
security
is required.

120. (1) If any person, in respect of whom an order requiring security is made under section 106 or section 118, 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.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

Contents
of bond.

121. 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.

Power to
reject
sureties.

122. (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond :

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety,

or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1) and the report of such Magistrate (if any), that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing :

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.

123. (1) If any person ordered to give security under section 106 or section 118 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 give the security to the Court or Magistrate who made the order requiring it. Imprisonment in default of security.

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the order of the Sessions Judge ; and the proceedings shall be laid, as soon as conveniently may be, before such Court. Proceedings when to be laid before Court of Session.

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit :

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

(3A) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(3B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3A) to an Additional Sessions Judge or Assistant Sessions Judge, and upon such transfer such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.

(4) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall wait the order of such Court or Magistrate.

Kind of imprisonment.

(5) Imprisonment for failure to give security for keeping the peace shall be simple.

(6) Imprisonment for failure to give security for good behaviour shall, where the proceedings have been taken under section 108, be simple and, where the proceedings have been taken under section 109 or section 110, be rigorous or simple as the Court or Magistrate in each case directs.

Power to release persons imprisoned for failing to give security.

124. (1) Whenever the District Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts :

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.

(4) The President of the Union may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.

125. The District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.

126. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a District Magistrate, Subdivisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

Discharge of sureties.

(2) 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.

126A. When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of section 122 or under section 126, sub-section (2), appears or is brought before him, the Magistrate shall cancel the bond executed by such person 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 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

Security or unexpired period of bond.

CHAPTER IX

UNLAWFUL ASSEMBLIES

127. (1) Any Magistrate or officer in charge of a police-station [or police-officer not below the rank of sub-inspector]¹ 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.

Assembly to disperse on command of Magistrate or police-officer.

(2) * * * *

128. If, upon being so commanded, any such assembly does not disperse, or it, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station [or police-officer not below the rank of sub-inspector]¹ may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer, soldier, sailor or airman in [the Burma]² Army, Navy or Air Force or a member of either of the Forces constituted by the Burma Territorial Force Act or the Burma Auxiliary Force Act, 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.

Use of civil force to disperse.

¹ Inserted by Act XIII, 1945.

² Substituted by Union of Burma (Adaptation of Laws) Order, 1948.

Use of military force.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

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

130. (1) When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in [the Burma]¹ Army, or of any members of either of the Forces constituted by the Burma Territorial Force Act or the Burma Auxiliary Force Act, to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate 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.

(2) 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.

Power of commissioned military officers to disperse assembly.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of [the Burma]¹ 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 Magistrate he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this Chapter.

132. No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any criminal Court, except with the sanction of the President of the Union; and—

- (a) no Magistrate or police-officer acting under this Chapter in good faith,
- (b) no officer acting under section 131 in good faith.
- (c) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and
- (d) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

2 * * *

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² The provision was omitted by act XIII, 1945.

CHAPTER X

PUBLIC NUISANCES

133. (1) Whenever a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit, Conditional order for removal of nuisance.

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

that the conduct of any trade or occupation or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated such goods or merchandise should be removed or the keeping thereof regulated, 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, tent or structure, or any tree 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 the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such 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, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance ; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed ; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure ; or

to remove or support such tree ; or

to alter the disposal of such substance ; or

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

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order ;

or, if he objects so to do,
to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any civil Court.

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

Service or
notification
of order.

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

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the President of the Union may by rule¹ direct, and a copy thereof shall be stuck up at such place or places as may be fitted for conveying the information to such person.

Person to
whom order
is addressed
to obey or
show cause.

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

(a) perform, within the time and in the manner specified in the order, the act directed thereby ; or

² (b) appear in accordance with such order and show cause against the same.

Consequence
of his failing
to do so.

136. If such person does not perform such act or appear and show cause [* * * *³] as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Penal Code, and the order shall be made absolute.

Procedure
where he
appears to
show cause.

137. (1) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

³ 138/139. * * * *

Procedure
where
existence of
public right
is denied.

139A. (1) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel

¹ For such rules, see *Burma Gazette*. 1939, Part I, p. 1093.

² Substituted by Act XIII, 1945.

³ Deleted *ibid*.

or place, and if he does so, the Magistrate shall, before proceeding under section 137 [* * *]¹, inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent civil Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 137 [* * *]¹, as the case may require.

(3) A person who has, on being questioned by the Magistrate under subsection (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial [* * *]¹.

140. (1) When an order has been made absolute under (section 136 or section 137)², 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 188 of the Penal Code.

Procedure on order being made absolute.

(2) If such act is not performed within the time fixed, the 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 moveable 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 Magistrate within the local limits of whose jurisdiction the property to be attached is found.

Consequences of disobedience to order.

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

¹ 141. * * *

142. (1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may [* * *]¹ issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury pending the determination of the matter.

Injunction pending inquiry.

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

¹ Deleted by Act XIII, 1945.

² Substituted *ibid*.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Magistrate may prohibit repetition or continuance of public nuisance.

143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the President of the Union or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Penal Code or any special or local law.

CHAPTER XI

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER

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

144. (1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate, or of any other Magistrate (not being a Magistrate of the third class) specially empowered by the President of the Union or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and 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 124, 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 person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) 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*.

(3) An order under this section may be directed to a particular individual, or to the public generally (* * * *)¹.

(4) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order : and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

(6) 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 President of the Union, by notification in the Gazette, otherwise directs.

¹ Deleted by Act XIII, 1945.

CHAPTER XII

DISPUTES AS TO IMMOVEABLE PROPERTY

145. (1) Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the ground of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

(2) For the purposes of this section the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject :

Inquiry as to Possession.

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date:

Provided also that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed ; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) If the Magistrate decides that one of the parties was or should under the first proviso to sub-section (4) be treated as being in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction

Party in possession to retain possession until legally evicted.

and when he proceeds under the first proviso to sub-section (4) may restore to possession the party forcibly and wrongfully dispossessed.

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.

Power to
attach
subject of
dispute.

146. (1) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach it until a competent Court has determined the rights of the parties thereto, or the person entitled to possession thereof :

Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit and if no receiver of the property, the subject of dispute, had been appointed by any civil Court, appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure :

Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.

Disputes
concerning
rights of use
of immove-
able property,
etc.

147. (1) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section

¹ Amended by Act XIII, 1945.

145, sub-section (2) (whether such right be claimed as an easement or otherwise), within the local limits of his jurisdiction, he shall make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.

(2) If it appears to such Magistrate that such right exists, he shall make an order prohibiting any interference with the exercise of such right :

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he shall make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a civil Court of competent jurisdiction.

148. (1) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Subdivisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid. Local inquiry.

(2) The report of the person so deputed may be read as evidence in the case.

(3) When any costs have been incurred by any party to a proceeding under this Chapter the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable. Order as to costs.

CHAPTER XIII

PREVENTIVE ACTION OF THE POLICE

149. 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.

Information of design to commit such offences. ¹150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the nearest police-officer to whom he is subordinate.

Arrest to prevent such offences. 151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a 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.

Prevention of injury to public property. ¹152. A police-officer may of his own authority interpose for the purpose of preventing and shall, to the best of his ability, prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Inspection of weights and measures. 153. (1) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) 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 Magistrate having jurisdiction.

PART V

Information to the Police and their powers to investigate

CHAPTER XIV

Information in cognizable cases. 154. Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the President of the Union may prescribe in this behalf.

Information in non-cognizable cases. 155. (1) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

¹ Amended by Act XIII, 1945.

(2) No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial.

Investigation into non-cognizable cases.

(3) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

156. (1) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

Investigation into cognizable cases.

(2) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

157. (1) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report, and shall proceed in person, or shall depute one of his subordinate officers, not being below such rank as the President of the Union may, by general or special order, prescribe in this behalf, to proceed to the spot to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender :

Procedure where cognizable offence suspected.

Provided as follows :—

- (a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot ;
- (b) if it appear to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

Where local investigation dispensed with.

Where police officer in charge sees no sufficient ground for investigation.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the President of the Union, the fact that he will not investigate the case or cause it to be investigated.

Reports
under section
157 how
submitted.

158. (1) Every report sent to a Magistrate under section 157 shall, if the President of the Union so directs, be submitted through such superior officer of police as the President of the Union, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

Power to
hold
investigation
or preliminary
inquiry.

159. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Police-
officer's
power to
require
attendance of
witnesses.

160. Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

Examination
of witnesses
by police.

161. (1) Any police-officer making an investigation under this Chapter, or any police-officer not below such rank as the President of the Union may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Statements
to police not
to be signed;
use of such
statements in
evidence.

¹ 162. (1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it, nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used as evidence (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that when any witness, whose statement has been reduced into writing as aforesaid, is called either for the prosecution or for the defence in such inquiry or trial, any part of such statement, if duly proved, may be used, either by the defence or by the prosecution, as the case may be, for the purpose of contradicting such witness in the manner provided by section 145 of the Evidence Act, or for the purpose of impeaching the credit of such witness in the manner provided by section 155 of the Evidence Act: and

¹ Substituted by Act XIII, 1945.

when any part of such statement is so used any part thereof may also be used in the re-examination of such witness for the purpose only of explaining any matter referred to in the cross-examination.

(2) When any such statement as aforesaid has been reduced into writing the Court shall, on the request of the accused, direct that the accused be furnished with a copy thereof :

Provided that if the Court is of opinion that any part of such statement is not relevant to the subject-matter of the inquiry or trial, or that its disclosure to the accused is not essential in the interest of justice and is also inexpedient in the public interest, it shall record such opinion (but not the reason therefor) and shall exclude such part from the copy of the statement furnished to the accused.

falling (3) Nothing in this section shall be deemed to apply to any statement (falling) within the provisions of section 27 or of clause (1) of section 32 of the Evidence Act.

163. (1) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Evidence Act, section 24. No inducement to be offered.

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

164. (1) Any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the President of the Union may, if he is not a police-officer, record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial. Power to record statements and confessions.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him, and 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 have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and 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.,
Magistrate."

Explanation.—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

Search by
police-officer.

¹165. (1) Whenever an officer in charge of a police-station or a police-officer making an investigation considers that anything necessary for the purposes of an investigation into any offence which he is authorized to investigate may be found in any place within the limits of the police-station of which he is in charge or to which he is attached, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such thing according to the directions of the summons or order, or when such thing is not known to be in the possession of any person such officer may search, or cause search to be made for the same in any place within the limits of such police-station.

(2) Such officer shall, if practicable, conduct the search in person; but if he is unable to conduct the search in person, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the place to be searched and, so far as possible, the thing for which search is to be made, and such subordinate officer shall thereupon search for such thing in such place.

(3) The provisions of this Code as to search-warrants and the general provisions as to searches contained in sections 102 and 103 shall, so far as may be, apply to a search made under this section.

When officer
in charge of
police-station
may require
another to
make search.

166. (1) An officer in charge of a police-station or a police-officer [* * * *²] making an investigation may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the death occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (1) might result in evidence of the commission or an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under

¹ Substituted by Act XIII, 1945.

² Deleted *ibid*.

this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103 [* * * * *]¹,

¹(5) *

167. (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station or the police-officer making the investigation [* * * * *]¹ shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

Procedure when investigation cannot be completed in twenty-four hours.

²(2) The Magistrate to whom the accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit. But the detention of such person shall not exceed in the whole 30 days where a person is accused of an offence punishable with rigorous imprisonment for a term of not less than seven years, and where a person is accused of an offence punishable with rigorous imprisonment for a term of less than seven years, the detention of such person shall not exceed 15 days in the whole. If such Magistrate has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction :

Provided that no Magistrate of the third class, shall authorize detention in the custody of the police.

(3) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

(4) If such order is given by a Magistrate other than the District Magistrate or Subdivisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

168. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

Report of investigation by subordinate police-officer.

169. If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station or to the police-officer making the investigation that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with

Release of accused when evidence deficient.

¹ Deleted by Act XIII, 1945.

² Substituted by Act LVI, 1957.

or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or commit him for trial.

Case to be
sent to
Magistrate
when
evidence is
sufficient.

170. (1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station or [the police-officer making the investigation]¹ that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police-station or [the police-officer making the investigation]¹ forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the District Magistrate or Subdivisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) * * * *

(5) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and
witnesses
not to be
required to
accompany
police-
officer.

Complainants and
witnesses
not to be
subjected to
restraint.

Recusant
complainant
or witness
may be
forwarded
in custody.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond :

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

¹ Substituted by Act XIII, 1945.

172. (1) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

Diary of proceedings in investigation.

(2) Any criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court ; but, if they are used by the police-officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Evidence Act, section 161 or section 145, as the case may be, shall apply.

173. (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

Report of police-officer.

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the President of the Union, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the President of the Union, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.

(2) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the President of the Union by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

¹ (4) * * *

174. (1) The officer in charge of a police-station or some other police-officer specially empowered by the President of the Union in that behalf, on receiving information that a person—

Police to inquire and report on suicide, etc.

(a) has committed suicide, or

(b) has been killed by another, or by an animal, or by machinery, or by an accident, or

¹ Deleted by Act XIII, 1945.

(c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and [* * * *]¹ shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more [* * * *]¹ inhabitants of the neighbourhood, shall make an investigation and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Subdivisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as the President of the Union may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the President of the Union, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) * * * *

(5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Subdivisional Magistrate or Magistrate of the first class, and any Magistrate especially empowered in this behalf by the President of the Union or the District Magistrate.

Power to
summon
persons.

175. (1) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by
Magistrate
into cause of
death.

176. ² (1) When any person dies while in the custody of the police, and, unless a first information report has been recorded under the provisions of section 154, in any other case mentioned in clauses (a), (b) and (c) of sub-section (1) of section 174, the nearest Magistrate empowered to hold inquests shall hold an inquiry into the cause of death, in addition to the investigation held by the police-officer, and in conducting such inquiry he shall have all the

¹ Deleted by Act XIII, 1945.

² Substituted *ibid*.

powers which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in the manner hereinafter prescribed for summons cases, and shall come to a finding as to the cause of death.

(2) Whenever such Magistrate considers 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 his death, the Magistrate may cause the body to be disinterred and examined.

Power to disinter corpses.

PART VI

Proceedings in Prosecutions

CHAPTER XV

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

A.—Place of Inquiry or Trial

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Ordinary place of inquiry and trial.

178. Notwithstanding anything contained in section 177, the President of the Union may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division :

Power to order cases to be tried in different sessions divisions.

Provided that such direction is not repugnant to any direction previously issued by the High Court [* * * *] ¹ under this Code, section 526.

179. 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 a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

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

Illustrations

(a) *A* is wounded within the local limits of the jurisdiction of Court *X*, and dies within the local limits of the jurisdiction of Court *Z*. The offence of the culpable homicide of *A* may be inquired into or tried by *X* or *Z*.

(b) *A* is wounded within the local limits of the jurisdiction of Court *X*, and is during ten days within the local limits of the jurisdiction of Court *Y*, and during ten days more within the local limits of the jurisdiction of Court *Z*, unable in the local limits of the jurisdiction of either Court *Y* or Court *Z* to follow his ordinary pursuits. The offence of causing grievous hurt to *A* may be inquired into or tried by *X*, *Y* or *Z*.

(c) *A* is put in fear of injury within the local limits of the jurisdiction of Court *X*, and is thereby induced, within the local limits of the jurisdiction of Court *Y*, to deliver property to the person who put him in fear. The offence of extortion committed on *A* may be inquired into or tried either by *X* or *Y*.

¹ Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

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

180. 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 whose jurisdiction either act was done.

Illustration

(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 any 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 or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

Being a thug or belonging to a gang of dacoits, escape from custody, etc.

181. (1) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Criminal misappropriation and criminal breach of trust.

(2) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

Theft.

(3) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

Kidnapping and abduction.

(4) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Place of inquiry or trial where scene of offence is uncertain, or not in one district only, or where offence is continuing, or consists of several acts.

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

where an offence is committed partly in one local area and partly in another, or

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

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.

183. 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.

Offence committed on a journey.

184. * * * *

185. (1) Whenever a question arises as to which of two or more Courts subordinate to the High Court ought to inquire into or try any offence, it shall be decided by the High Court.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

(2) * * * *

186. (1) When a District Magistrate, a Subdivisional Magistrate, or, if he is specially empowered in this behalf by the President of the Union, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without the Union of Burma) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in the Union of Burma, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Power to issue summons or warrant for offence committed beyond Local jurisdiction.

Magistrate's procedure on arrest.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

187. (1) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a District Magistrate, such Magistrate shall send the person arrested to the District or Subdivisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

Procedure where warrant issued by subordinate Magistrate.

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of citizens of the Union for offences committed out of the Union of Burma.

¹ 188. When a citizen of the Union commits an offence at any place without and beyond the limits of the Union of Burma, he may be dealt with in respect of such offence as if it had been committed at any place within the Union of Burma at which he may be found :

* * * *

Provided that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in the Union of Burma shall be a bar to further proceedings against him under the Burma Extradition Act in respect of the same offence in any territory beyond the limits of the Union of Burma.

Power to direct copies of depositions and exhibits to be received in evidence.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the President of the Union may, if he thinks fit, direct that copies of depositions made or exhibits produced before [* * * *]² a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

B.—Conditions requisite for Initiation of Proceedings

Cognizance of offences by Magistrates.

190. (1) Except as hereinafter provided, any District Magistrate or Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf may take cognizance of any offence—

- (a) upon receiving a complaint of facts which constitute such offence ;
- (b) upon a report in writing of such facts made by any police-officer ;
- (c) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(2) The President of the Union, or the District Magistrate subject to the general or special orders of the President of the Union, may empower any Magistrate to take cognizance under sub-section (1), clause (a) or clause (b), of offences for which he may try or commit for trial.

(3) The President of the Union may empower any Magistrate of the first or second class to take cognizance under sub-section (1), clause (c), of offences for which he may try or commit for trial.

Transfer or commitment on application of accused.

191. When a Magistrate takes cognizance of an offence under sub-section (1), clause (c), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more

¹ Am ended by the Union of Burma (Adaptation of Laws) Order, 1948.

² Omitted *ibid*.

than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate.

192. (1) Any District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him. Transfer of cases by Magistrates.

(2) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

193. (1) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf. Cognizance of offences by Courts of Session.

(2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the President of the Union, by general or special order, may direct them to try, or as the Sessions Judge of the division, by general or special order, may make over to them for trial.

194. (1) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided. Cognizance of offences by High Court.

Nothing herein contained shall be deemed to affect the provisions of any [law for the time being in force]¹ or any other provision of this Code.

(2) (a) Notwithstanding anything in this Code contained, the Attorney-General may, with the previous sanction of the President of the Union, exhibit to the High Court, against person subject to the jurisdiction of the High Court, informations for all purposes for which His Majesty's Attorney-General may exhibit informations on behalf of the Crown in the High Court of Justice in England. Information by Attorney-General.

(b) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by His Britannic Majesty's Attorney-General so far as the circumstances of the case and the practice and procedure of the said High Court will admit.

(c) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the [State]¹.

(d) The High Court may make rules for carrying into effect the provisions of this section.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

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.

195. (1) No Court shall take cognizance—

- (a) of any offence punishable under sections 172 to 188 of the Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate ; or
- (b) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate ; or
- (c) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.

(2) In clauses (b) and (c) of sub-section (1) the term " Court " includes a civil, revenue or criminal Court, but does not include a Registrar or Sub-Registrar under the Registration Act.

(3) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a civil Court from whose decrees no appeal ordinarily lies to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such civil Court is situate:

Provided that—

- (a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate ; and
- (b) where appeals lie to a civil and also to a revenue Court, such Court shall be deemed to be subordinate to the civil or revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

(4) The provisions of sub-section (1), with reference to the offences named therein, apply also to criminal conspiracies to commit such offences and to the abetment of such offences, and attempts to commit them.

(5) Where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.

¹ 196. No Court shall take cognizance of any offence punishable under Chapter VI or VIB or IXA of the Penal Code (except section 127, section 171F, so far as it relates to the offence of personation, and section 171J), or punishable under section 108A, or section 153A, or section 294A of the same Code, unless upon complaint made by order of or under authority from the President of the Union or some officer empowered by the President of the Union in this behalf.

Prosecution for offences against the State and for offences relating to elections.

¹ 196A. No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Penal Code.

Prosecution for certain classes of criminal conspiracy.

- (1) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of section 196 apply, unless upon complaint made by order of or under authority from the President of the Union or some officer empowered by the President of the Union in this behalf, or
- (2) in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, unless the President of the Union, or a District Magistrate empowered in this behalf by the President of the Union, has, by order in writing, consented to the initiation of the proceedings :

Provided that where the criminal conspiracy is one to which the provisions of sub-section (4) of section 195 apply no such consent shall be necessary.

196B. In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (3).

Preliminary inquiry in certain cases.

197. (1) When any person who is a Judge within the meaning of section 19 of the Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of the President of the Union [or some higher authority]², is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the President of the Union.

Prosecution of Judges and public servants.

(2) The President of the Union may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Power of President as to prosecution.

¹ Amended by Act XIII, 1945, Act XX, 1950, and Act XXIV, 1951.

² The words in brackets should have been omitted.

Prosecution
for breach of
contract,
defamation
and offences
against
marriage.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Penal Code, or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence :

Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf.

Prosecution
for adultery
or enticing a
married
woman.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, made with the leave of the Court by some person who had care of such woman on his behalf at the time when such offence was committed :

Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf.

Objection
by lawful
guardian
to complaint
by person
other than
person
aggrieved.

199A. When, in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof.

CHAPTER XVI

OF COMPLAINTS TO MAGISTRATES

Examination
of complain-
ant.

200. A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate :

Provided as follows :—

- (a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192 ;
- (aa) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by

a public servant acting or purporting to act in the discharge of his official duties ;

- (b) * * * *
- (c) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

201. (1) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

Procedure by Magistrate not competent to take cognizance of the case.

(2) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

202. (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorized to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint ;

Postponement for issue of process.

Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200.

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(2A) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.

203. The Magistrate before whom a complaint is made, or to whom it has been transferred, may dismiss the complaint if, after considering the statement on oath (if any) of the complainant and the result of the investigation or inquiry (if any) under section 202, there is in his judgment no sufficient ground for proceeding. In such case he shall briefly record his reasons for so doing.

Dismissal of complaint.

CHAPTER XVII

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

204. (1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the

Issue of process.

attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

(2) Nothing in this section shall be deemed to affect the provisions of section 90.

(3) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused.

205. (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT

Power to commit for trial.

206. (1) Any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the President of the Union, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

(2) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries preparatory to commitment.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court.

Taking of evidence produced.

208. (1) The 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 may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

(2) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

Process for production of further evidence.

(3) If the complainant or officer conducting the prosecution or the accused applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall

issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

209. (1) When the evidence referred to in section 208, sub-sections (1) and (3), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

When accused person to be discharged.

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

210. (1) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied 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.

(2) As soon as such 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.

211. (1) When the charge has been read and explained to him, the accused shall be required to state forthwith whether he desires to give evidence on his own behalf and whether he desires to call witnesses, and the Magistrate shall warn him in the manner required by sub-section (1) of section 342.

List of witnesses for defence on trial.

(2) If the accused states that he desires to call witnesses, he shall be required at once to give in, orally or in writing, a list of the persons, and their occupations and addresses, whom he wishes to be summoned to give evidence on his trial.

(3) The Magistrate may, in his discretion, allow the accused to give in an further list of witnesses at a subsequent time; and nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Court a further list of persons whom he wishes to be summoned to give evidence on such trial: provided that nothing in this subsection shall entitle the accused to require that any person named in such subsequent list shall be summoned and examined at such trial.

Further list.

212. The Magistrate may, in his discretion, if the accused desires to give evidence on his own behalf, take the evidence of the accused in manner hereinafter provided, and may also summon and take the evidence of witnesses named in any list given in to him under section 211.

Power of Magistrate to examine such witnesses.

Order of commitment. ¹ 213. (1) When the accused has declined to give evidence or to give in a list of witnesses under section 211, or when he has either stated that he desires to give evidence or has given in such list, or has both expressed his desire to give evidence and has given in such list, and the Magistrate has, if he decides so to do, taken the evidence of the accused, and of the witnesses included in such list whom he desires to examine, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session, as the case may be.

(2) If the Magistrate, after hearing the evidence of the accused and of the witnesses (if any) for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused, and in such case he shall record his reasons for discharging the accused.

214. * * * *

Quashing commitments under section 213. 215. A commitment once made under section 213 by a competent Magistrate, or by a civil or revenue Court under section 478, can be quashed by the High Court only, and only on a point of law.

Summons to witnesses for defence when accused is committed. 216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list as have not appeared before himself to appear before the Court to which the accused has been committed :

Provided that [* * * *]² the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the Court, and such witnesses may be summoned accordingly :

Refusal to summon unnecessary witness unless deposit made. Provided also that, if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, the 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 Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Bond of complainants and witnesses. 217. (1) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond. (2) If any complainant or witness refuses to attend before the Court of Sessions or High Court or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance

¹ Substituted by Act XIII, 1945.

² Deleted *ibid*.

at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

218. (1) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the President of the Union in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge :

Commitment when to be notified.

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence (* * * *)¹ to the Clerk of the Court or other officer appointed in this behalf (* * * *)¹.

Charge, etc., to be forwarded to High Court or Court of Session.

²(2)

219. (1) The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206 may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

Power to summon supplementary witnesses.

(2) Such examination shall, if possible, be taken in the presence of the accused, and a copy of the evidence of such witnesses shall be given to the accused free of cost.

220. Until and during the trial the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody.

Custody of accused pending trial.

CHAPTER XIX

OF THE CHARGE

Form of Charges

221. (1) Every charge under this Code shall state the offence with which the accused is charged.

Charge to state offence.

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

Specific name of offence sufficient descriptions

(3) 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.

How stated where offence had no specific name.

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

(5) 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.

¹ Deleted by Act XIII, 1945.

² Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Language of charge.

(6) The charge shall be written [* * * *]¹ in the language of the Court.

Previous conviction when to be set out.

(7) If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge. If such statement has been omitted, the Court may add it at any time before sentence is passed.

Illustrations

2 (a) *A* is charged with the murder of *B*. This is equivalent to a statement that *A*'s act fell within the definition of murder given in sections 299 and 300 of the 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 five exceptions to section 300, 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 326 of the Penal Code, with voluntarily causing grievous hurt to *B* by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Penal Code, and that the general exceptions did not apply to it.

(c) *A* is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that *A* committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the 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 184 of the 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 these words.

Particulars as to time, place and person.

222. (1) 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.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234 :

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 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.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Illustration (a) should have been amended in view of the amendments to sections 299 and 300 of the Penal Code.

Illustrations

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

214. 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.

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

215. 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 in fact misled by such error or omission, and it has occasioned a failure of justice.

Effect of errors.

Illustrations

- (a) *A* is charged, under section 242 of the 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 the case, a material error.
- (d) *A* is charged with the murder of Khoda Baksh on the 21st January 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January 1882. *A* was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that *A* was not misled, and that the error in the charge was immaterial.
- (e) *A* was charged with murdering Haidar Baksh on the 20th January 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that *A* was misled, and that the error was material.

Procedure on
commitment
without
charge or
with
imperfect
charge.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, (* * * *)¹ the Clerk of the Court, may frame a charge or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Illustrations

1. *A* is charged with the murder of *C*. A charge of abetting the murder of *C* may be added or substituted.

2. *A* is charged with forging a valuable security under section 467 of the Penal Code. A charge of fabricating false evidence under section 193 may be added.

3. *A* is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Penal Code cannot be added.

Court may
alter charge.

227. ²(1) Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials by jury before the Court of Session or High Court, before the verdict of the jury is returned.

(2) Every such alteration or addition shall be read and explained to the accused.

When trial
may proceed
immediately
after
alteration.

228. (1) Whenever a charge is altered or added to by the Court after the commencement of the trial the Court may, in its discretion, either—

- (a) proceed with the trial as if the new or altered charge had been the original charge, or
- (b) adjourn the trial for such period as it may, in the interest of justice, deem necessary, or
- (c) direct a new trial.

(2) When the Court either proceeds with or adjourns the trial under clause (a) or clause (b) of sub-section (1), the prosecution and the accused shall be allowed to recall and examine, with reference to such alteration of or addition to the charge, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

¹ 229. * * *

Stay of
proceedings
if prosecu-
tion of
offence in
altered
charge
requires
previous
sanction.

230. If the offence stated in the new or altered or added 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.

¹ 231. * * *

¹ Omitted by Act XIII, 1945.

² Substituted *ibid.*

232. (1) If any appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, 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.

(2) 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 196 of the 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

233. 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 234, 235, 236 and 239.

Separate charges for distinct offences.

Illustration

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

234. (1) 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, whether in respect of the same person or not, he may be charged with and tried at one trial for any number of them not exceeding three.

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

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Penal Code or of any special or local law :

Provided that, for the purpose of this section, an offence punishable under section 379 of the Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Penal Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.

235. (1) 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.

Trial for more than one offence.

Offence
falling
within two
definitions.

(2) 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.

Acts
constituting
one offence,
but
constituting
when
combined a
different
offence.

(3) 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, and for any offence constituted by any one or more of such acts.

(4) Nothing contained in this section shall affect the Penal Code, section 71.

Illustrations

to sub-section(1)—

(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 convicted of, offences under sections 225 and 333 of the Penal Code.

(b) *A* commits house-breaking by day with intent to commit adultery, and commits in the house so entered adultery with *B*'s wife. *A* may be separately charged with, and convicted of, offences under sections 454 and 497 of the Penal Code.

(c) *A* entices *B*, the wife of *C*, away from *C*, with intent to commit adultery with *B*, and then commits adultery with her. *A* may be separately charged with, and convicted of, offences under sections 498 and 497 of the Penal Code.

(d) *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 466 of the Penal Code. *A* may be separately charged with, and convicted of, the possession of each seal under section 473 of the Penal Code.

(e) 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 charges. *A* may be separately charged with, and convicted of, two offences under section 211 of the Penal Code.

(f) *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 211 and 194 of the Penal Code.

(g) *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 147, 325 and 152 of the Penal Code.

(h) *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 506 of the Penal Code.

The separate charges referred to in Illustrations (a) to (h) respectively may be tried at the same time.

to sub-section(2)—

(i) *A* wrongfully strikes *B* with a cane. *A* may be separately charged with, and convicted of, offences under sections 352 and 323 of the Penal Code.

(j) 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 grain pit. *A* and *B* may be separately charged with, and convicted of, offences under sections 411 and 414 of the Penal Code.

(k) *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 317 and 304 of the Penal Code.

(l) *A* dishonestly uses a forged document as genuine evidence, in order to convict *B*, a public servant, of an offence under section 167 of the Penal Code. *A* may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the Penal Code.

to sub-section (3)—

(m) *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 323, 392 and 394 of the Penal Code.

236. 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 with 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.

When it is doubtful what offence has been committed.

Illustrations

(a) *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.

(b) *A* states on oath before the Magistrate that he saw *B* hit *C* with a club. Before the Sessions Court *A* states on oath that *B* never hit *C*. *A* may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

237. If, in the case mentioned in section 236, 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.

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.

238. (1) 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 offence proved included in offence charged.

(2) 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.

(2A) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(3) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations

(a) A is charged, under section 407 of the 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 405 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 406.

(b) A is charged, under section 325 of the Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

What persons may be charged jointly.

239. The following persons may be charged and tried together, namely :—

- (a) persons accused of the same offence committed in the course of the same transaction ;
- (b) persons accused of an offence and persons accused of abetment of or of an attempt to commit such offence.
- (c) persons accused of more than one offence of the same kind, within the meaning of section 234, committed by them jointly within the period of twelve months ;
- (d) persons accused of different offences committed in the course of the same transaction ;
- (e) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence ;
- (f) persons accused of offences under sections 411 and 414 of the Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence ; and
- (g) persons accused of any offence under Chapter XII of the Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence ;

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.

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

240. When in the same trial several charges are framed against the same person and when a conviction has been had on one or more of such charges the complainant or the officer in charge of the prosecution may, with the consent of the Court, at any time before judgment is pronounced or the verdict of the jury is returned on the remaining charge or charges, withdraw such charge or charges, or the Court of its own accord may stay the trial of such charge or charges. Such withdrawal or stay shall have the effect of an

¹ Substituted by Act XIII, 1945.

acquittal on such charge or charges unless the conviction be set aside, in which case the Court (subject to the order of the Court setting aside the conviction) may proceed with the trial of the charge or charges so withdrawn or stayed.

CHAPTER XX

OF THE TRIAL OF SUMMONS CASES BY MAGISTRATES

241. The following procedure shall be observed by Magistrates in the trial of summons cases. Procedure in summons cases.

242. When the accused appears or is brought before the 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. Substance of accusation to be stated.

243. If the accused 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 may convict him accordingly. Conviction on admission of truth of accusation.

244. ¹(1) If the Magistrate does not convict the accused under section 243 or if the accused does not make such admission, the 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, if the accused desires to give evidence on his own behalf, to hear the accused, or, if the accused does not desire to give evidence, to examine the accused, and take all such evidence as the accused produces in his defence; provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court. Procedure when no such admission is made.

(2) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue a summons to any witness directing him to attend or to produce any document or other thing.

(3) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

245. (1) If the Magistrate, upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and [(if the accused does not give evidence)] ¹ examining the accused, finds the accused not guilty, he shall record an order of acquittal. Acquittal.

(2) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law. Sentence.

¹ Substituted by Act XIII, 1945.

Findings not limited by complaint or summons.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

Non-appearance of complainant.

247. 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 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.

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance and proceed with the case.

Withdrawal of complaint.

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

Power to stop proceedings when no complainant.

249. In any case instituted otherwise than upon complaint, a Magistrate of the first class, or with the previous sanction of the District Magistrate any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

F frivolous Accusations in Summons and Warrant Cases.

False, frivolous or vexatious accusation.

250. (1) If, in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(2A) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the persons ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(2B) When any person is imprisoned under sub-section (2A), the provisions of sections 68 and 69 of the Penal Code shall, so far as may be, apply.

(2C) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him :

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(3) A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second or third class to pay compensation [* * * *]¹ may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases. Procedure in
warrant-
cases.

252. (1) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution, and the accused shall have the right to cross-examine the complainant (if any) and the witnesses produced in support of the prosecution. Evidence for
prosecution.

Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by the Court.

(2) The Magistrate 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 to give evidence before himself such of them as he thinks necessary, and the accused shall have the right to cross-examine such person summoned to give evidence for the prosecution. Discharge
of accused.

¹ The words "or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees" were deleted by Act XIII, 1945.

² Substituted by Act LVI, 1957.

253. (1) If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

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

Charge to be framed when offence appears proved.

254. If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

Plea.

255. (1) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(2) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

Procedure in case of previous convictions.

255A. In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (2), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.

Defence.

256. (1) If the accused refuses to plead, or does not plead or claims to be tried, he shall be required to state forthwith whether he wishes to cross-examine any, and, if so, which of the witnesses for the prosecution whose evidence has been taken. If he says that he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and after cross-examination and re-examination (if any) they also shall be discharged. The accused shall then be called upon to enter upon his defence, and if he puts in any written statement it shall be filed with the record.

(2) On entering upon his defence the accused shall be asked whether he desires to give evidence on his own behalf, and the Magistrate shall warn him in the manner required by sub-section (1) of section 342. If the accused decides to give evidence, his evidence shall next be taken, and after his cross-examination and re-examination (if any) the evidence of witnesses for the defence (if any) shall be taken. If the accused declines to give evidence, he shall, before the evidence of the witnesses for the defence is taken, be examined in the manner provided by sub-section (2) of section 342.

¹ Substituted by Act XIII, 1945.

257. (1) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing :

Process for compelling production of evidence at instance of accused.

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(2) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

258. (1) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Acquittal.

(2) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.

Conviction.

259. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded, or is not a cognizable offence, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

Absence of complainant.

CHAPTER XXII

OF SUMMARY TRIALS

260. (1) Notwithstanding anything contained in this Code,—

Power to try summarily.

- (a) the District Magistrate,
- (b) any Magistrate of the first class specially empowered in this behalf by the President of the Union, and
- (c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the President of the Union

may, if he or they think fit, try in a summary way all or any of the following offences :—

- ¹[(a) offences not punishable with death, transportation or imprisonment for a term exceeding one year ;
- (b) theft, under section 379, 380 or 381 of the Penal Code, where the value of the property stolen does not exceed one hundred rupees ;

¹ Substituted by Act XIII, 1945.

- (c) dishonest misappropriation of property under section 403, and criminal breach of trust under section 406, of the same Code, where the value of the property misappropriated or converted does not exceed one hundred rupees ;
- (d) receiving or retaining stolen property under section 411, and assisting in the concealment or disposal of stolen property under section 414, of the same Code, where the value of such property does not exceed one hundred rupees ;
- (e) mischief under section 427 of the same Code ;
- (f) offences under sections 451, 453, 454, 456 and 457 of the same Code ;
- (g) insult with intent to provoke a breach of the peace under section 504, and criminal intimidation under section 506, of the same Code ;
- (h) abetment of any of the foregoing offences ;
- (i) attempt to commit any of the foregoing offences, when such attempt is an offence ;
- (j) offences under section 20 of the Cattle Trespass Act :]

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

(2) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to re-hear the case in manner provided by this Code.

Power to invest Bench of Magistrates invested with less power.

261. The President of the Union may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

- ¹ [(a) offences not punishable with death, transportation or imprisonment for a term exceeding three months ;
- (b) offences against sections 264, 265, 266, 269, 271, 272, 273, 274, 275, 276, 279, 280, 282, 284, 285, 286, 289, 290, 291, 292, 293, 294, 323, 337, 342, 374, 434, 448, and 504, of the Penal Code ;
- (c) theft under section 379 or 380 of the same Code, where the value of the property stolen does not exceed fifty rupees ;
- (d) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees ;
- (e) receiving or retaining stolen property under section 411, and assisting in the concealment or disposal of stolen property under section 414 of the same Code, where the value of such property does not exceed fifty rupees ;

¹ Substituted by Act XIII, 1945.

- (f) abetment of any of the foregoing offences ;
- (g) attempt to commit any of the foregoing offences when such attempt is an offence.]

262. (1) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Procedure for summons and warrant-cases applicable.

(2) No sentence of imprisonment for a term exceeding [six months]¹ shall be passed in the case of any conviction under this Chapter.

Limit of imprisonment.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge ; but he or they shall enter in such form as the President of the Union may direct the following particulars :—

Record in cases where there is no appeal.

- (a) the serial number ;
- (b) the date of the commission of the offence ;
- (c) the date of the report or complaint ;
- (d) the name of the complainant (if any) ;
- (e) the name, parentage and residence of the accused ;
- (f) the offence complained of and the offence (if any) proved, and in cases coming [under clause (b), clause (c) or clause (d) of subsection (1) of section 260 or clause (c), clause (d) or clause (e) of section 261,]¹ the value of the property in respect of which the offence has been committed ;
- (g) the plea of the accused and his examination (if any) ;
- (h) the finding, and in the case of a conviction a brief statement of the reasons therefor ;
- (i) the sentence or other final order ; and
- (j) the date on which the proceedings terminated.

264. (1) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

Record in appealable cases.

(2) Such judgment shall be the only record in cases coming within this section.

¹265. (1) Records made under section 263 and judgments recorded under section 264 shall be written or prepared by the Magistrate [* * *]² in the language of the Court, and shall be signed by him.

Language of record and judgment.

(2) The President of the Union may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the District

Bench may be authorized to employ clerk.

¹ Substituted by Act XIII. 1945.

² Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Magistrate, and the record or judgment so prepared shall be signed by each member of the Bench present and taking part in the proceedings.

(3) If no such authorization is given, the record prepared by any member of the Bench and signed as aforesaid shall be the proper record.

(4) If the members of the Bench differ in opinion any dissentient member may write a separate judgment.

CHAPTER XXIII

OF TRIALS BEFORE THE HIGH COURT AND COURTS OF SESSION

A.—Preliminary

266. * * * *

Trials before
High Court
to be by jury.

267. All trials under this Chapter before the High Court shall be by jury, and, notwithstanding anything herein contained, in all criminal cases transferred to the High Court the trial may, if the High Court so directs, be by jury.

268. * * * *

President
may order
trials before
Court of
Session to
be by jury.

269. (1) The President of the Union may, by order in the Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may revoke or alter such order.

(2) The President of the Union, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the Judge on application made to him or of his own motion so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(3) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session [* * * *]¹ for such of them as are not triable by jury.

Trial before
Court of
Session to be
conducted
by Public
Prosecutor.

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings

Commence-
ment of trial.

271. (1) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge 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.

(2) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

¹ Deleted by Act XIII, 1945.

¹ 272. If the accused refuses to or does not plead, or if he claims to be tried, the Court shall proceed to choose jurors (if the offence is triable by jury) as hereinafter directed and to try the case; provided that, subject to the right of objection hereinafter mentioned, the same jury may try as many accused persons successively as the Court thinks fit.

Refusal to plead or claim to be tried.
Trial by same jury of several offenders in succession.

273. (1) In trials before the High Court, when it appears to the High 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.

Entry on unsustainable charges.

(2) 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.

C.—Choosing a Jury

274. (1) In trials before the High Court the jury shall consist of nine persons.

Number of jury.

(2) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than five or more than nine, as the President of the Union, by order applicable to any particular district or to any particular class of offences in that district, may direct:

Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist of not less than seven persons [* * * *]².

² 275. * * * *

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule³ direct:

Jurors to be chosen by lot.

Provided that—

first, pending the issue under this section of rules for any Court the practice now prevailing in such Court in respect to the choosing of jurors shall be followed;

Existing practice maintained;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present;

persons not summoned when eligible;

¹ Substituted by Act XIII, 1945.

² Omitted *ibid.*

³ See High Court Rules and Orders.

trial before
special
jurors.

thirdly, in a trial at Rangoon before the High Court—

- (a) if the accused person is charged with having committed an offence punishable with death, or
- (b) if in any other case a Judge of the High Court so directs, the jurors shall be chosen from the special jury list hereinafter prescribed ; and

fourthly, in any district for which the President of the Union has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

Names of
jurors to be
called.

277. (1) 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 to
jurors.

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

Objection
without
grounds
stated.

Provided that, in the High Court, objection without grounds stated shall be allowed to the number of eight on behalf of the Government and eight on behalf of the person or all the persons charged.

Grounds of
objection.

278. 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 grounds, such as alienage, 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 twenty-one or above the age of sixty years ;
- (c) his having by habit or religious vows relinquished all care of worldly affairs ;
- (d) his holding any office in or under the Court ;
- (e) his executing any duties of police or being entrusted with police-duties ;
- (f) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;
- (g) his inability to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted ;
- (h) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

Decision of
objection.

279. (1) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

(2) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, 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:

Supply of place of juror against whom objection allowed.

Provided that no objection to such juror or other person is taken under section 278 and allowed.

280. (1) When the jurors have been chosen, they shall appoint one of their number to be foreman.

Foreman of jury.

(2) 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.

(3) 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.

281. When the foreman has been appointed, the jurors shall be sworn under the Oaths Act.

Swearing of jurors.

282. (1) 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.

Procedure when juror cases to attend, etc.

(2) In each of such cases the trial shall commence a new.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

Discharge of jury in case of sickness of prisoner.

D.—Choosing Assessors

¹284. * * * *

¹284A. * * * *

¹285. * * * *

DD.—Joint trials

¹285A. * * * *

¹ Omitted by Act XIII, 1945.

E.—Trial to Close of Cases for Prosecution and Defence

Opening
case for
prosecution.

286. ¹(1) If the trial is by jury, when the jurors have been chosen, or if the trial is without a jury, when the accused has refused to plead or has claimed to be tried, the prosecutor shall open his case by reading from the Penal Code or other law the description of the offence charged and stating briefly by what evidence he expects to prove the guilt of the accused.

Examination
of witnesses

(2) The prosecutor shall then examine his witnesses.

Examination
of accused
before
Magistrate
to be
evidence.

287. The examination of the accused [if any]³ duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.

Evidence
given at
preliminary
inquiry
admissible.

288. The evidence of a witness duly recorded in the presence of the accused under Chapter XVIII may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case for all purposes subject to the provisions of the Evidence Act.

Procedure
after
examination
of witnesses
for
prosecution.

289. (1) When the examination of the witnesses for the prosecution is concluded, the accused shall be asked whether he desires to give evidence on his own behalf and whether he means to adduce evidence and the presiding Judge shall warn the accused in the manner provided by sub-section (1) of section 342.

(2) If the accused declines to give evidence he shall be examined for the purpose of enabling him to explain any circumstances appearing in the evidence against him, unless the presiding Judge considers such examination unnecessary.

(3) If the accused declines to give evidence and states that he does not mean to adduce evidence, then after the examination (if any) of the accused is concluded 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 record a finding of acquittal, or in a case tried by jury direct the jury to return a verdict of not guilty.

(4) If the accused, or any one of several accused, desires to give evidence on his own behalf or says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, it may nevertheless record a finding of acquittal, or in a case tried by jury direct the jury to return a verdict of not guilty.

(5) 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

¹ Substituted by Act XIII, 1945.

² See section 80 of the Evidence Act.

³ Inserted by Act XIII, 1945.

that there is evidence that the accused committed the offence, the Court shall call on the accused to enter upon his defence.

¹ 290. 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. The accused shall then give evidence, if he desires to give evidence, on his own behalf, and after his examination, cross-examination and re-examination (if any) he shall examine his witnesses (if any), and after their cross-examination and re-examination (if any) he may sum up his case. Defence.

291. 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 211 and [228]¹, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial. Right of accused as to examination and summoning of witnesses.

292. The prosecutor shall be entitled to reply—

- ¹ (a) if the accused or any of the accused examines any witness; or
- (b) with the permission of the Court, on a point of law; or
- (c) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence:

Prosecutor's right of reply.

Provided that, in the case referred to in clause (c) the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced.

293. (1) Whenever the Court thinks that the jury [* *]² 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 [* *]² 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.

(2) 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 [* *]², and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

294. If a juror [* *]² 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. When juror may be examined.

¹ Substituted by Act XIII, 1945.

² Deleted *ibid*.

Jury to
attend at
adjourned
sitting.

Locking
up jury.

295. If a trial is adjourned, the jury [* *]¹ shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial [* * *]¹ 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 in Cases tried by Jury

Charge to
jury.

297. In cases tried by jury, 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.

298. (1) In such cases 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.

(2) 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 tender evidences of such statement admissible. 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.

Duty of jury.

299. It is the duty of the 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 ;

¹ Deleted by Act XIII, 1945.

- (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.

Illustration

(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.

300. In cases tried by jury, 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 juror shall speak to or hold any communication with any member of such jury.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority. Delivery of verdict.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous. Procedure where jury differ.

303. (1) 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. Judge may question jury.

(2) Such questions and the answers to them shall be recorded.

Questions and answers to be recorded.

304. 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. Amending verdict.

Verdict in High Court when to prevail. **305.** (1) When in a case tried before the High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(2) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of Jury in other cases. (3) If the Judge disagrees with the majority, he shall at once discharge the jury.

(4) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail. **306.** (1) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 562, pass sentence on him according to law.

Procedure where Sessions Judge disagrees with verdict. **307.** (1) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which any accused person has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case in respect of such accused person to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed, and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction.

(2) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which such accused has been tried, but he may either remand such accused to custody or admit him to bail.

(3) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict such accused of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury

Re-trial of accused after discharge of jury. **308.** 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 unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

H.—Conclusion of Trial in Cases tried (without a jury)¹

1309. When in a case tried without a jury the case for the defence and the prosecutor's reply (if any) are concluded, the Judge shall give judgment, and if the accused is convicted he shall, unless he proceeds in accordance with the provisions of section 562, pass sentence on the accused according to law. Judgment.

I.—Procedure in case of previous Conviction

1310. In the case of a trial by jury, when the accused is charged with an offence and is further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution or any evidence adduced thereon, unless and until— Procedure in case of previous conviction.

- (i) he has been convicted of the subsequent offence, or
- (ii) the jury have delivered their verdict on the charge of the subsequent offence.

1311. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Evidence Act. When evidence of previous conviction may be given.

J.—List of Jurors for High Court, and summoning Jurors for that Court

1312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors' list. Number of special jurors.

1313. (1) The Clerk of the Court shall, before the first day of April in each year, and subject to such rules³ as the High Court from time to time prescribes, prepare— List of common and special jurors.

- (a) a list of all persons liable to serve as common jurors ; and
- (b) a list of persons liable to serve as special jurors only.

(2) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(3) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

(3A) Members of either Chamber of the Union Parliament shall be exempt from serving as jurors.

(4) The President of the Union may exempt any salaried officer⁴ of Government from serving as a juror.

¹ Substituted by Act XIII, 1945.

² The proviso to section 312 was omitted *ibid.*

³ See High Court Rules and Orders.

⁴ For exemption of certain Officers, see *Burma Gazette*, 1941, Part I, p. 1367.

Discretion
of officer
preparing
lists.

(5) The Clerk of the Court shall, subject to such rules as aforesaid, have full discretion to prepare the said list as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Publication
of lists,
preliminary
and revised.

314. (1) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Court, shall be published once in the Gazette before the fifteenth day of April next after their preparation.

(2) Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the Gazette before the first day of May next after their preparation.

(3) Copies of the said lists shall be affixed to some conspicuous part of the court-house.

Number of
jurors to be
summoned.

315. (1) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in Rangoon as many of those who are liable to serve on special or common juries respectively as the Clerk of the Court considers necessary.

(2) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

Supplemen-
tary
summons.

(3) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

Summoning
jurors out-
side the place
of sitting of
the High
Court.

316. Whenever the High Court has given notice of its intention to hold sittings at any place outside Rangoon for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

Military
jurors.

317. (1) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the Commanding Officer, cause to be summoned such number of commissioned and non-commissioned officers in (the Burma)¹ Army or Air Force resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

(2) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his Commanding Office desires to have excused on the ground of urgent official duty, or for any other special official reason.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

318. Any person summoned under section 315, section 316 or section 317, who without lawful excuse fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit : and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid :

Failure of jurors to attend.

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

K.—List of Jurors [* *]¹ for Court of Session, and summoning Jurors [* *]¹ for that Court.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors [* *]¹ at any trial held within the district in which they reside, or, if the President of the Union, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

Liability to serve as jurors.

320. The following persons are exempt from liability to serve as jurors [* *]¹, namely :—

Exemptions.

- (a) officers in civil employ superior in rank to a District Magistrate ;
- (aa) members of either Chamber of the Union Parliament ;
- (b) salaried Judges ;
- (c) Commissioners and Collectors of Revenue or Customs ;
- (d) police-officers and persons engaged in the Preventive Service in the Customs Department ;
- (e) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty ;
- (f) persons actually officiating as priests or ministers of their respective religions ;
- (g) persons in [the Burma]² Army, Navy, or Air Force, except when, by any law in force for the time being, they are specially made liable to serve as jurors [* *]¹ ;
- (h) surgeons and others who openly and constantly practise the medical profession ;
- (i) legal practitioners (as defined by the Legal Practitioners' Act) in actual practice ;
- (j) persons employed in the Post-Office and Telegraph Departments ;
- (k) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure ;
- (l) other persons exempted by the President of the Union from liability to serve as jurors [* *]¹

¹ Deleted by Act XIII, 1945.

² Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

- List of jurors.** ¹321. (1) The Clerk of the Court shall prepare and make out in alphabetical order a list of persons liable to serve as jurors and qualified in his judgment to serve as such and not likely to be successfully objected to under section 278, clauses (b) to (h), inclusive.
- (2) The list shall contain the name, place of abode and quality or business of every such person.
- Publication of list.** 322. Copies of such list shall be stuck up [* * * *]² in the court-houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside.
- Objections to list.** 323. To every such copy or extract shall be sub-joined a notice stating that objections to the list will be heard and determined by the Sessions Judge and [District Magistrate]¹ at the sessions court-house, and at a time to be mentioned in the notice.
- Revision of list.** 324. (1) For the hearing of such objections the Sessions Judge shall sit with the [District Magistrate]¹ and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror, [* * * *]² or who may establish his right to any exemption from service given by section 320, and insert the name of any person omitted from the list whom they deem qualified for such service.
- (2) In the event of a difference of opinion between the Sessions Judge and the [District Magistrate]¹, the name of the proposed juror [* * * *]² shall be omitted from the list.
- (3) A copy of the revised list shall be signed by the Sessions Judge and [District Magistrate]¹ and sent to the [Clerk of the Court]¹.
- (4) Any order of the Sessions Judge and [District Magistrate]¹ in preparing and revising the list shall be final.
- (5) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.
- Annual revision of list.** (6) The list so prepared and revised shall be again revised once in every year.
- (7) The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.
- Preparation of list of special jurors.** 325. In the case of any district for which the President of the Union has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the [Clerk of the Court]¹ shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, [in his opinion]¹, by reason of their possessing superior qualifications in respect of property

¹ Substituted by Act XIII, 1945.

² Deleted *ibid.*

character or education, fit persons to serve as special jurors : Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in case not tried by special jury.

326. ¹(1) The Clerk of the Court shall ordinarily at least seven days before the date fixed for holding the sessions summon as many persons named in the said revised list or the said special list as seem to him to be needed for trials by jury at the said sessions, the number to be summoned being not less than double the number required for any such trial.

Clerk of the Court to summon jurors.

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them : and the names so drawn shall be specified in the said letter.

²(3)-(4) * * *

327. The [Clerk of the Court]¹ may direct jurors [* *]² to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors [* *]² for a whole session oppressive or whenever for other reasons such direction is found to be necessary.

Power to summon another set of jurors.

328. Every summons to a juror [* *]² shall be in writing, and shall require his attendance as a juror [* * * *]² at a time and place to be therein specified.

Form and contents of summons.

329. When any person summoned to serve as a juror [* *]² is in the service of the Government or of a Railway Administration the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror [* *]² without inconvenience to the public.

When Government or Railway servant may be excused.

330. (1) The Court of Session may for reasonable cause excuse any juror [* *]² from attendance at any particular session.

Court may excuse attendance of juror.

(2) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

Court may relieve special jurors from liability to serve again as jurors for twelve months.

331. (1) At each session the [Clerk of the Court]¹ shall cause to be made a list of the names of those who have attended as jurors [* *]² at such session.

List of jurors attending.

¹ Substituted by Act XIII, 1945.

² Omitted *ibid.*

(2) Such list shall be kept with the list of the jurors [* *]¹ as revised under section 324.

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

Penalty for
non-atten-
dance of
juror.

332. (1) Any person summoned to attend as a juror [* * *]¹ who without lawful excuse fails to attend as required by summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

(2) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror [* *]¹ within the local limits of the jurisdiction of the Court making the order.

(3) For good cause shown, the Court may remit or reduce any fine so imposed.

(4) In default of recovery of the fine by attachment and sale, such juror [* *]¹ may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for the High Court

Power of
Attorney-
General to
stay prose-
cution.

333. At any stage of any trial before the High Court under this Code, before the return of the verdict, the Attorney-General may, if he thinks fit, inform the Court on behalf of [the Government]² that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of
holding
sittings.

334. For the exercise of its original criminal jurisdiction, the High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of
holding
sittings.

335. (1) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the President of the Union may direct.

(2) But it may, from time to time, with the consent of the President of the Union, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Notice of
sittings.

(3) [The Clerk of the Court]³ shall give notice beforehand in the Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. * * * *

¹ Omitted by Act XIII, 1945.

² Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

³ Substituted by Act XIII, 1945.

CHAPTER XXIV

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

337. (1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof ;

Tender of
pardon to
accomplice.

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

(1A) Every Magistrate who tenders a pardon under sub-section (1) shall record his reasons for so doing : [* * * *].¹

(2) Every person accepting a tender under this section shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any.

(2A) In every case where a person has accepted a tender of pardon and has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be.

(3) Such person, unless he is already on bail, shall be detained in custody until the termination of the trial.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly

Power to
direct tender
of pardon.

¹ Deleted by Act XIII, 1945.

concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

339. (1) Where a pardon has been tendered under section 337 or section 338, and the Public Prosecutor certifies that in his opinion 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, such person 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 :

Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made ; in which case it shall be for the prosecution to prove that such conditions have not been complied with.

(2) The [deposition]¹ made by a person who has accepted a tender of pardon may be given in evidence against him at such trial.

(3) No prosecution for the offence of giving false evidence in respect of such [deposition]¹ shall be entertained without the sanction of the High Court.

Procedure in trial of person under section 339.

339A. (1) The Court trying under section 339 a person who has accepted a tender of pardon shall,—

(a) if the Court is the High Court or Court of Session, before the charge is read out and explained to the accused under section 271, subsection (1), and

(b) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(2) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court [* * *]² or the Magistrate, as the case may be, shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.

Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

340. (1) Any person accused of an offence before a criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader,

¹(2) Any such person as aforesaid may offer himself as a witness on his own behalf at the inquiry into or trial of such offence or in such proceedings.

¹ Substituted by Act XIII, 1945.

² Deleted *ibid.*

341. 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 High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Procedure where accused does not understand proceedings.

342. (1) Every person accused of an offence shall be a competent witness on his own behalf in any inquiry into or trial of the said offence, whether the person so accused is accused solely or jointly with any other person or persons, and his evidence may be used against any person or persons tried jointly with him : Provided as follows :—

Power to examine the accused.

- (a) the accused shall not be examined as a witness except at his own desire ;
- (b) before giving evidence the accused shall be warned by the Court that he is not bound to give evidence, and that if he does so his evidence may be used against any person or persons tried jointly with him ;
- (c) the failure of the accused to give evidence shall not be made the subject of any comment by the prosecution, but the Court and the jury (if any) may draw such inference therefrom as it thinks just ;
- (d) the accused shall not be asked in cross-examination, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that wherewith he is then charged, or is of bad character, unless—
 - (i) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged : or
 - (ii) he has personally or by his pleader asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the witnesses for the prosecution : or
 - (iii) he has in his evidence made statements against any other person tried jointly with him ;
- (e) no prosecution for the offence of giving false evidence shall be instituted against the accused, except with the sanction of the High Court.

(2) (i) Notwithstanding anything contained in sub-section (1), for the purpose of enabling the accused to explain any circumstances appearing in

evidence against him the Court may, at stage of any inquiry or trial without previously warning the accused put such questions to him as the Court considers necessary, and shall, when the accused declines to give evidence on his own behalf, 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.

(ii) The answers given by the accused to the questions put to him under the provisions of clause (i) may be taken into consideration in such inquiry or trial.

(iii) The accused shall not render himself liable to punishment by refusing to answer any questions put to him under clause (i) or by giving false answers to them ; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

(iv) No oath shall be administered to the accused in connection with any examination under this sub-section.

(3) The deposition (if any) of the accused recorded under sub-section (1) and the answers given by him to questions put to him under sub-section (2), clause (i), may be put in evidence for or against him in any other inquiry into or trial for any other offence which such deposition or such answers may tend to show he has committed.

No influence
to be used
to induce
disclosures.

343. Except as provided in sections 337 and 338, 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.

Power to
postpone
or adjourn
proceedings.

344. (1) 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, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody :

Remand.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

(2) Every order made under this section by a Court other than the High Court shall be in writing signed by the presiding Judge or Magistrate.

Reasonable
cause for
remand.

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.

345. (1) The offences punishable under the sections of the Penal Code specified in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table :—

Offence	Sections of Penal Code applicable	Persons by whom offence may be compounded
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
¹ Causing hurt on grave and sudden provocation.	334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force ...	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour ...	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass ...	447	} The person in possession of the property trespassed upon.
House trespass ...	448	
Criminal breach of contract of service	491	The person with whom the offender has contracted.
Adultery ...	497	} The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	
Defamation ...	500	} The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.
Act caused by making a person believe that he will be an object of Divine displeasure.	508	The person against whom the offence was committed.

¹ Substituted by Act XIII, 1945.

(2) The offences punishable under the sections of the Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of the table :—

Offence	Sections of Penal Code applicable	Persons by whom offence may be compounded
¹ Causing hurt	323	The person to whom hurt is caused.
• • • • •	•	• • • • •
Voluntarily causing grievous hurt on grave and sudden provocation.	335	The person to whom hurt is caused,
• • • • •	•	• • • • •
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining a person in secret	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Dishonest misappropriation of property	403	The owner of the property misappropriated.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
• • • • •	•	• • • • •
Mischief by injury to work of irrigation by wrongfully diverting water, when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
• • • • •	•	• • • • •
Marrying again during the lifetime of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it is intended to insult or whose privacy is intruded upon.

¹ Inserted by Act XIII, 1945.

² Entries relating to sections 324, 325, 337, 338, 420, 482, 483 and 486 of the Penal Code were deleted *ibid*.

(3) 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.

(4) When the person who would otherwise be competent to compound an offence under this section is under the age of eighteen years or is an idiot or a lunatic, any person competent to contract on his behalf may with the permission of the Court compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(5A) The High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section.

(6) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

(7) No offence shall be compounded except as provided by this section.

346. (1) If, in the course of an inquiry or a trial before a Magistrate in any district, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

Procedure of Magistrate in cases which he cannot dispose of.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

347. (1) If in any inquiry before a Magistrate, or in any trial before a Magistrate, before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall commit the accused under the provisions hereinbefore contained.

Procedure when, after commencement of inquiry or trial.

(2) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

Magistrate finds case should be committed.

348. (1) Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall, if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused, be committed to the Court of Session or High Court, as the case may be, unless the Magistrate

Trial of persons previously convicted of offences against coinage, stamp-law or property.

is competent to try the case and is of opinion that he can himself pass an adequate sentence if the accused is convicted :

Provided that, if any Magistrate in the district has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

(2) When any person is committed to the Court of Session or High Court under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209.

Procedure when Magistrate cannot pass sentence sufficiently severe.

349. (1) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

(1A) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (1) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate.

(2) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law :

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

350. (1) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself ; or he may re-summon the witnesses and recommence the inquiry or trial :

Provided as follows :—

- (a) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard ;
- (b) the High Court or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction

was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(2) Nothing in this section applies to cases in which proceedings have been stayed under section 346 or in which proceedings have been submitted to a superior Magistrate under section 349.

(3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein and to be succeeded by the latter within the meaning of subsection (1).

¹350A. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred at any stage of the inquiry or trial in the number of Magistrates sitting on the Bench, if the Bench by which such order or judgment is passed is duly constituted under section 15 and the rules made under section 16 and the Magistrates constituting the same have been present on the Bench throughout the proceedings.

Changes in
constitution
of Benches.

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

Detention of
offenders
attending
Court.

(2) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

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

Courts to be
open.

Provided that the presiding Judge or Magistrate may, if he thinks fit, order^a 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.

CHAPTER XXV

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader.

Evidence to
be taken in
presence of
accused.

^a Substituted by Act XIII, 1945.

¹354. * * *

Record in
summons-
cases and
in trials of
certain
offences
by first and
second class
Magistrates.

355. (1) In summons-cases tried before a Magistrate, and in cases of the offences mentioned in sub-section (1) of section 260, clauses (b) to (m), both inclusive, when tried by a Magistrate of the first or second class, and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

²(2) Such memorandum shall be written by the Magistrate or from his dictation in open Court, [* * *]³ in the language of the Court[* * *]³ and shall be signed by him, and shall form part of the record.

¹(3) * * *

Record in
other cases.

²356. In all other trials before Courts of Session and Magistrates, and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in open Court, in the language of the Court [* * *]³, by the Judge or Magistrate or from his dictation and under his personal direction and superintendence, and shall be signed by the Judge or Magistrate.

¹357. * * *

Option to
Magistrate
in cases
under
section 355.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356. [* * *]¹

Mode of
recording
evidence
under section
356.

359. (1) Evidence taken under section 356 [* * *]¹ shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

(2) The Magistrate or Sessions Judge may, in his discretion, taken down, or cause to be taken down, any particular question and answer.

Procedure
in regard to
such evidence
when com-
pleted.

360. (1) As the evidence of each witness taken under section 356 [* * *]¹ is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

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

(3) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

¹ Omitted by Act XIII, 1945.

² Substituted *ibid.*

³ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

361. (1) Whenever an 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.

Interpre-
tation of
evidence to
accused or
his pleader.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

362. * * * *

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Remarks
respecting
demeanour
of witness.

364. (1) Whenever the accused is examined by any Magistrate [under sub-section (2) of section 342]¹, or by any Court other than the High Court the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court, [* * *]²; and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

Examination
of accused
how
recorded.

(2) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge or such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused.

(3) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, as the examination proceeds, to make a memorandum thereof in the language of the Court, [* * *]²; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(4) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

365. The High Court shall from time to time, by general rule³, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the evidence shall be taken down in accordance with such rule.

Record of
evidence in
High Court.

¹ Inserted by Act XIII, 1945.

² Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

³ See High Court Rules and Orders.

CHAPTER XXVI

OF THE JUDGMENT

Mode of
delivering
judgment.

366. (1) The judgment in every trial in any criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained:—

(a) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(b) in the language of the Court, [* * *]¹ or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(3) No judgment delivered by any criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving on the parties or their pleaders or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of
judgment.
Contents of
judgment.

367. (1) Every such judgment shall except as otherwise expressly provided by this Code, be written by the presiding officer of the Court or from the dictation of such presiding officer in the language of the Court, [* * *]¹; 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, and where it is not written by the presiding officer with his own hand every page of such judgment shall be signed by him.

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

Judgment in
alternative.

(3) When the conviction is under the 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.

(4) 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.

²(5) In trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted by Act XXXIII, 1947.

(6) For the purposes of this section, an order under section 118 or section 123, sub-section (3), shall be deemed to be a judgment.

368. (1) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead. Sentence of death.

(2) No sentence of transportation shall specify the place to which the person sentenced is to be transported. Sentence of transportation.

369. Save as otherwise provided by this Code or by any other law for the time being in force, [* * * * *]¹, no Court, when it has signed its judgment, shall alter or review the same, except to correct a clerical error. Court not to alter judgment.

370. * * * *

371. ²(1) On the application of the accused a copy of the judgment shall be given to him without delay. Such copy shall, in any case other than a summons case, be given free of cost. Copy of judgment, etc., to be given to accused on application.

(2) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the application of the accused, be given to him without delay and free of cost.

(3) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred. Case of person sentenced to death.

372. The original judgment shall be filed with the record of proceedings. [* * * * *]¹ Judgment where to be filed.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held. Court of Session to send copy of finding and sentence to District Magistrate.

CHAPTER XXVII

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION

374. When the Court or Session passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court. Sentence of death to be submitted by Court of Session.

375. (1) If, when such proceedings are submitted, the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt of innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court or Session. Power to direct further inquiry to be made or additional evidence to be taken.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Substituted by Act XIII, 1945.

(2) Such inquiry shall not be made, nor shall such evidence be taken, in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(3) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

Power of
High Court
to confirm
sentence
or annul
conviction.

376. In any case submitted under section 374, [* * * *]¹ the High Court—

- (a) may confirm the sentence, or pass any other sentence warranted by law, or
- (b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or
- (c) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirma-
tion or new
sentence to
be signed by
two Judges.

377. In every case so submitted, the confirmation of the sentence or any new sentence or order passed by the High Court shall be made, passed and signed by at least two of the Judges of the Court.

Procedure
in case of
difference
of opinion.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure
in cases
submitted to
High Court
for confirma-
tion.

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

380. * * * *

CHAPTER XXVIII

OF EXECUTION

Execution of
order passed
under sec-
tion 376.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation, or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

¹ Deleted by Act XIII, 1945.

² Omitted *ibid*.

382. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute the sentence to transportation for life. Postponement of capital sentence or pregnant woman.
383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant. Execution of sentences of transportation or imprisonment in other cases.
384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail, or other place in which the prisoner is, or is to be, confined. Direction of warrant for execution.
385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor. Warrant with whom to be lodged.
386. (1) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may— Warrant for levy of fine.
- (a) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender,
 - (b) issue a warrant to the Collector of the District authorizing him to realise the amount by execution according to civil process against the moveable or immoveable property, or both, of the defaulter :
- ¹ Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers that the offender is able to pay the whole or some part of the fine.
- (2) The President of the Union may make rules regulating the manner in which warrants under sub-section (1), clause (a), are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.
- (3) Where the Courts issue a warrant to the Collector under sub-section (1), clause (b), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, and the nearest civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly:

¹ Substituted by Act LIV, 1947.

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

¹(4) Nothing in this section shall affect the provisions of section 388.

Effect of
such warrant.

387. A warrant issued under section 386, sub-section (1), clause (a), by any Court may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the attachment and sale of any such property without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

Suspension
of execution
of sentence
of imprison-
ment.

388. (1) When an offender has been sentenced to fine only [or to fine in addition to a sentence of imprisonment till the rising of the Court]¹ and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

- (a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three installments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and
- (b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the installments thereof, as the case may be, is to be made; and if the amount of the fine or of any installment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.

Who may
issue
warrant.

389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.

Execution of
sentence of
whipping
only.

390. When the accused is sentenced to whipping only, the sentence shall, subject to the provisions of section 391, be executed at such place and time as the Court may direct.

¹ Added by Act XIII, 1945.

391. (1) When the accused—

- (a) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct or
- (b) is sentenced to whipping in addition to imprisonment,

Execution of sentence of whipping in addition to imprisonment.

the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal is 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 fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the appellate Court confirming the sentence.

(2) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

¹(3) * * *

392. (1) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode, and on such part of the person, as the President of the Union directs; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instruments, as the President of the Union directs.

Mode of inflicting punishment.

(2) In no case shall such punishment exceed thirty stripes and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes.

Limit of number of stripes.

393. No sentence of whipping shall be executed by instalments: and none of the following persons shall be punishable with whipping, namely:—

Not to be executed by instalments. Exemptions.

- (a) females;
- (b) males sentenced to death or to transportation [* * *]² or to imprisonment for more than five years:

Provided that a male sentenced to imprisonment for a period exceeding five but not exceeding seven years shall be punishable with whipping under the Whipping Act;

- (c) males whom the Court considers to be more than forty-five years of age.

394. (1) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

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

(2) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is

Stay of execution.

¹ Omitted by Act XIII, 1945.

² Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Procedure if
punishment
cannot be
inflicted
under
section
394.

395. (1) In any case in which, under section 394, a sentence of whipping is wholly or partially prevented from being executed, 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 remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months or to a fine not exceeding five hundred rupees, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(2) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term or a fine of an amount exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

Execution
of sentences
on escaped
convicts.

¹**396.** When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions herein before contained, take effect immediately, and if of imprisonment [* *]² or transportation, shall take effect after he has suffered imprisonment [* *]² or transportation, as the case may be, for a further period equal to that which at the time of his escape remained unexpired of his former sentence.

Sentence on
offender
already
sentenced
for another
offence.

¹**397.** When a person already undergoing a sentence of [imprisonment [* *]² or transportation is again sentenced to imprisonment [* *]² or transportation, such subsequent imprisonment [* *]² or transportation shall commence at the expiration of the imprisonment [* *]² or transportation to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence.

Explanation.—An order committing a person to prison under section 123 is not a sentence of imprisonment.

Saving as to
section 396
and 397.

398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation, [* * * *]² and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, [or transportation]³, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

399. * * * *

¹ Substituted by Act XIII, 1945.

² Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

³ Substituted *ibid.*

400. 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.

Return of
warrant on
execution of
sentence.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES

401. (1) When any person has been sentenced to punishment for an offence, the President of the Union 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.

Power to
suspend or
remit
sentences.

(2) Whenever an application is made to the President of the Union for the suspension or remission of a sentence, the President of the Union may 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, and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the President of Union, not fulfilled, the President of the Union may cancel the suspension or remission, and there upon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(4A) The provisions of the above sub-sections shall also apply to any order passed by a criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.

(5) Nothing herein contained shall be deemed to interfere with the right [* * *]¹ of the President of the Union [* * *]¹ to grant pardons, reprieves, respites or remissions of punishment.

(5A) Where a conditional pardon is granted [* * *]¹ by the President of the Union, any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly.

(6) The President of the Union may, by general rules² or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² For such rules, see *Burma Gazette*, 1941, Part I, p. 106.

Power to
commute
punishment.

402. (1) The President of the Union may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :—

death, transportation, [* *]¹ rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Penal Code.

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS

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

403. (1) 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 236, or for which he might have been convicted under section 237.

(2) 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 235, sub-section (1).

(3) 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.

(4) 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.

(5) Nothing in this section shall affect the provisions of the Burma General Clauses Act or section 188 of this Code.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, 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.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

- (c) *A* is tried for causing grievous hurt and convicted. The person injured afterwards dies. *A* may be tried again for culpable homicide.
- (d) *A* is charged before the Court of Session 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 by a Magistrate of the first class with, and convicted by him 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 the section.
- (f) *A* is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of *B*. *A* may be subsequently charged with, and tried for, robbery on the same facts.
- (g) *A*, *B* and *C* are charged by a Magistrate of the first class with, and convicted by him of, robbing *D*. *A*, *B* and *C* may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII

Of Appeal, Reference and Revision

CHAPTER XXXI

OF APPEALS ¹

404. No appeal shall lie from any judgment or order or a criminal Court except as provided for by this Code or by any other law for the time being in force.

Unless otherwise provided, no appeal to lie.

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeal from order rejecting application for restoration of attached property.

406. Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order to the Court of Session:

Appeal from order requiring security for keeping the peace or for good behaviour.

Provided that the President of the Union may, by notification in the Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate shall lie to the District Magistrate and not to the Court of Session :

Provided further, that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123.

¹ For periods of limitation, see the Limitation Act, Sch. I, second division.

Appeal from
order made
under
section 488
or 489.

406A. Any person aggrieved by an order made under section 488, directing him to pay maintenance on account of his wife or child, or rejecting an application for maintenance for a wife or child, or by an order made under section 489, rejecting or allowing an application for alteration of a maintenance allowance, may appeal against such order to the Court of Session.

Appeal from
sentence of
Magistrate of
the second or
third class.

407. (1) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under [sub-section (5) of section 562]¹ by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

Transfer of
appeals to
first class
Magistrate.

(2) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the President of the Union to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

Appeal from
sentence of
Assistant
Sessions
Judge or
Magistrate
of the first
class.

408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under [sub-section (5) of section 562]¹ by a Magistrate of the first class, may appeal to the Court of Session :

Appeals to
Court of
Session how
heard.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge :

[* * * * *]²

Provided that an Additional Sessions Judge shall hear only such appeals as the President of the Union may, by general or special order, direct or as the Sessions Judge of the division may make over to him.

Appeal from
sentence of
Court of
Session.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court.

411. * * * * *

No appeal in
certain cases
when
accused
pleads guilty.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

¹ Substituted by Act XIII, 1945.

² Deleted by Act II, 1973.

¹ 413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only, or in which a District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding one hundred rupees only.

No appeal in petty cases.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine.

¹ 414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding two hundred rupees only.

No appeal from certain summary convictions.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

Proviso to sections 413 and 414.

Explanation.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

415A. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.

Special right of appeal in certain cases.

416. * * * * *

417. The President of the Union may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than the High Court.

Appeal on behalf of Government in case of acquittal.

418. (1) An appeal may lie on a matter of fact[†] as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

Appeal on what matters admissible.

(2) Notwithstanding anything contained in sub-section (1) or in section 423, sub-section (2), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law.

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

[†] Substituted by Act XIII, 1945.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper appellate Court.

Summary dismissal of appeal.

421. (1) On receiving the petition and copy under section 419 or section 420, the appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily :

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(2) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Notice of appeal.

422. If the appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the President of the Union may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal ;

and, in cases of appeals under section 417, the appellate Court shall cause a like notice to be given to the accused.

Powers of appellate Court in disposing of appeal.

423. (1) The appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

- (a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, of that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law ;
- (b) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or with or without altering the finding, reduce the sentence, or (3) with or without such reduction and with or without altering the finding, alter the nature of the sentence, but, subject to the provisions of section 106, sub-section (3), not so as to enhance the same ;
- (c) in an appeal from any other order alter or reverse such order ;

(d) make any amendment or any consequential or incidental order that may be just or proper.

(2) Nothing herein contained shall authorize the Court to alter reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

424. The rules contained in Chapter XXVI, as to the judgment of a criminal Court of original jurisdiction, shall apply, so far as may be practicable, to the judgment of any appellate Court other than the High Court ;

Judgments of subordinate appellate Courts.

Provided that, unless the appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

425. (1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate the certificate shall be sent through the District Magistrate.

Order by High Court on appeal to be certified to lower Court.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court, and, if necessary, the record shall be amended in accordance therewith.

426. (1) Pending any appeal by a convicted person, the appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond.

Suspension of sentence pending appeal. Release of appellant on bail.

(2) The power conferred by this section on an appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

(3) When the appellant is ultimately sentenced to imprisonment [* * *]¹ or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

427. When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

Arrest of accused in appeal from acquittal.

428. (1) In dealing with any appeal under this Chapter, the appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the appellate Court is the High Court, by a Court of Session or a Magistrate.

Appellate Court may take further evidence or direct it to be taken.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) Unless the appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken ; but such evidence shall not be taken in the presence of jurors [* *].¹

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.

Procedure where Judges of Court of Appeal are equally divided.

429. When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he think fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Finality of orders on appeal.

430. Judgments and orders passed by an appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

Abatement of appeals.

431. Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

CHAPTER XXXII

OF REFERENCE AND REVISION

432-433. * * *

Power to reserve questions arising in original jurisdiction of High Court.

434. (1) When any person has, in a trial before a Judge of the High Court acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such 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 when question reserved.

(2) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit be admitted to bail, and the High 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 the High Court thinks fit.

Power to call for records of inferior Courts.

435. (1) The High Court or any Sessions Judge or District Magistrate, or any Sub-divisional Magistrate empowered by the President of the Union in this behalf, may call for and examine the record of any proceeding before any inferior criminal Court situate within the local limits of its or his jurisdiction

¹ Deleted by Act XIII, 1945.

for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, [except the District Magistrate]¹, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437.

(2) If any Sub-divisional Magistrate acting under sub-section (1) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(3) * * * *

(4) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

436. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any person accused of an offence who has been discharged ;

Power to
order
inquiry.

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

437. When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged :

Power to
order
commit-
ment.

Provided as follows :—

- (a) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;
- (b) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

¹ Inserted by Act XIII, 1945.

1438 *

High Court's
powers of
revision.

439. (1) In the case of any proceeding the record of which has been called for by itself [* * *]¹ or which otherwise comes to its knowledge, the [state or Divisional court]³ may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections, 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence ; and when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

²(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard, either personally or by pleader. [* * *]¹

(3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed than might have been inflicted for such offence by a Magistrate of the first class.

(4) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize the [state or Divisional court]³ to convert a finding of acquittal into one of conviction.

(5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction.

Optional
with Court
to hear
parties.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision ;

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (2).

441. * * * * *

High Court's
order to be
certified to
lower Court
or Magis-
trate.

442. When a case is revised under this Chapter by the [State or Divisional Court],³ it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order 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.

¹ Deleted by the Union of Burma R.C. Laws II, 1973.

² Substituted by Act XIII, 1945.

³ Inserted by the Union of Burma R.C. Law II, 1973.

PART VIII

Special Proceedings

CHAPTER XXXIII

¹443—449. * * *

450—463. * * *

CHAPTER XXXIV

LUNATICS

464. (1) When a Magistrate 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 Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the President of the Union directs, and thereupon shall examine such surgeon or other officer as a witness, and shall reduce the examination to writing.

Procedure
in case of
accused
being
lunatic.

(1A) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466.

(2) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall record a finding to that effect and shall postpone further proceedings in the case.

465. (1) If any person committed for trial before a Court of Session or the High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court [* * *] ¹ shall, in the first instance, try the fact of such unsoundness and incapacity and if the jury or Court, as the case may be, is satisfied of the fact, the Judge shall record a finding to that effect and shall postpone further proceedings in the case and the jury, if any, shall be discharged.

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

(2) 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.

466. (1) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, whether the case is one in which bail may be taken or not, 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 Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

Release of
lunatic
pending
investigation
or trial.

¹ Deleted by Act XIII, 1945.

CORRIGENDA

အမှားပြင်ဆင်ချက်

Page 290, Section 439, sub-section (1), second line, after the words "to its knowledge" insert the words "the High Court,".

Page 290, Section 439, sub-section (4), second line, after the words "to authorize" insert the words "the High Court,".

Page 290, Section 442, first line, after the words "this chapter by" insert the words "the High Court,".

Custody of lunatic.

(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the President of the Union :

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the President of the Union may have made under the Lunacy Act.

Resumption of inquiry or trial.

467. (1) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or 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 Magistrate or Court.

468. (1) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the Magistrate or Court considers the accused to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be, and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466.

When accused appears to have been insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him 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 the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

Judgment of acquittal on ground of lunacy.

470. 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.

Person acquitted on such ground to be detained in safe custody.

471. (1) Whenever the finding states that the accused person committed the act alleged, the Magistrate or Court before whom or 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 detained in safe custody in such place and

manner as the Magistrate or Court thinks fit, and shall report the action taken to the President of the Union :

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the President of the Union may have made under the Lunacy Act.

(2) The President of the Union may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section to discharge all or any of the functions of the Inspector-General of Prisons under section 473 or section 474.

Power of President to relieve Inspector-General of certain functions.

472. * * *

473. If such person is detained under the provisions of section 466, and in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum or any two of them, shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468 ; 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.

474. (1) If such person is detained under the provisions of section 466 or section 471, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be released without danger of his doing injury to himself or to any other person, the President of the Union may¹ thereupon order him to be released 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 he orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

Procedure where lunatic detained under section 466 or 471 is declared fit to be released.

(2) 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 President of the Union who may order his release or detention as he thinks fit.

475. (1) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the President of the Union may¹, upon the application of such relative or friend and on his giving security to the satisfaction of the President of the Union that the person delivered shall—

Delivery of lunatic to care of relative or friend.

- (a) be properly taken care of and prevented from doing injury to himself or to any other person, and
- (b) be produced for the inspection of such officer, and at such times and places, as the President of the Union may direct, and

¹ For an enunciation of the principles under which Government will take action, see *Burma Gazette*, 1940, Supplement, p. 286.

(c) in the case of a person detained under section 466, be produced when required before such Magistrate or Court, order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (1), clause (b), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence.

CHAPTER XXXV

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

Procedure
in cases
mentioned in
section 195.

476. (1) When any civil, revenue or criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (1), clause (b) or clause (c), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate :

Provided that, where the Court making the complaint is the High Court, the complaint may be signed by such officer of the Court as the Court may appoint.

(2) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(3) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.

Superior
Court may
complain
where

476A. The power conferred on civil, revenue and criminal Courts by section 476, sub-section (1), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to

any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

subordinate Court has omitted to do so.

476B. Any person on whose application any civil, revenue or criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and if it makes such complaint the provisions of that section shall apply accordingly.

Appeals.

477. * * *

478. (1) When any such offence is committed before any civil or revenue Court, or brought under the notice of any civil or revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such civil or revenue Court thinks that it ought to be tried by the High Court or Court of Session, such civil or revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

Power of civil and revenue Court to complete inquiry and commit to High Court or Court of Session.

(2) For the purposes of an inquiry under this section the civil or revenue Court may exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII (* * * *)¹ and shall be deemed to have been held by a Magistrate.

479. When any such commitment is made by a civil or revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the District Magistrate or other Magistrate authorized to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

Procedure of civil or revenue Court in such cases.

480. (1) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Penal Code is committed in the view or presence of any civil, criminal or revenue Court, the 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

Procedure in certain cases of contempt.

¹ Omitted by Act XIII, 1945.

offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

1(2) * * *

Record in such cases.

481. (1) 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.

(2) If the offence is under section 228 of the Penal Code, the record shall 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.

Procedure where Court considers that case should not be dealt with under section 480.

482. (1) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for an other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

When Registrar or Sub-Registrar to be deemed a civil Court within sections 480 and 482.

483. When the President of the Union so directs, any Registrar or any Sub-Registrar appointed under the Registration Act shall be deemed to be a civil Court within the meaning of sections 480 and 482.

Discharge of offender on submission or apology.

484. When any Court has under section 480 or section 482 adjudged an offender to punishment or forwarded him to a Magistrate for trial for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, 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.

Imprisonment or committal of person refusing to answer or produce document.

485. If any witness or person called to produce a document or thing before a criminal Court refuses to answer such questions as are put to him or to produce any document or thing 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

¹ Omitted by Act XIII, 1945.

to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court 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 or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of the High Court, shall be deemed guilty of a contempt.

486. (1) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable. Appeals from convictions in contempt cases.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by [the Rangoon City Civil Court]¹ shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge.

487. (1) Except as provided in sections 480 and 485, no Judge of a criminal Court or Magistrate, other than a Judge of the High Court, shall try any person for any offence referred to in section 195, 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. Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

(2) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI

OF THE MAINTENANCE OF WIVES AND CHILDREN

488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to Order for maintenance of wives and children.

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding one hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

(2) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

Enforcement
of order.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made :

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer if he is satisfied that there is just ground for so doing :

Provided further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due.

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

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(6) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons cases :

Provided that, if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any orders so made may be set aside for good cause shown on application made within three months from the date thereof.

(7) The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

(8) Proceedings under this section may be taken against any person in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

489. (1) On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit; Provided that if he increases the allowance the monthly rate of one hundred rupees in the whole be not exceeded.

Alteration in allowance.

(2) Where it appears to the Magistrate that, in consequence of any decision of a competent civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

Enforcement of order of maintenance.

CHAPTER XXXVII

DIRECTIONS OF THE NATURE OF A HABEAS CORPUS

491. (1) The High Court may, whenever it thinks fit, direct—

- (a) that a person within the limits of its appellate criminal jurisdiction be brought up before the Court to be dealt with according to law;
- (b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;
- (c) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;
- (d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any commission from the President of the Union for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;
- (e) that a prisoner within such limits be removed from one custody to another for the purpose of trial.

Power to issue directions of the nature of a habeas corpus.

(2) The High Court may, from time to time, frame rules¹ to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the State Prisoners Regulation.

²491A. * * *

¹ For such rules, see High Court Notification No. 10 (General), dated the 17th September 1947, as amended by Notification No. 3 (General), dated the 26th May 1949 (High Court Rules and Orders, Third Edition, p. 515).

² Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

PART IX

Supplementary Provisions

CHAPTER XXXVIII

OF THE PUBLIC PROSECUTOR

Power to
appoint
Public
Prosecutors.

492. (1) The President of the Union [or such officer, or authority as may be specified by him in this behalf]¹ may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(2) The District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below such rank as the President of the Union may prescribe in this behalf, to be Public Prosecutor for the purpose of any case.

Public
Prosecutor
may plead in
all Court in
cases under
his charge.
Pleadings
privately
instructed to
be under his
direction.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions.

Effect of
withdrawal
from pro-
secution.

494. Any Public Prosecutor may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and upon such withdrawal,—

- (a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;
- (b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences.

Permission
to conduct
prosecution.

495. (1) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by the President of the Union in this behalf, but no person, other than the Attorney-General, Public Prosecutor or other officer generally or specially empowered by the President of the Union in this behalf, shall be entitled to do so without such permission.

(2) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

¹ Inserted by Act XIII, 1945.

(3) Any person conducting the prosecution may do so personally or by a pleader.

(4) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX

OF BAIL.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station or by an investigating officer not below the rank of head constable, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such 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 :

In what cases bail to be taken.

Provided further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (4), or section 117, sub-section (3).

¹497. (1) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before the Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or with transportation for life :

When bail may be taken in case of non-bailable offence.

Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such offence be released on bail.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient ground, for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is

¹ Sub-section (1) of section 497 and section 498 were substituted by Act XXXVIII, 1948. For temporary amendments to these, see Act VII, 1954, at page 423, post.

not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

(5) The High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.

Power to
direct
admission
to bail or
reduction
of bail.

¹498. (1) The High Court or Court of Session 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 officer or Magistrate be reduced.

(2) The amount of every bond executed under this Chapter shall, having due regard to the circumstances of the case, not be excessive.

² Provided that no person shall be admitted to bail under this section, unless the Attorney-General of the District Magistrate, as the case may be, has had an opportunity of being heard.

Bond of
accused and
sureties.

499. (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police-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 by the police-officer or Court, as the case may be.

(2) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

Discharge
from
custody.

500. (1) 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 jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(2) Nothing in this section, section 496 or section 497 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.

Power to
order
sufficient
bail when
that first
taken is
insufficient.

501. 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 jail.

Discharge of
sureties.

502. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

¹ Sub-section (1) of section 497 and section 498 were substituted by Act XXXVIII, 1948. For temporary amendments to these, see Act VII, 1954 at page 423 post.

² Inserted by Act XIII, 1959.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate 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.

CHAPTER XL

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES

503. (1) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a District Magistrate, a Court of Session or the High 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 Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

When attendance of witness may be dispensed with.

¹(2) * * * *

²(2A) * * * *

(3) The Magistrate [* *]² to whom the commission is issued, or if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

³(4) If the witness is in a country or place outside the Union of Burma and arrangements have been made by the Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or officer, and sent to such authority for transmission, as the Government may, by notification, prescribe in this behalf.

504. * * * *

505. (1) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate [* *]² to whom the commission is directed, or to whom the duty of executing such commission has been delegated, shall examine the witness upon such interrogatories.

Parties may examine witnesses.

(2) Any such party may appear before such Magistrate [* *]² by pleader, or if not in custody in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Deleted by Act XLV, 1954.

³ Substituted *ibid.*

Power of subordinate Magistrate to apply for issue of commission.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence 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 Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

Return of commission.

507. (1) After any commission issued under section 503 or section 506 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 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.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Evidence Act, may also be received in evidence at any subsequent stage of the case before another Court.

Adjournment of inquiry or trial.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Execution of foreign commissions.

508A. The provisions of sub-section (3) of section 503, and so much of sections 505 and 507 as relates to the execution of a commission and its return by the Magistrate to whom the commission is directed shall apply in respect of commissions issued by any Court, Judge or Magistrate exercising jurisdiction in any such country or place outside the Union of Burma as the Government may, by notification, specify in this behalf, and having authority under the law in force in that country or place to issue commissions for the examination of witnesses in relation to criminal matters, as they apply to commissions issued under sub-section (1) of section 503 or section 506.

CHAPTER XLI

SPECIAL RULES OF EVIDENCE

Deposition of medical witness.

509. (1) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

Power to summon medical witness.

(2) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

¹ Substituted by Act XLV, 1954.

510. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

Report of
Chemical
Examiner.

511. 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:—

Previous
conviction or
acquittal how
proved.

- (a) by an extract certified under the hand of the officer having the 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 jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered ;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

512. (1) If it is 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.

(2) If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of the Union of Burma.

Record of
evidence
when
offender
unknown.

CHAPTER XLII

PROVISIONS AS TO BONDS

¹513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond

Deposit
instead of
recognizance

¹ Substituted by Act X, 1961.

for good behaviour, permit him to deposit a sum of money or Government Promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on
forfeiture of
bond.

514. (1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Magistrate of the first class, 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.

(2) 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 moveable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it ; and it shall authorize the attachment and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

(4) If such penalty is 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 imprisonment in the civil jail for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond.

(7) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.

Procedure
in case of
insolvency
or death of
surety or
when a bond
is forfeited.

514A. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court by whose order such bond was taken, or a Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order. and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

514B. When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.

Bond required from a minor.

515. All orders passed under section 514 by any Magistrate other than a District Magistrate shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

Appeal from, and revision of, orders under section 514.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

Power to direct levy of amount due on certain recognizances.

CHAPTER XLIII

OF THE DISPOSAL OF PROPERTY

516A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for custody and disposal of property pending trial in certain cases.

517. (1) When an inquiry or a trial in any criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before it or in its custody, or 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.

(2) When the High Court or a Court of Session 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 the District Magistrate.

(3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court, if the order made under this section is modified or set aside on appeal.

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.

Order may take form of reference to District or Sub-divisional Magistrate.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional 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.

Payment to innocent purchaser of money found on accused.

519. 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.

Stay of order under section 517, 518 or 519.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

Destruction of libellous and other matter.

521. (1) On a conviction under the Penal Code, section 292, section 293, section 501 or section 502, 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.

(2) The Court may, in like manner, on a conviction under the Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

Power to restore possession of immoveable property.

522. (1) Whenever a person is convicted of an offence attended by criminal force or show of force or by criminal intimidation and it appears to the Court that by such force or show of force or criminal intimidation any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, when convicting such person or at any time within one month from the date of the conviction, order the person dispossessed to be restored to the possession of the same.

(2) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision.

523. (1) The seizure by any police-officer of property taken under section 51 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 Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or 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 by police upon seizure of property taken under section 51 or stolen.

Provided that any police-officer, who has made a seizure of cattle, paddy or rice or of a boat or any other bulky article, may, pending the order of the Magistrate, deliver such cattle or article to any person who may appear to be entitled to the possession of such cattle or article on his executing a bond, with or without sureties, to return or produce such cattle or article at a police-station whenever required.

(2) If the person so entitled is known, the 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 appear before him and establish his claim within six months from the date of such proclamation.

Procedure where owner of property seized unknown.

524. (1) 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 District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first class empowered by the President of the Union in this behalf.

Procedure where no claimant appears within six months.

(2) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

525. 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 if the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such property is less than ten rupees, the Magistrate may at any time direct it to be sold ; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

Power to sell perishable property.

CHAPTER XLIV

OF THE TRANSFER OF CRIMINAL CASES

526. (1) Whenever it is made to appear to the High Court :—

(a) that a fair and impartial inquiry or trial cannot be had in any criminal Court subordinate thereto, or

High Court may transfer case or itself try it.

- (b) that some question of law of unusual difficulty is likely to arise, or
- (c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or
- (d) that an order under this section will tend to the general convenience of the parties or witnesses, or
- (e) that such an order is expedient for the ends of justice, or is required by any provision of this Code ; it may order—
 - (i) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence ;
 - (ii) that any particular case or appeal, or class of cases or appeals, be transferred from a criminal Court subordinate to its authority to any other such criminal Court of equal or superior jurisdiction ;
 - (iii) that any particular case or appeal be transferred to and tried before itself ; or
 - (iv) that an accused person be committed for trial to itself or to a Court of Session.

(2) When the High Court withdraws for trial before itself any case from any Court it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(3) The High Court may act either on the report of the lower court, or on the application of a party interested, or on its own initiative.

(4) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Attorney-General, be supported by affidavit or affirmation.

(5) When an accused person makes an application under this section, the High court may direct him to execute a bond, with or without sureties, conditioned that he will, if so ordered, pay any amount which the High Court may under this section award by way of compensation to the person opposing the application.

Notice to
Public
Prosecutor of
application
under this
section.

(6) Every accused person making any such application shall give to the public prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6A) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case.

(7) Nothing in this section shall be deemed to affect any order made under section 197.

¹(8)—(10) * * * *
²526A. * * * *

527. (1) The President of the Union may, by notification in the Gazette, direct the transfer of any particular case or appeal from one High Court to another High Court, or from any criminal Court subordinate to one High Court to any other criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

Power of President to transfer cases and appeals.

³*Explanation.*—In this sub-section "High Court" means the (High Court.)⁴ and includes the highest Court of criminal appeal or revision in any local area which is not included within the limits of the appellate criminal jurisdiction of the High Court.

(2) The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

528. (1) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him.

Sessions judge may withdraw cases from Assistant Sessions judge.

(2) Any District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

District or Sub-divisional Magistrate may withdraw or refer cases.

(3) The President of the Union may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

Power to authorize District Magistrate to withdraw classes of cases.

(4) Any Magistrate may recall any case made over by him under section 192, sub-section (2), to any other Magistrate and may inquire into or try such case himself.

(5) A Magistrate making an order under this section shall record in writing his reasons for making the same.

CHAPTER XLIVA

¹528A—528D. * * * *

¹ Omitted by Act XIII, 1945.

² Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

³ Added by Act XIII, 1945.

⁴ Substituted for the words "High Court of judicature at Rangoon" by the Union of Burma (Adaptation of Laws) Order, 1948.

CHAPTER XLV

OF IRREGULAR PROCEEDINGS

Irregularities
which do
not vitiate
Proceedings.

529. If any Magistrate not empowered by law to do any of the following things, namely :—

- (a) to issue a search-warrant under section 98 ;
- (b) to order, under section 155, the police to investigate an offence ;
- (c) to hold an inquest under section 176 ;
- (d) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits ;
- (e) to take cognizance of an offence under section 190, sub-section (1), clause (a) or clause (b) ;
- (f) to transfer a case under section 192 ;
- (g) to tender a pardon under section 337 or section 338 ;
- (h) to sell property under section 524 or section 525 ; or
- (i) to withdraw a case and try it himself under section 528 ;

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 vitiate
proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely :—

- (a) attaches and sells property under section 88 ;
- (b) issues a search-warrant for a letter, parcel or other thing 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 133 as to a local nuisance ;
- (h) prohibits, under section 143, the repetition or continuance of a public nuisance ;
- (i) issues an order under section 144 ;
- (j) makes an order under Chapter XII ;
- (k) takes cognizance under section 190, sub-section (1), clause (c), of an offence ;
- (l) passes a sentence, under section 349, on proceedings recorded by another Magistrate ;
- (m) calls, under section 435, for proceedings ;
- (n) makes an order for maintenance ;
- (o) revises, under section 515, an order passed under section 514 ;
- (p) tries an offender ;
- (q) tries an offender summarily ; or
- (r) decides an appeal ;

his proceedings shall be void.

531. 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 has in fact occasioned a failure of justice.

Proceedings in wrong place.

532. (1) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless during the inquiry and before the order of commitment objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

When irregular commitments may be validated.

(2) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

533. (1) If any Court, before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and, notwithstanding anything contained in the Evidence Act, section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits.

Non-compliance with provisions of section 164 or 364.

(2) The provisions of this section apply to Court of appeal, reference and revision.

¹534. * * * *

535. (1) 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 Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

Effect of omission to prepare charge.

(2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

²**536.** If an offence triable by a jury is tried without a jury the trial shall not on that ground only be invalid unless the objection is taken before the Court records its finding.

Trial without jury, of offence triable by jury.

¹ Omitted by Act XIII, 1945.

² Substituted *ibid.*

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

537. Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

(a) of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

(b) * * * *

(c) of the omission to revise any list of jurors [* *]¹ in accordance with section 324, or

(d) of any misdirection in any charge to a jury,

unless such error, omission, irregularity, or misdirection has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

Attachment not illegal, person making same not trespasser for defect or want of form in proceedings.

538. No attachment 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 attachment or other proceedings relating thereto.

CHAPTER XLVI

MISCELLANEOUS

Courts and persons before whom affidavits may be sworn.

539. Affidavits and affirmations to be used before the High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Court or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in the Union of Burma, or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

Affidavit in proof of conduct of public servant.

539A. (1) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

An affidavit to be used before any Court other than the High Court under this section may be sworn or affirmed in the manner prescribed in section 539, or before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be

¹ Omitted by Act XIII, 1945.

true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(2) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.

539B. (1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection. Local inspection.

(2) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost ;

Provided that, in the case of a trial by jury [* * * *]¹, the Judge shall not act under this section unless such jury [* * *]¹, are also allowed a view under section 293.

540. Any Court may, at any stage of any 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 re-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.

540A. (1) At any stage of an inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused. Provision for inquiries and trials being held in the absence of accused in certain cases.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

541. (1) Unless when otherwise provided by any law for the time being in force, the President of the Union may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined. Power to appoint place of imprisonment.

(2) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering Removal to criminal jail of accused or convicted

¹ Deleted by Act XIII, 1945.

person who are in confinement in civil jail, and their return to the civil jail.

the imprisonment or committal may direct that the person be removed to a criminal jail.

(3) When a person is removed to a criminal jail under sub-section (2), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section (58)¹ of the Code of Civil Procedure ; or

(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section (58)¹ of the Code of Civil Procedure.

542. * * *

Interpreter to be bound to interpret truthfully.

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

Expenses of complainants and witnesses.

544. Subject to any rules made by the President of the Union, any criminal Court may, if it thinks fit, order payment on the part of 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.

Power of Court to pay expense or compensation out of fine.

545 (1) 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—

- (a) in defraying expenses properly incurred in the prosecution ;
- (b) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a civil Court ;
- (c) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bond fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) 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.

¹ Substituted by Act II, 1945.

546. 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 section 545.

Payments to be taken into account in subsequent suit.

546A. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant—

Order of payment of certain fees paid by complainant in non-cognizable cases.

- (a) the fee (if any) paid on the petition of complaint or for the examination of the complainant, and
- (b) any fees paid by the complainant for serving processes on his witnesses or on the accused

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(2) An order under this section may also be made by an appellate Court or by the High Court when exercising its powers of revision.

547. Any money (other than a fine) payable by virtue of any order made under this Code, and the method of recovery of which is not otherwise expressly provided for, shall be recoverable as if it were a fine.

Moneys ordered to be paid recoverable as fines.

548. If any person affected by a judgment or order passed by a criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record he shall, on applying for such copy, be furnished therewith ;

Copies of proceedings.

Provided that he pays for the same unless the Court, for some special reason, thinks fit to furnish it free of cost.

549. (1) The President of the Union may make rules consistent with this Code and the Army Act, the Naval Discipline Act[* * * *]¹ and the Air Force Act and any similar law for the time being in force as to the cases in which persons subject to military, naval or air force law shall be tried by a Court to which this Code applies or by Court-martial, and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this Code, applies or 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, ship or detachment, to which he belongs, or to the commanding officer of the nearest military, naval or air-force station, as the case may be, for the purpose of being tried by Court-martial.

Delivery to military authorities of persons liable to be tried by Court-martial.

(2) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of soldiers, sailors or airmen stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Apprehension of such persons.

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Power to
police to
seize
property
suspected to
be stolen.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of
superior
officers of
police.

551. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Power to
compel
restoration
of abducted
females.

¹552. Upon complaint made on oath to a District Magistrate of the abduction or unlawful detention of a woman, or of a child under the age of sixteen years, for any unlawful purpose, the District Magistrate may, after such inquiry into the truth of the complaint as he may consider necessary make an order for the immediate restoration of such woman to her liberty, or of such child to his 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.

553. * * * *

Power of
High Court
to make rules
for inspec-
tion of
subordinate
Courts.

554. (1) With the previous sanction of the President of the Union, the High Court may make rules for the inspection of subordinate Courts.

(2) * * * *

(3) All rules made under this section shall be published in the Gazette.

Forms.

555. Subject to the power conferred by section 554. [* * * *]² the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

Case in
which
Judge or
Magistrate is
personally
interested.

556. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

¹ Substituted by Act XIII, 1954.

² Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

Illustration

A, as Collector, upon consideration of information furnished to him, directs the prosecution of *B* for a breach of the Excise laws. *A* is disqualified from trying this case as a Magistrate.

557. No pleader who practises in the Court of any Magistrate shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court.

Practising pleader not to sit as Magistrate in certain Courts.

558. The President of the Union may determine what, for the purposes of this Code, shall be deemed to be the language of each Court other than the High Court.

Power to decide language of Courts.

559. (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

Provision for powers of Judges and Magistrates being exercised by their successors in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate the District Magistrate shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(3) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge.

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Officers concerned in sales not to purchase or bid for property.

561. (1) Notwithstanding anything in this code, no Magistrate except a District Magistrate shall—

Special provisions with respect to offence of rape by a husband.

- (a) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or
- (b) commit the man for trial for the offence.

(2) And, notwithstanding anything in this Code, if a District Magistrate deems it necessary to direct an investigation by a police-officer with respect to such an offence as is referred to in sub-section (1), no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in, the investigation.

Saving of
inherent
power of
High Court.

561A. Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or therewith to secure the ends of justice.

First Offenders

Power of
Court to
release cer-
tain con-
victed
offenders on
probation of
good conduct
instead of
sentencing to
punishment.

562. (1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which, he is convicted, regard being had to the age, character of antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the President of the Union in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by [sub-section (5).]¹

Conviction
and release
with
admonition.

(1A) In any case in which a person is convicted of [theft, theft in a building, theft by a clerk or servant, dishonest misappropriation, criminal breach of trust]¹, cheating, or any offence under the penal Code punishable with not more than two years' imprisonment, and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(2) An order under this section may be made by any appellate Court or by the High Court when exercising its powers of revision.

(3) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

¹ Substituted by Act XIII, 1945.

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(4) The provisions of sections 122 (and 126A)¹ shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

²(5) Where proceedings are submitted to a Magistrate of the first class or a Sub-divisional Magistrate under the proviso to sub-section (1), such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself, or direct such inquiry or evidence to be made or taken by the Magistrate who tried the case.

563. (1) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

Provision
in case of
offender
failing
to observe
conditions of
his recogni-
zances.

(2) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

564. (1) The Court, before directing the release of an offender under section 562, sub-section (1), shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

Conditions
as to abode
of offender.

(2) * * *

Previously convicted offenders

565. (1) When any person having been convicted—

(a) by a Court in the Union of Burma of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code with imprisonment of either description for a term of three years or upwards, (* *)³

Order for
notifying
address of
previously
convicted
offender.

³(b) * * *

¹ Substituted by Act XIII, 1945.

² Inserted *ibid*.

³ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by the High Court, Court of Session, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) The President of the Union may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(4) An order under this section may also be made by an appellate Court or by the High Court when exercising its powers of revision.

(5) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed within the meaning of section 176 of the Penal Code to have omitted to give a notice required for the purpose of preventing the commission of an offence.

(6) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated.

SCHEDULE I

* * * *

SCHEDULE II
TABULAR STATEMENT OF OFFENCES

¹[Subject to the proviso to clause (a) and the proviso to clause (f) of sub-section (1) of section 4.]

EXPLANATORY NOTE.—The entries in the second and seventh columns of this schedule, headed respectively "Offence" and "Punishment under the Penal Code", are not intended as definitions of the offences and punishments described in the several corresponding sections of the Penal Code, or even as abstracts of those sections, but merely as references to the subject of the sections, the number of which is given in the first column.

CHAPTER V.—ABETMENT

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or summons shall ordinarily issue in the first instance (4)	Whether the offence is bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
109	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 for the 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.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
111	Abetment of any offence, when one act is abetted and a different act is done : subject to the proviso.	Ditto	Ditto	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto

¹ This proviso was inserted by the Burma Laws (Adaptation) Act, 1940 (Burma Act XXVII, 1940) in view of the amendments made to s. 4 of the Code of Criminal Procedure by that Act.

SCHEDULE II—contd.
CHAPTER V.—ABETMENT—concl'd.

(1) Section	(2) Offence	(3) Whether the police may arrest without warrant or not	(4) Whether a warrant or summons shall ordinarily issue in the first instance	(5) Whether bailable or not	(6) Whether compoundable or not	(7) Punishment under the Penal Code	(8) By what Court triable
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	May arrest without warrant if arrest for the 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.	According as the offence abetted is compoundable or not.	The same punishment as for the offence committed.	The Court by which the offence abetted is triable.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
115	Abetment of an offence punishable with death or transportation for life if the offence be not committed in consequence of the abetment. If an act which causes harm be done in consequence of the abetment.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 7 years and fine.	Ditto
116	Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine. Imprisonment extending to a quarter part of the longest term, and of any description provided for the offence or fine, or both.	Ditto
		Ditto	Ditto	According as the offence abetted is bailable or not.	Ditto		Ditto

	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Ditto	Ditto	Ditto	Ditto	Imprisonment extending to half of the longest term, and of any description, for the offence, or fine, or both.	Ditto
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto
	If the offence be not committed.	Ditto	Ditto	Ditto	Bailable ...	Imprisonment of either description for 3 years and fine.	Ditto
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto
	If the offence be punishable with death or transportation for life.	Ditto	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years.	Ditto
	If the offence be not committed.	Ditto	Ditto	Ditto	Bailable ...	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto

SCHEDULE II—*contd.*CHAPTER V.—ABETMENT—*concl'd.*

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or a summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	May arrest without warrant if arrest for the offence concealed may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence concealed.	According as the offence concealed is bailable or not.	According as the offence concealed is compoundable 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 concealed is triable.
	If the offence be not committed.	Ditto	Ditto	Bailable ...	Ditto	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto

CHAPTER VA.—CRIMINAL CONSPIRACY

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or a summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
120 B	Criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards.	May arrest without warrant for the offence which is the object of the conspiracy may be made without warrant, but not otherwise. †	According as a warrant or summons may issue for the offence which is the object of the conspiracy.	According as the offence which is the object of the conspiracy is bailable or not.	Not compoundable.	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy.	Court of Session when the offence which is the object of the conspiracy is triable exclusively by such Court; in the case of all other offences Court of Session or Magistrate of the first class.

Any other criminal conspiracy.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for six months and fine or both.	Magistrate of the first class.
CHAPTER VI.—OFFENCES AGAINST THE STATE					
¹ 121	•	•	•	•	•
² 121A	•	•	•	•	•
¹ 122	High Treason	...	...	Death	Court of Session.
¹ 123	Encouraging, harbouring or comforting persons guilty of High Treason.	...	...	Transportation for life or rigorous imprisonment for a term extending to 10 years, and fine.	Ditto
¹ 124	Misprision of High Treason	Ditto	Ditto	Rigorous imprisonment extending to 7 years, and fine.	Ditto
124A	Sedition	Ditto	Ditto	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Court of Session or District Magistrate or Magistrate of the first class specially empowered by the President of the Union in that behalf.
² 124B	Advocating overthrow of the organs of the Union or of its constituent units by force.	Ditto	Ditto	Imprisonment of either description for 10 years and fine, the minimum being 3 years.	Court of Session.

¹ Substituted for entries relating to sections 121, 121A, 122, 123 and 124 by Act XX, 1950.
² Inserted by Act LXV, 1953.

SCHEDULE II—*contd.*CHAPTER VI.—OFFENCES AGAINST THE STATE—*concl'd.*

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
125	Waging war against any Asiatic power in alliance or at peace with the State or abetting the waging of such war.	Shall not arrest without warrant.	Warrant ...	Not bailable	Not compoundable.	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
126	Committing depredation on the territories of any power in alliance or at peace with the State.	Ditto	Ditto ...	Ditto	Ditto	Imprisonment of either description for 7 years and fine and forfeiture of certain property.	Ditto
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto	Ditto ...	Ditto	Ditto	Ditto	Ditto

128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto	Ditto ...	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto	Ditto ..	Bailable	Ditto	Simple imprisonment for 3 years, and fine.	Court of Session or Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	Ditto ...	Not bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER VIA.—OFFENCES RELATING TO CERTAIN PROVISIONS CONTAINED IN THE CONSTITUTION AND ACTS OF THE PARLIAMENT ¹

¹ 130A	Offences relating to certain provisions contained in the Constitution and Acts of the Parliament.	Shall not arrest without warrant.	Warrant	...	Bailable	...	Not punishable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
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CHAPTER VIB.—LIBEL AGAINST FOREIGN POWERS ¹

¹ 130B	Libel against foreign powers	Shall not arrest without warrant.	Warrant	...	Bailable	...	Not punishable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
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¹ Inserted by Act XX, 1950.

SCHEDULE II—*contd.*

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
131	Abetting mutiny, or attempting to seduce an officer, soldier, sailor or airman from his allegiance or duty.	May arrest without warrant.	Warrant ...	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Ditto	Death or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
133	Abetment of an assault by an officer, soldier, sailor or airman or his superior officer, when in the execution of his office.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.

135	Abetment of the desertion of an officer, soldier, sailor or airman.	Ditto	Ditto	Bailable	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
136	Harbouring such an officer, soldier, sailor, or airman, who has deserted.	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant	Summons	Ditto	...	Ditto	Fine of 500 rupees.	Ditto
138	Abetment of act of insubordination by an officer, soldier, sailor or airman if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	...	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto
140	Wearing the dress or carrying any token used by a soldier, sailor or airman with intent that it may be believed that he is such a soldier, sailor or airman.	Ditto	Summons	Ditto	...	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY

143	Being member of an unlawful assembly.	May arrest without warrant.	Summons	Bailable	...	Note compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto

SCHEDULE II—*contd.*CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY—*contd.*

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or a summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
147	Rioting ...	Ditto	Ditto ...	Ditto ...	Ditto	Ditto	Ditto
148	Rioting, armed with a deadly weapon.	Ditto	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto	The same as for the offence.	The Court by which the offence is triable.

	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Ditto	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto
150							
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	Bailable	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed. ...	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
153A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant	Not bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first class.
154	Owner or occupier of land not giving information of riot, etc.	Ditto	Summons	Bailable	Ditto	Fine of 1,000 rupees.	Magistrate of the first or second class.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Fine	Ditto
156	Agent or owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

SCHEDULE II—contd.
CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY—concd.

Section	(1)	(2)	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
		(2)	(3)	(4)	(5)	(6)	(7)	(8)
157		Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the first or second class.
158		Being hired to take part in an unlawful assembly or riot. Or to go armed ...	Ditto Ditto	Ditto Warrant ...	Ditto Ditto	Ditto Ditto	Ditto Imprisonment of either description for 2 years, or fine, or both.	Ditto Ditto
160		Committing affray ...	Shall not arrest without warrant.	Summons ...	Ditto ...	Ditto	Imprisonment of either description for one month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS

	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
161	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto	Ditto ...	Ditto ...	Ditto	Ditto	Ditto

163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	...	Ditto	...	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	...	Ditto	...	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the first or second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	...	Ditto	...	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto	Ditto	...	Ditto	...	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto	Ditto	...	Ditto	...	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property if purchased.	Ditto
170	Personating a public servant	May arrest without warrant.	Warrant	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	Summons	...	Ditto	...	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto

SCHEDULE II—*contd.*

CHAPTER IXA.—OFFENCES RELATING TO ELECTIONS

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or a summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
171E	Bribery	...	Summons ...	Bailable ...	Not com- poundable.	Imprisonment of either des- cription for 1 year, or fine, or both, or if treating only, fine only.	Magistrate of the first class.
171F	Undue influence at an election.	Ditto	Ditto ...	Ditto ...	Ditto	Imprisonment of either des- cription for one year, or fine, or both.	Ditto
	Personation at an election to either Chamber of Palia- ment.	May arrest without war- rant.	Ditto ...	Not bailable	Ditto	Rigorous impri- sonment for two years with or without fine.	Ditto
	Personation at any other election.	Ditto	Ditto ...	Bailable ...	Ditto	Imprisonment of either des- cription for one year, or fine, or both.	Ditto
171G	False statement in connec- tion with an election.	Shall not arrest without war- rant.	Ditto ...	Ditto ...	Ditto	Fine ...	Ditto
171H	Illegal payments in connec- tion with elections.	Ditto	Ditto ...	Ditto ...	Ditto	Fine of 500 rupees.	Ditto
171I	Failure to keep election accounts.	Ditto	Ditto ...	Ditto ...	Ditto	Ditto	Ditto

1711	Illegal possession at election [***] of any token, ballot paper or colourable imitation thereof except for the lawful purpose of recording his vote.	May arrest without warrant.	Ditto ...	Not bailable	Ditto	Rigorous imprisonment for two years with or without fine.	Ditto
CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS							
172	Absconding to avoid service of summons or other proceedings from a public servant.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not poundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate
	If summons or notice require attendance in person, etc., in a Court of Justice.	Ditto	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto
173	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.	Ditto	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the first or second class.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Ditto	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, etc., in a Court of Justice.	Ditto	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto

¹ Substituted by Act XXIV, 1951.

² Inserted *ibid.*

³ Deleted by Act XXXVIII, 1957.

SCHEDULE II—contd.
CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—contd.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Magistrate of the first or second class.
176	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
	Intentionally committing to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto
	If the notice or information required respects the commission of an offence, etc.	Ditto	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees or both.	Ditto
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto ...	Ditto ...	Ditto	Ditto	Ditto

178	If the information required respects the commission of an offence, etc.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	...	Ditto	...	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, is subject to the provisions of Chapter XXV; or, if not committed in a Court, a Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	...	Ditto	...	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first class.
182	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.	Ditto	Summons	...	Ditto	...	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto

SCHEDULE II—contd.
CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—concl.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Magistrate of the first or second class.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 400 rupees, or both.	Ditto
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto

[illegible]

SCHEDULE II—contd.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—contd.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	The same as for giving false evidence.	Court of Session or Magistrate of the first class.
198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life or imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first class.

	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine or both.	Magistrate of the first class, or Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months or fine, or both.	Magistrate of the first or second class.
203	Giving false information respecting an offence committed.	Ditto	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Magistrate of the first class.
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
207	Claiming property without right, or practising 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.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Magistrate of the first class.

SCHEDULE II—contd.
CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—contd.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
209	False claim in a Court of Justice.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, and fine.	Magistrate of the first class.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	If offence charged be punishable with imprisonment for 7 years or upwards.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the first class.
	If offence charged by capital, or punishable with transportation for life.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto

213	If punishable with imprisonment for 1 year and not for 10 years.	Ditto	Ditto	...	Ditto ..	Ditto	Magistrate of the first class, or Court, by which the offence is triable.
	Taking gift, etc., to screen an offender from punishment, if the offence be capital.	May arrest without warrant.	Ditto	...	Ditto ..	Ditto	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto	Ditto	...	Ditto ..	Ditto	Court of Session or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	Ditto	...	Ditto ..	Ditto	Magistrate of the first class, or Court by which the offence is triable.
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	Shall not arrest without warrant.	Ditto	...	Ditto ..	Ditto	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto	Ditto	...	Ditto ..	Ditto	Court of Session or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	Ditto	...	Ditto ..	Ditto	Magistrate of the first class, or Court by which the offence is triable.

SCHEDULE II—*contd.*CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or a summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehen- sion of offender.	May arrest without war- rant.	Warrant ...	Bailable ...	Not com- poundable.	Imprisonment of either descrip- tion for 2 years, or fine, or both.	Magistrate of the first class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital. If punishable with transpor- tation for life, or with imprisonment for 10 years.	Ditto	Ditto ...	Ditto ...	Ditto	Imprisonment of either descrip- tion for 7 years, and fine.	Court of Session or Magistrate of the first class.
		Ditto	Ditto ...	Ditto ...	Ditto	Imprisonment of either descrip- tion for 3 years, with or without fine.	Ditto
	If with imprisonment for 1 year, and not for 10 years.	Ditto	Ditto ...	Ditto ...	Ditto	Imprisonment for a quarter of the longest term, and of the description, pro- vided for the offence, or fine, or both.	Magistrate of the first class, or Court by which the offence is triable.
216A	Harbouring robbers or dacoits.	Ditto	Ditto ...	Ditto ...	Ditto	Rigorous impris- onment for 7 years, and fine.	Court of Session or Magistrate of the first class.

217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	Warrant	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender if the offence be capital. If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto
	If with imprisonment for less than 10 years.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years with or without fine.	Court of Session or Magistrate of the first class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death. If under sentence of transportation for life, or transportation, or imprisonment for 10 years or upwards.	Ditto	Ditto	...	Not bailable	...	Ditto	Imprisonment of either description for 2 years, with or without fine.	Magistrate of the first or second class.
								Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
			Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto

SCHEDULE II—contd.
CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—concl.

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or a summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Shall not arrest without warrant.	Warrant ...	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons ...	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ...	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody. If charged with an offence punishable with transportation for life, or imprisonment for 10 years. If charged with a capital offence.	Ditto	Ditto ...	Ditto	Ditto	Ditto	Ditto
		Ditto	Ditto ...	Not bailable	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first class.
		Ditto	Ditto ...	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session*
	If the person is sentenced to transportation for life, or to transportation, * * * or imprisonment for 10 years or upwards.	Ditto	Ditto ...	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto

If under sentence of death	Ditto	...	Ditto	...	Ditto	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
225A Omission to apprehend, or sufferance of escape on part of public servant, in cases not otherwise provided for :— (a) in cases of intentional omission or sufferance.	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
(b) in case of negligent omission or sufferance.	Ditto	Ditto	Ditto	Summons	Ditto	...	Ditto	Simple imprisonment for 2 years or fine, or both.	Magistrate of the first or second class.
225B Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.	May arrest without warrant.	Ditto	Warrant	...	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months or fine, or both.	Ditto
226 Unlawful return from transportation.	Ditto	Ditto	Ditto	...	Ditto	Not bailable	Ditto	Transportation for life, and fine, and rigorous imprisonment for 3 years before transportation.	Court of Session
227 Violation of condition of remission of punishment.	Shall not arrest without warrant.	Ditto	Summons	...	Ditto	Ditto	Ditto	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
228 Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto	Ditto	Ditto	...	Ditto	Bailable	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.
229 Personation of a juror or assessor.	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first class.

Criminal Procedure

SCHEDULE II—contd.
CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

Section	(1)	(2)	Whether the police may arrest without warrant or not	(3)	Whether a warrant or summons shall ordinarily issue in the first instance.	(4)	Whether bailable or not	(5)	Whether compoundable or not	(6)	Punishment under the Penal Code	(7)	By what Court triable	(8)
230		Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Ditto	Warrant	...	Not bailable	Ditto	Not compoundable.	Ditto	Imprisonment of either description for 7 years, and fine.		Court of Session	
232		Counterfeiting, or performing any part of the process of counterfeiting the coin of the Union.	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.		Ditto	
233		Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.		Court of Session or Magistrate of the first class.	
234		Making, buying or selling instrument for the purpose of counterfeiting the coin of the Union.	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.		Court of Session	
235		Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.		Court of Session or Magistrate of the first class.	
		If coin of the Union	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.		Court of Session.	

236	Abetting in the Union of Burma the counterfeiting out of the Union of Burma of coin.	Ditto	...	Ditto	Ditto	The punishment provided for abetting the counterfeiting of such coin within the Union of Burma.	Ditto
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto	...	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first class.
238	Import or export of counterfeits of the coin of the Union, knowing the same to be counterfeit.	Ditto	...	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto	...	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session or Magistrate of the first class.
240	The same with respect to the coin of the Union.	Ditto	...	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	...	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first class.
243	Possession of coin of the Union by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto

SCHEDULE II—contd.
CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—contd.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
244	Person employed in a mint causing coin to be of a different weight or composition from that fixed by law. Unlawfully taking from a mint any coining instrument.	May arrest without warrant.	Warrant ...	Not bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
245	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the coin of the Union.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto
249	Altering appearance of the coin of the Union with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto

251	Delivery of coin of the Union possessed with the knowledge that it is altered.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto
253	Possession of coin of the Union by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate of the first or second class.
255	Counterfeiting a Government stamp.	Ditto	Ditto	...	Bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto
258	Sale of counterfeit Government stamp.	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	...	Ditto	Ditto	Ditto	Court of Session or Magistrate of the first class.

SCHEDULE II—contd.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—concl'd.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
260	Using as genuine a Government stamp known to be counterfeit.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session or Magistrate of the first class.
261	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.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto
262	Using a Government stamp known to have been before used.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
263A	Fictitious stamps	Ditto	Ditto	Ditto	Ditto	Fine of 200 rupees.	Magistrate of the first class.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.

265	Fraudulent use of false weight or measure.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

		May arrest without warrant.	Summons	...	Seizable	...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the first or second class.
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 6 months or fine, or both.	Ditto
271	Knowingly disobeying any quarantine rule.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto
273	Selling any food or drink as food and drink knowing the same to be noxious.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
274	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.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto

SCHEDULE II—*contd.*CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*contd.*

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Shall not arrest without warrant.	Summons	Bailable	Note compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Fine of 500 rupees.	Ditto
1 279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
279A	Throwing stones, etc., at a vehicle in a public place with intent or knowledge that the safety of any person in or upon such vehicle is likely to be endangered thereby.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 500 rupees, or both.	Ditto
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto

		Ditto	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years or fine, or both.	Court of Session.
281	Exhibition of a false light, mark or buoy.	Ditto		...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years or fine, or both.	Magistrate of the first or second class.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto	Ditto	...	Ditto	...	Ditto	...	Fine of 200 rupees.	Ditto
284	Dealing with any poisonous substance so as to endanger human life, etc.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto
285	Dealing with fire of any combustible matter so as to endanger human life, etc.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, and fine.	Ditto
286	So dealing with any explosive substance.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has right entitling him to pull it down or repair it.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto
289	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.	Ditto	...	Ditto	...	Ditto	...	Ditto	Any Magistrate.

¹ Amended by Act LII, 1948.

² Substituted by R.C. Law VII, 1963.

SCHEDULE II—*contd.*CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENTY AND MORALS—*concd.*

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
290	Committing a public nuisance	Shall not arrest without warrant.	Summons ...	Bailable	Not compoundable.	Fine of 200 rupees	Any Magistrate.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Magistrate of the first or second class.
292	Sale, etc., of obscene books etc.	Ditto	Warrant ...	Ditto	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Magistrate of the first class.
293	Sale, etc., of obscene objects to young persons.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
294A	Keeping a lottery office	Shall not arrest without warrant.	Summons ...	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto
	Publishing proposals relating to lotteries.	Ditto	Ditto	Ditto	Ditto	Fine of 1,000 rupees.	Ditto

CHAPTER XV.—OFFENCES RELATING TO RELIGION

	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	...	...	...	...	...
295A	Maliciously insulting the religion or the religious beliefs of any class.	Warrant	Not bailable	Ditto	Ditto	Court of Session.
296	Causing a disturbance to an assembly engaged in religious worship.	May arrest without warrant.	Bailable	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
297	Trespassing in place of worship or sepulchre, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Compoundable.	Ditto	Ditto

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY

Of Offences affecting Life

	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Death and fine	Court of Session.
302	Murder by a person under sentence of transportation for life or with premeditation or committed while committing any offence punishable with imprisonment for seven years.	...	...	...	...	...
	Murder in any other case ...	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto

"NOTE.—The entries in the second and seventh columns against section 302 are substituted for the original entries in view of the amendment of section 304, Penal Code, by Burma Act XXXIII of 1947."

SCHEDULE II—contd.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—contd.
Of Offences affecting Life—could.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
304	Culpable homicide amounting to murder.	May arrest without warrant.	Warrant ...	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
304A	Causing death by rash or negligent act.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
	If act is done with knowledge that it is likely to cause death.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	Ditto	Ditto	Ditto	Ditto	Death, or transportation for life, or imprisonment for 10 years, and fine.	Ditto
306	Abetting the commission of suicide.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
307	Attempt to murder ...	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	If such act cause hurt to any person.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.

308	Attempt by life-convict to murder, if hurt is caused.	Ditto	Ditto	...	Ditto	...	Ditto	...	Death ...	Ditto
	Attempt to commit culpable homicide.	Ditto	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto
	If such act cause hurt to any person.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto
309	Attempt to commit suicide	Ditto	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for one year, or fine, or both.	Magistrate of the first or second class.
311	Being a thug	Ditto	Ditto	...	Not bailable	...	Ditto	...	Transportation for life, and fine.	Court of Session.

Of the Causing of Miscarriage ; of Injuries to Unborn Children ; of the Exposure of Infants and of the Concealment of Births

312	Causing miscarriage	...	Shall not arrest without warrant.	Warrant	...	Bailable	...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child.	Ditto	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
312 A	Sterilization of a woman by surgery.	Ditto	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment not exceeding 3 years, and fine.	Ditto
312 B	Sterilization of a man by surgery.	Ditto	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
312 C	Voluntarily allowing oneself to be sterilized by surgery.	Ditto	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
312 D	Death caused by sterilization by surgery.	Ditto	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment not exceeding 10 years, and fine.	Ditto

¹. Amended by Act LII, 1948.

². Inserted by R.C. Law VII, 1963.

"NOTE.—The entries in the second and seventh columns against section 304 are substituted for the original entries in view of the amendment of section 304, Penal Code, by Burma Act XXXIII of 1947."

SCHEDULE II—contd.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—contd.
Of the Causing of Miscarriage ; of Injuries to Unborn Children ; fo the Exposure of Infants and of the Concealment of Births—concl.

Section	(1)	Offence	(2)	Whether the police may arrest without warrant or not	(3)	Whether a warrant or a summons shall ordinarily issue in the first instance	(4)	Whether bailable or not	(5)	Whether compoundable or not	(6)	Punishment under the Penal Code	(7)	By what Court triable	(8)
313		Causing miscarriage without woman's consent.		Shall not arrest without warrant.		Warrant	...	Not bailable		Not compoundable.		Transportation for life, or imprisonment of either description for 10 years, and fine.		Court of Session.	
314		Death caused by an act done with intent to cause miscarriage.		Ditto		Ditto	...	Ditto		Ditto		Imprisonment of either description for 10 years, and fine.		Ditto	
		If act done without woman's consent.		Ditto		Ditto	...	Ditto		Ditto		Transportation for life, or as above.		Ditto	
315		Act done with intent to prevent a child being born alive, or to cause it to die after its birth.		Ditto		Ditto	...	Ditto		Ditto		Imprisonment of either description for 10 years, or fine, or both.		Ditto	
316		Causing death of a quick unborn child by doing act with knowledge that it is likely to cause death to a pregnant woman.		Ditto		Ditto	...	Ditto		Ditto		Imprisonment of either description for 10 years, and fine.		Ditto	

317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto	...	Bailable	...	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto
318	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Magistrate of the first class.
<i>Of Hurt</i>									
323	Voluntarily causing hurt ...	Shall not arrest without warrant.	Summons	...	Bailable	...	Compoundable, when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 1 year, or fine of 10,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto	...	Ditto	...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	...	Not bailable	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session or Magistrate of the first class.
327	Voluntarily causing 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.	Ditto	Warrant	...	Ditto	...	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto

1. "NOTE.—The entry in the second column against section 316 is substituted for the original entry in view of the amendment of section 316, Penal Code, by Burma Act XXXIII of 1947."

2. "NOTE.—The entry in the sixth column against section 323, 324 and 325 are substituted for the original entry in view of the amendment of section 345 of this Code by Burma Act XIII of 1945."

SCHEDULE II—contd.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—contd.
Of Hurt—concl'd.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
328	Administering stupefying drug with intent to cause hurt, etc.	May arrest without warrant.	Warrant ...	Not bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
329	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.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Ditto	Ditto	Bailable ...	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	Bailable ...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session.

334	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	...	Compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
335	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.	Ditto	...	Ditto	...	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	...	Ditto	...	Not compoundable.	Imprisonment of either description for 1 year or fine of 500 rupees, or both.	Magistrate of the first or second class.
337	Causing hurt by an act which endangers human life, etc.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, etc.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session or Magistrate of the first class.

Of Wrongful Restraint and Wrongful Confinement

341	Wrongfully restraining any person.	May arrest without warrant.	Summons	...	Bailable	...	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.

Amended by Act LII, 1948.

SCHEDULE II—contd.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—concl.
Of Wrongful Restraint and Wrongful confinement—concl.

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or a summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
343	Wrongfully confining for three or more days.	May arrest without warrant.	Summons ...	Bailable ...	Compoundable when permission is given by the Court before which prosecution is pending. Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
344	Wrongfully confining for 10 or more days.	Ditto	Ditto ...	Ditto ...	...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first or second class.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto
346	Wrongful confinement in secret.	May arrest without warrant.	Ditto ...	Ditto ...	Compoundable when permission is given by the Court before which the prosecution is pending.	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Court of Session or Magistrate of the first or second class.

347	Wrongful confinement for the purpose of extorting property or constraining to an illegal act, etc.	Ditto	Ditto	...	Ditto	...	Not compoundable.	Imprisonment of either description for 3 years, and fine.	Ditto
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Court of Session or Magistrate of the first class.

Of Criminal Force and Assault

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	...	Bailable	...	Compoundable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	...	Ditto	...	Not compoundable.	Imprisonment of either description for 2 years or fine, or both.	Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	...	Ditto	...	Compoundable.	Ditto	Ditto
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	...	Not bailable	...	Not compoundable.	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	...	Bailable	...	Compoundable when permission is given by the Court before which the prosecution is pending.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto

SCHEDULE II—contd.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—contd.
Of Criminal Force and Assault—concl'd.

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Any Magistrate.

Of Kidnapping, Abduction, Slavery and Forced Labour

Section	Offence	May arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the first class.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
363	Kidnapping ...	...	...	...	...	...	...
364	Kidnapping or abducting in order to murder.	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.,	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session.

	Procurement of minor girl ...	May arrest without warrant.	Warrant	...	Not bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
366A				...				
366B	Importation of girl from foreign country.	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc. Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto
368				...			Punishment for kidnapping or abduction.	Court of Session or Magistrate of the first class.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto	...	Bailable	Ditto	Ditto	Court of Session.
371	Habitual dealing in slaves ...	May arrest without warrant.	Ditto	...	Not bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
372	Selling or letting to hire a minor for purposes of prostitution, etc.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto
374	Unlawful compulsory labour	Shall not arrest without warrant.	Ditto	...	Bailable	Compoundable.	Imprisonment of either description for 1 year, or fine, or both,	Any Magistrate.

SCHEDULE II—contd.
CHAPTER XVII.—OFFENCES AFFECTING THE HUMAN BODY—contd.
Of Rape

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
376	Rape. If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or District Magistrate.
	If the sexual intercourse was by a man with his own wife being under 12 years of age.	Ditto	Ditto ...	Ditto ...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	In any other case ...	May arrest without warrant.	Warrant ...	Not bailable	Ditto	Ditto	Ditto

Of Unnatural Offences

Section	Unnatural offences	May arrest without warrant.	Warrant ...	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session or Magistrate of the first class.
377							

379	Theft	...	May without warrant.	Warrant	...	Not bailable	Not com- poundable.	Imprisonment of either des- cription for 3 years, or fine, or both. Imprisonment of either des- cription for 7 years, and fine. Ditto	Any Magistrate.
380	Theft in a building, tent or vessel.	...	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto
381	Theft by clerk or servant of property in possession of master or employer.	...	Ditto	Ditto	...	Ditto	Ditto	Ditto	Court of Session or Magistrate of the first or second class.
382	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 retiring after committing it or to retaining property taken by it.	...	[Ditto]	Ditto	...	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Court of Session or Magistrate of the first class.

Of Extortion

384	Extortion	...	*May without warrant.	Warrant	...	Bailable	Not com- poundable.	Imprisonment of either des- cription for 3 years, or fine, or both. Imprisonment of either descrip- tion for 2 years, or fine, or both. Imprisonment of either des- cription for 10 years, and fine. Imprisonment of either descrip- tion for 7 years, and fine.	Court of Session or Magistrate of the first or se- cond class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	...	Ditto	Ditto	...	Ditto]	Ditto	Ditto	Ditto
386	Extortion by putting a person in fear of death or grievous hurt.	...	Ditto	Ditto	...	Not bailable	Ditto	Ditto	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	...	Ditto	Ditto	...	Ditto	Ditto	Ditto	Ditto

* Inserted by Act LVI, 1957.

SCHEDULE II—*contd.*
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*
Of Extortion—concl'd.

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years. If the offence threatened be an unnatural offence.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Transportation for life.	Ditto
	If the offence be an unnatural offence.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
						Transportation for life.	Ditto

Of Robbery and Dacoity.

392	Robbery ...	May arrest without warrant.	Warrant ...	Not bailable	Not compoundable.	Rigorous imprisonment for 10 years, and fine.	Court of Session or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years, and fine.	Ditto

393	Attempt to commit robbery	Ditto	Ditto	...	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Ditto
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto	Ditto	...	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto
395	Dacoity ...	Ditto	Ditto	...	Ditto	Ditto	Ditto	Court of Session.
396	Murder in dacoity	Ditto	Ditto	...	Ditto	Ditto	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto	Ditto	...	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto
398	...	•	•	•	•	•	•	•
399	Making preparation to commit dacoity.	Ditto	Ditto	...	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Ditto
400	Belonging to a gang of person associated for the purpose of habitually committing dacoity.	Ditto	Ditto	...	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	...	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Court of Session or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	...	Ditto	Ditto	Ditto	Court of Session.

SCHEDULE II.—*contd.*CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—*contd.**Of Criminal Misappropriation of Property*

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
403	Dishonest misappropriation of movable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant	Bailable	Compoundable when permission is given by the Court before which the prosecution is pending.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property knowing that it was in possession of a deceased person at his death and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first or second class.
	If by clerk or person employed by deceased.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto

Of Criminal Breach of Trust

	Criminal breach of trust ...	May without warrant.	Warrant	...	Not bailable	Not com- poundable.	Imprisonment of either des- cription for 3 years, or fine, or both.	Court of Session or Magistrate of the first or second class.
406								
407	Criminal breach of trust by a carrier, wharfinger, etc.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either des- cription for 7 years, and fine.	Court of Session or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either des- cription for 7 years, and fine.	Court of Session or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by bank- er, merchant or agent, etc.	Ditto	Ditto	...	Ditto	Ditto	Transportation for life, or im- prisonment of either descrip- tion for 10 years, and fine.	Court of Session or Magistrate of the first class.

Of the Receiving of Stolen Property

	Dishonestly receiving stolen property knowing it to be stolen.	May without warrant.	Warrant	...	Not bailable	Not com- poundable.	Imprisonment of either des- cription for 3 years, or fine, or both.	Court of Session or Magistrate of the first or second class.
411								
412	Dishonestly receiving stolen property knowing that it was obtained by dacoity.	Ditto	Ditto	...	Ditto	Ditto	Transportation for life, or rigorous impris- onment for 10 years, and fine.	Court of Session.

SCHEDULE II—*contd.*CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.**Of the Receiving of Stolen Property—concl'd.*

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
413	Habitually dealing in stolen property.	May arrest without warrant.	warrant ...	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
414	Assisting in concealment or disposal of stolen property knowing it to be stolen.	Ditto	Ditto ...	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first or second class.

Of Cheating

Cheating	...	...	Shall not arrest without warrant.	Warrant	...	Bailable	...	Compoundable when permission is given by the Court before which the prosecution is pending.	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
417	Cheating	...	...	...	...	...	...	...	...	...
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.		Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first or second class.

419	Cheating by personation ...	May without warrant.	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
420	Cheating and thereby dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	Ditto	Ditto	...	Ditto	...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Ditto
421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
424	Fraudulent removal or concealment of property, of himself or any other person, or assisting in the doing thereof, or dishonestly releasing, any demand claim to which he is entitled.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto

Of Mischief

426	Mischief ...	Shall not arrest without warrant.	Summons	...	Bailable	...	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
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1. "NOTE.—The entry in the sixth column against section 420 is substituted for the original entry in view of the amendment of section 348 of this Code by Burma Act XIII of 1945."

SCHEDULE II—*contd.*
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*
Of Mischief—contd.

Section ^a (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable when the only loss or damage caused is loss or damage to a private person. Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto	Ditto
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 5 years, or fine, or both.	Court of Session or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto ...	Ditto ...	Compoundable when permission is given by the Court before which the prosecution is pending.	Ditto	Ditto

431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	...	Ditto	...	Ditto	...	Not poundable.	Ditto	Ditto
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
433	Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark, or by exhibiting false lights.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, etc., a land-mark fixed by public authority.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Ditto	Ditto	...	Ditto	...	Not bailable	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto

SCHEDULE II—*contd.*
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*
Of Mischief—concl.

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or a summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
439	Running vessel ashore with intent to commit theft, etc.	May arrest without warrant.	Warrant ...	Not bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto	Ditto ...	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session or Magistrate of the first class.

Of Criminal Trespass

447	Criminal trespass	May arrest without warrant.	Summons ...	Bailable ...	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	Ditto	Warrant ...	Ditto	Ditto	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	Ditto

449	House-trespass in order to the commission of an offence punishable with death.	Ditto	...	Not bailable	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	...	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	...	Bailable	Compoundable when permission is given by the Court before which the prosecution is pending.	Imprisonment of either description for 2 years, and fine.	Any Magistrate.
452	If the offence is theft ...	Ditto	...	Not bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the first or second class.
453	House-trespass, having made preparation for causing hurt, assault, etc. Lurking house-trespass or house-breaking.	Ditto	...	Ditto	Ditto	Ditto	Ditto
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment. If the offence is theft ...	Ditto	...	Ditto	Ditto	Imprisonment of either description for 2 years, and fine.	Magistrate of the first or second class.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt assault, etc.,	Ditto	...	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first or second class.
						Imprisonment of either description for 10 years, and fine	Ditto
						Ditto	Court of Session or Magistrate of the first class.

SCHEDULE II.—*contd.*
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*concl.*
Of Criminal Trespass—concl.

Section	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
456		Lurking house-trespass or house-breaking by night.	May arrest without warrant.	Warrant ...	Not bailable...	Not compoundable.	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first or second class.
457		Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment. If the offence is theft ...	Ditto	Ditto	Ditto ...	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto
458		Lurking house-trespass or house-breaking by night after preparation made for causing hurt, etc.	Ditto	Ditto	Ditto ...	Ditto	Imprisonment of either description for 14 years, and fine.	Ditto
459		Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto ...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session or Magistrate of the first class.
460		Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Ditto	Ditto	Ditto ...	Ditto	Ditto	Court of Session.

461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Ditto	...	Bailable	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property and fraudulently opening the same.	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first or second class.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS

465	Forgery	...	...	...	Warrant	...	Bailable	...	Not com- poundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant.	Ditto	Ditto	...	Ditto	...	Not bailable	...	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
467	Forgery of a valuable security, will or authority to make or transfer any valuable security or to receive any money, etc.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the first class.
469	Forgery for the purpose of injuring the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto	Ditto	...	Ditto	...	Bailable	...	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto

SCHEDULE II.—*contd.*
CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.—*contd.*
Of Trade and Property Marks

Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
471	Using as genuine a forged document which is known to be forged.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Punishment for forgery of such document.	Same Court as that by which the forgery is triable.
472	When the forged document is a promissory note of the Government of India. Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	May arrest without warrant. Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Penal Code or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto

Criminal Procedure

474	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 466 of the Penal Code. If the document is one of the description mentioned in section 467 of the Penal Code.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	...	Ditto	Not bailable	Ditto	Ditto	Ditto
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting a will, etc.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
477A	Falsification of accounts ...	Ditto	Ditto	...	Ditto	Bailable	Ditto	Ditto	Court of Session or Magistrate of the first class.
482	Using a false trade or property mark with intent to deceive or injure any person.	May arrest without warrant. ¹	Ditto	...	Ditto	...	Ditto	Ditto	Magistrate of the first or second class.

¹ Amended by Act XXXIX, 1951.

² "NOTE.—The entries in the sixth column against sections 482, 483 and 486 are substituted for the original entries in view of the amendment of section 3-5 of this Code by Burma Act of 1945."

SCHEDULE II—*contd.*
CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*concl.*
Of Trade and Property Marks

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
483	Counterfeiting a trade or property mark used by another, with intent to cause damage or injury.	May ¹ arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
484	Counterfeiting a property mark use by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Ditto ¹	Summons	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade mark.	Ditto ¹	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto
486	Knowingly selling goods marked with a counterfeit property or trade mark.	Ditto ¹	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle containing goods with intent to accuse it to be believed that it contains goods which it does not contain, etc.,	Ditto ¹	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first or second class.

488	Making use of any such false mark.	Ditto ¹	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto
489	Removing, destroying or defacing any property mark with intent to cause injury.	Ditto ¹	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.

Of Currency-Notes and Bank-Notes

489A	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant	...	Not bailable	...	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
489B	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
489C	Possession of forged or counterfeit currency-notes or bank-notes.	Ditto	Ditto	...	Bailable	...	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto
489D	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto	Ditto	...	Not bailable	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons	...	Bailable	...	Compoundable.	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Magistrate of the first or second class.

¹ Amended by Act XXXIX, 1951.

SCHEDULE II—contd.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not (6)	Punishment under the Penal Code (7)	By what Court triable (8)
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	No bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
494	Marrying again during the lifetime of a husband or wife.	Ditto	Ditto ...	Bailable ...	Compoundable with permission of the Court before which the prosecution is pending. Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the first class.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto

497	Adultery	Ditto	Ditto	...	Ditto	...	Compound- able.	Imprisonment of either descrip- tion for 5 years, or fine, or both. Imprisonment of either descrip- tion for 2 years, or fine, or both.	Court of Session or Magistrate of the first class. Magistrate of the first or second class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	Ditto	...	Ditto	...	Ditto		

CHAPTER XXI.—DEFAMATION

500	Defamation	Shall not arrest without war- rant.	Warrant	...	Bailable	...	Compound- able.	Simple imprison- ment for 2 years, or fine, or both. Ditto	Court of Session or Magistrate of the first class. Ditto
501	Printing or engraving matter knowing it to be defama- tory.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto
502	Sale of printed or engraved substance containing defa- matory matter, knowing it to contain such matter.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

504	Insult intended to provoke a breach of the peace.	Shall not arrest without war- rant.	Warrant	...	Bailable	...	Compound- able.	Imprisonment of either descrip- tion for 2 years, or fine, or both. Ditto	Any Magistrat. Magistrate of the first class.
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace.	Ditto	Ditto	...	Not bailable	...	Not Com- poundable.		
506	Criminal intimidation ...	Ditto	Ditto	...	Bailable	...	Compound- able.	Imprisonment of either descrip- tion for 2 years, or fine, or both.	Magistrate of the first or second class.
	If threat be to cause death or, grievous hurt, etc.	Ditto	Ditto	...	Ditto	...	Not Com- poundable.	Imprisonment of either descrip- tion for 7 years, or fine, or both.	Court of Session or Magistrate of the first class.

SCHEDULE II—*concl.*
CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concl.*

Section (1)	Offence (2)	Whether the police may arrest without warrant or not (3)	Whether a warrant or summons shall ordinarily issue in the first instance (4)	Whether bailable or not (5)	Whether compoundable or not. (6)	Punishment under the Penal Code (7)	By what Court triable (8)
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Shall not arrest without war- rant.	Warrant ...	Bailable ...	Not Com- poundable	Imprisonment of either descrip- tion for 2 years, in addition to the punish- ment under above section	Court of Session or Magistrate of the first class.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto ...	Ditto	Compound- able.	Imprisonment of either descrip- tion for 1 year, or fine, or both.	Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Ditto	Ditto ...	Ditto	Compoundable when per- mission is given by the Court before which the prosecution is pending.	Simple imprison- ment for 1 year, or fine, or both.	Magistrate of the first class.
510	Appearing in a public place, etc., in a state of intoxication and causing annoyance to any person.	Ditto	Ditto ...	Ditto	Not com- poundable.	Simple imprison- ment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which a police arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.
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OFFENCES AGAINST OTHER LAWS

	May arrest without warrant.	Warrant	Not bailable	Not compoundable.		Court of Session.
If punishable with death, transportation or imprisonment for 7 years or upwards.	Ditto	Ditto	...	...	...	Court of Session.
If punishable with imprisonment for 3 years and upwards, but less than 7 years.	Ditto	Ditto	...	Ditto	...	Court of Session or Magistrate of the first class.
If punishable with imprisonment for 1 year and upwards, but less than 3 years.	Shall not arrest without warrant.	Summons	...	Ditto	...	Court of Session or Magistrate of the first or second class.
If punishable with imprisonment for less than 1 year, or with fine only.	Ditto	Ditto	...	Ditto	...	Any Magistrate.

SCHEDULE III

(See section 36)

ORDINARY POWERS OF MAGISTRATES

I.—Ordinary Powers of a Magistrate of the Third Class

- (1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64.
- (2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.
- (3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.
- (4) Power to issue proclamations in cases judicially before him, section 87.
- (5) Power to attach and sell property and to dispose of claims to attached property in cases judicially before him, section 88.
- (6) Power to restore attached property, section 89.
- (7) Power to require search to be made for letters and telegrams, section 95.
- (8) Power to issue search-warrant, section 96.
- (9) Power to endorse a search-warrant order delivery of thing found, section 99.
- (10) Power to command unlawful assembly to disperse, section 127.
- (11) Power to use civil force to disperse unlawful assembly, section 128.
- (12) Power to require military force to be used to disperse unlawful assembly, section 130.
- (13) * * *
- (14) Power to authorize detention, not being detention in the custody of the police, of a person during a police investigation, section 167.
- (14a) Power to postpone issue of process and inquire into case himself, section 202.
- (15) Power to detain an offender found in Court, section 351.
- (16) * * *
- (17) Power to apply to District Magistrate to issue commission for examination of witness, section 506(2).
- (18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514, and to require fresh security, section 514A.
- (18a) Power to make order as to custody and disposal of property pending inquiry or trial, section 516A.
- (19) Power to make order as to disposal of property, section 517.
- (20) Power to sell property of a suspected character, section 525.
- (21) Power to require affidavit in support of application, section 539 A.
- (22) Power to make local inspection, section 539B.

II.—Ordinary Powers of a Magistrate of the Second Class

- (1) The ordinary powers of a Magistrate of the third class.
- (2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.
- (3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202.

III.—Ordinary Powers of a Magistrate of the First Class

- (1) The ordinary powers of a Magistrate of the second class.
- (2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.
- (3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.
- (4) Power to require security to keep the peace, section 107.
- (5) Power to require security for good behaviour, section 109.
- (6) Power to discharge sureties, section 126A.
- (6a) Power to make orders as to local nuisances, section 133.
- (7) Power to make orders, etc., in possession cases, sections 145, 146 and 147.
- (7a) Power to record statements and confessions during a police investigation, section 164.
- (7aa) Power to authorize detention of a person in the custody of the police during a police investigation, section 167.
- (7b) Power to hold inquests, section 174.
- (8) Power to commit for trial, section 206.
- (9) Power to stop proceedings when no complaint, section 249.
- (9a) Power to tender pardon to accomplice during inquiry into case by himself, section 337.
- (10) Power to make orders of maintenance, sections 488 and 489.
- (11) Power to take evidence on commission, section 503.
- (12) Power to recover penalty on forfeited bond, section 514.
- (12a) Power to require fresh security, section 514A.
- (12b) Power to re-call case made over by him to another Magistrate, section 528 (4).
- (13) Power to make order as to first offenders, section 562.
- (14) Power to order released convicts to notify residence, section 565.

IV.—Ordinary Powers of a Sub-divisional Magistrate appointed under section 13

- (1) The ordinary powers of a Magistrate of the first class.
- (2) Power to direct warrants to landholders, section 78.
- (3) Power to require security for good behaviour, section 110.
- (4) * * * *

- (5) Power to make orders prohibiting repetitions of nuisances, section 143.
- (6) Power to make orders under section 144.
- (7) Power to depute subordinate Magistrate to make local inquiry, section 148.
- (8) Power to order police investigation into cognizable case, section 156.
- (9) Power to receive report of police-officer and pass order, section 173.
- (10) * * * *
- (11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
- (12) Power to entertain complaints, section 190.
- (13) Power to receive police reports, section 190.
- (14) Power to entertain cases without complaint, section 190.
- (15) Power to transfer cases to a subordinate Magistrate, section 192.
- (16) Power to pass sentence on proceedings recorded by a subordinate Magistrate, section 349.
- (17) Power to forward record of inferior Court to District Magistrate, section 435 (2).
- (18) Power to sell property alleged or suspected to have been stolen, etc., section 524.
- (19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.

V.—Ordinary Powers of a District Magistrate

- (1) The ordinary powers of a Sub-divisional Magistrate.
- (2) Power to require delivery of letters, telegrams, etc., section 95.
- (3) Power to issue search-warrants for documents in custody of postal or telegraph authority, section 96.
- (4) Power to require security for good behaviour in case of sedition, section 108.
- (5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.
- (6) Power to cancel bond for keeping the peace, section 125.
- (6a) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B.
- (7) Power to try summarily, section 260.
- (7a) Power to tender pardon to accomplice at any stage of a case, section 337.
- (8) Power to quash convictions in certain cases, section 350.
- (9) Power to hear appeals from orders requiring security for keeping the peace or good behaviour, section 406.]
- (9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A.

- (10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.
- (11) Power to call for records, section 435.
- (12) Power to order inquiry into complaint dismissed or case of accused discharged, section 436.
- (13) Power to order commitment, section 437.
- (14) Power to report case to High Court, section 438.
- (15)–(16) * * * *
- (17) Power to appoint person to be public prosecutor in particular case, section 492 (2).
- (18) Power to issue commission for examination of witness, sections 503, 506.
- (19) Power to hear appeals from or revise orders passed under sections 514, 515.
- (20) Power to compel restoration of abducted female, section 552.

SCHEDULE IV

(See section 37 and 38)

ADDITIONAL POWERS WITH WHICH MAGISTRATES MAY BE INVESTED

POWERS WITH WHICH
A MAGISTRATE OF
THE FIRST CLASS
MAY BE INVESTED.

BY THE PRESI-
DENT OF THE
UNION.

- (1) Power to require security for good behaviour in case of sedition, section 108 :
- (2) Power to require security for good behaviour section 110 :
- (3) * * * *
- (4) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (5) Power to make orders under section 144 :
- (6) * * * *
- (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 :

POWERS WITH WHICH
A MAGISTRATE OF
THE FIRST CLASS
MAY BE INVESTED.
—concl'd.

BY THE PRESI-
DENT OF THE
UNION.

- (8) Power to take cognizance of offences upon complaint, section 190 :
- (9) Power to take cognizance of offences upon police reports, section 190 :
- (10) Power to take cognizance of offences without complaint, section 190 :
- (11) Power to try summarily, section 260 :
- (12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407 :
- (13) Power to sell property alleged or suspected to have been stolen, etc., section 524 :
- (14) * * * *
- (15) Power to try cases under section 124A of the Penal Code.

BY THE
DISTRICT
MAGISTRATE.

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) * * * *
- (4) Power to take cognizance of offences upon complaint, section 190 :
- (5) Power to take cognizance of offences upon police reports, section 190 :
- (6) Power to transfer cases, section 192.

POWERS WITH WHICH
A MAGISTRATE OF
THE SECOND CLASS
MAY BE INVESTED.

BY THE PRESI-
DENT OF THE
UNION.

- (1) * * * *
- (2) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (3) Power to make orders under section 144.

POWERS WITH WHICH
A MAGISTRATE OF
THE SECOND CLASS
MAY BE INVESTED
—concl'd.

BY THE PRESI-
DENT OF THE
UNION—
concl'd.

- (3a) Power to record statements and confessions during a police investigation, section 164 :
- (3b) Power to authorize detention of a person in the custody of the police during a police investigation, section 167 :
- (4) Power to hold inquests, section 174 :
- (5) Power to take cognizance of offences upon complaint, section 190 :
- (6) Power to take cognizance of offences upon police reports, section 190 :
- (7) Power to take cognizance of offences without complaint, section 190 :
- (8) Power to commit for trial, section 206 :
- (9) Power to make order as to first offenders, section 562.

POWERS WITH WHICH
A MAGISTRATE OF
THE SECOND CLASS
MAY BE INVESTED.

BY THE
DISTRICT
MAGISTRATE.

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (4) Power to take cognizance of offences upon complaint, section 190 :
- (5) Power to take cognizance of offences upon police reports, section 190.

POWERS WITH WHICH
A MAGISTRATE OF
THE THIRD CLASS
MAY BE INVESTED.

BY THE PRESI-
DENT OF THE
UNION.

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) * * * *
- (3) Power to hold inquests, section 174.

POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED —concl'd.	BY THE PRESI- DENT OF THE UNION— concl'd.	(4) Power to take cognizance of offences upon com- plaint, section 190 : (5) Power to take cognizance of offences upon police reports, section 190.
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) * * * * * (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon com- plaint, section 190 : (5) Power to take cognizance of offences upon police reports, section 190.
POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED.	BY THE PRESI- DENT OF THE UNION.	Power to call for records, section 435.

SCHEDULE V

(See section 555)

FORMS

I.—SUMMONS TO AN ACCUSED PERSON

(See section 68)
of

To

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 (*Magistrate*)

the

of

on

Dated this

day of
day ofHerein fail not.
19

(Seal)

(Signature)

II.—WARRANT OF ARREST.

(See section 75.)

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 19
(Seal) (Signature)

(See section 76)

This warrant may be endorsed as follows :—

If the said shall give bail himself in the sum of , with one surety in the sum of (or two sureties each in the sum of) to 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 19
(Signature)

III.—BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT

(See section 86)

I (name), of , being brought before the District 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 the State the sum of rupees

Dated this day of 19
(Signature)

I do hereby declare myself surety for the abovenamed 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 until otherswie directed by the Court ; and, in case of his making default therein, I bind myself to forfeit to the State the sum of rupees

Dated this day of 19
(Signature)

IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED

(See section 87)

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 Pennal 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 on the _____ day of _____

Dated this _____ day of _____ 19 _____

(Seal)

(Signature)

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS

(See section 87)

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 _____ 19 _____

(Seal)

(Signature)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS

(See section 88)

To the Police-officer in charge of the Police-station at _____

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 has been or is being duly issued and published requiring the said _____ to appear and give evidence at the time and place mentioned therein ;

This is to authorize and require you to attach by seizure the moveable property belonging to the said _____ to the value of rupees _____ which you may find within the District of _____ 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 _____ 19____
(Seal) (Signature)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED

(See section 88)

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 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 has been or is being 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 _____ 19____
(Seal) (Signature)

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR

(See section 88)

To the Deputy Commissioner of the District of _____

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 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 has been or is being duly issued and published requiring the said to appear to answer the said charge within days ; and whereas the said is possessed of certain land paying revenue to Government in the village (or town) of in the District of ;

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 19
(Seal) (Signature)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

(See section 90)

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 and the seal of the Court, this day of 19
(Seal) (Signature)

VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE

(See section 96)

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 and the seal of the Court, this day of
19

(Seal)

(Signature)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT

(See section 98)

To (*name and designation of a Police-officer above the rank of constable*)

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*);

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, or obscene objects, 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 and the seal of the Court, this day of
19

(Seal)

(Signature)

X.—BOND TO KEEP THE PEACE

(See section 107)

WHEREAS I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace, for the term of or until the completion of the inquiry into the matter of now pending in the Court 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 or until the completion of the said inquiry, and, in case of my making default therein, I hereby bind myself to forfeit to the State the sum of rupees

Dated this day of 19

(Signature)

XI.—BOND FOR GOOD BEHAVIOUR

(See sections 108, 109 and 110)

WHEREAS I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour for the term of (*state the period*) or until the completion of the inquiry in the matter of pending in the Court of I hereby bind myself to be of good behaviour during the said term or until the completion of the said inquiry; and, in case of my making default therein I bind myself to forfeit to the State the sum of rupees

Dated this day of 19

(Signature)

(Where a bond with sureties is to be executed, add)—We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour during the said term or until the completion of the said inquiry; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to the State the sum of rupees

Dated this day of 19

(Signature)

XII.—SUMMONS ON INFORMATION OF PROBABLE BREACH OF THE PEACE

(See section 114)

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 person (*or by a duly authorized agent*) at the Court of the Magistrate of on the day of 19 , 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 and the seal of the Court, this day of

(Seal)^a 19

(Signature)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE

(See section 123)

To the Superintendent (or Keeper) of the Jail at

WHEREAS (*name and address*) appeared before me in person (or by his authorized agent) 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, the said Superintendent (or Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____

19
(Seal)

(Signature)

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR

(See section 123)

To the Superintendent (or Keeper) of the Jail at

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, 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, etc., *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 imprisonment for (*state the term*) unless the said security be sooner furnished ;

This is to authorize and require you, the said Superintendent (or Keeper) to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of

19

(Seal)

(Signature)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See sections 123 and 124)

To the Superintendent (or Keeper) of the Jail at (or other officer in whose custody the person is).

WHEREAS (name and description of prisoner) was committed to your custody under warrant of the Court, dated the day of and has since duly given security under section of the Code of Criminal Procedure ;

or

and there has appeared to me sufficient grounds for the opinion that he can be released without hazard to the community ;

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 and the seal of the Court, this day of

19.

(Seal)

(Signature)

XVI.—ORDER FOR THE REMOVAL OF NUISANCES

(See section 133)

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, etc. (describe the road or public place), by, etc. (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 owner (*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*), and that the safety of the public is endangered by reason of the said tank (*or well or excavation*) being without a fence (*or insecurely fenced*) ;

or

WHEREAS, etc., etc. (*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, etc. ;

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, etc. ;

or

I do hereby direct and require you, etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of
19

(Seal)

(Signature)

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY

(See section 138)

WHEREAS on the day of 19, 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, etc., of the five or more Jurors*) to be the Jury to try and decide the said question, and do require the said Jury to report their decision within days from the date of this order at my Court at

Given under my hand and the seal of the Court, this day of
19

(Seal.)

(Signature)

XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY

(See section 140)

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 Penal Code for disobedience thereto.

Given under my hand and the seal of the Court, this day of

19

(Seal)

(Signature)

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY

(See section 142)

To (name, description and address)

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the day of 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 142 of the Code of Criminal Procedure, 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 and the seal of the Court, this day of

19

(Seal)

(Signature)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE

(See section 143)

To (name, description and address)

WHEREAS it has been made to appear to me that, etc. (*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, etc. (*as the case may be*),

Given under my hand and the seal of the Court, this day of

19

(Seal)

(Signature)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(See section 144)

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, etc. (*as the case may be*), and that such procession is likely to lead to a riot or an affray;

or

WHEREAS, etc., etc. (*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 land on 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 recited may require*).

Given under my hand and the seal of the Court, this day of

19
(Seal)

(Signature):

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC., IN DISPUTE

(See section 145)

It appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*), concerning certain (*state concisely the subject of dispute*), situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true ;

I do decide and declare that he is (*or they are*) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or their*) possession in the meantime.

Given under my hand and the seal of the Court, this day of

19
(Seal)

(Signature)

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE
POSSESSION OF LAND, ETC.

(See section 146)

To the Police-officer in charge of the Police-station at (or, To
the Collector of).

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdiction and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) (or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid);

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of

19

(Seal)

(Signature)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND
OR WATER

(See section 147)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (or water) is claimed exclusively by (*describe the person or persons*), and it appearing to me, on due inquiry into the same, that the said land (or water) has been open to the enjoyment of such use by the public (or if by an individual or a class of person describe him or them) and (if the use can be enjoyed throughout the year) that the said use has been enjoyed within three months of the institution of the said inquiry (or, if the use is enjoyable only at particular seasons, say "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (or retain) possession of the said land (or water) to the exclusion of the enjoyment of the right of use

aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of

19

(Seal)

(Signature)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER

(See section 169)

I (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to the State the sum of rupees

Dated this day of 19

(Signature)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the abovesaid that he shall attend at , in the Court of , on the day of next (*or* on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to the State the sum of rupees

Dated this day of 19

(Signature)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE

(See section 170)

I (*name*), of (*place*), do hereby bind myself to attend at in the Court of at o'clock on the day of next and then and there to prosecute (*or* to prosecute and give evidence) (*or* to give evidence) in the matter of a charge of against one A.B., and, in case of making default herein, I bind myself to forfeit to the State the sum of rupees

Dated this day of 19

(Signature)

XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER
(See section 218)

THE Magistrate of _____ hereby gives notice that he has committed one _____ for trial at the next Sessions ; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case. The charge against the accused is that, etc. (*state the offence as in the charge.*)

Dated this _____ day of _____ 19_____.
(Signature)

XXVIII.—CHARGES

(See sections 221, 222 and 223)

(I) CHARGES WITH ONE HEAD

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

(b) that you, on or about the _____ day of _____, at _____, waged war against the State, and thereby committed an offence punishable under section 121 of the Penal Code, and within the cognizance of the Court of Session [*or High Court*].
On Penal Code, section 121.

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

(Signature and seal of the Magistrate)

(2) * * * *

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

(4) That you, 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 _____ Act, section _____, and known by you to be prejudicial to _____, and thereby committed an offence punishable under section 166 of the Penal Code, and within the cognizance of the Court of Session (*or High Court*).
On section 166.

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

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

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

(8) That you, on or about the _____ day of _____, at _____, voluntarily caused grievous hurt to _____, On section 325. and thereby committed an offence punishable under section 325 of the Penal Code, and within the cognizance of the Court of Session [or High Court].

(9) That you, on or about the _____ day of _____, at _____, robbed [state the name], and thereby committed an On section 392. offence punishable under section 392 of the Penal Code, and within the cognizance of the Court of Session [or High Court].

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

[In cases tried by Magistrates substitute "within my cognizance" for "within the cognizance of the Court of Session," and in (c) omit "by the said Court."]

(II) CHARGE WITH TWO OR MORE HEADS

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

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

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 241 of the Penal Code, and within the cognizance of the Court of Session [or High Court].

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

(Signature and seal of the Magistrate)

[To be substituted for (b)]:—

(2) *First.*—That you, on or about the _____ day of _____, at _____, committed murder by causing the death of _____, and
On section 302 and 304. thereby committed an offence punishable under section 302 of the Penal Code, and within the cognizance of the Court of Session [or High Court].

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 304 of the Penal Code, and within the cognizance of the Court of Session [or High Court].

(3) *First.*—That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the
On sections 379 and 382. Penal Code, and within the cognizance of the Court of Session [or High Court].

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

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

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

(4) That you, on or about the _____ day of _____, at _____, in the course of the inquiry into _____, before _____, *Alternative charge on section 193.* stated in evidence that “_____” and that you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in the evidence

that " ", one of which statements you either knew or believed to be false or did not believe to be true, and thereby committed an offence punishable under section 193 of the Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates substitute "within my cognizance" for "within the cognizance of the Court of Session" and in (c) omit "by the said Court."]

(III) CHARGE FOR THEFT AFTER PREVIOUS CONVICTION

I (name and office of Magistrate, etc.), hereby charge you (name of accused person) as follows :—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Penal Code, and within the cognizance of the Court of Session [or ^{High Court} Magistrate 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 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 accused was convicted), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Penal Code.

And I hereby direct that you be tried, etc.

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE

(See sections 245 and 258)

To the Superintendent (or Keeper) of the Jail at

WHEREAS on the day of , (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 19 was convicted before me (name and official designation) of the offence (mention the offence or offences concisely) under section (or sections) of the Penal Code (or of Act), and was sentenced to (state the punishment fully and distinctly) ;

This I do to authorize and require you, the said Superintendent (or Keeper), to receive the said (prisoner's name) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this

day of

19

(Seal)

(Signature)

XXX.—WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER AMENDS BY ATTACHMENT AND SALE

(See section 250)

To the Superintendent (or Keeper) of the Jail at

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 false and 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 an order has been made for his simple imprisonment in Jail for the period of _____ days, unless the aforesaid sum be sooner paid ;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the 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 and the seal of the Court, this _____ day of _____
19____

(Seal)

(Signature)

XXXI.—SUMMONS TO WITNESS

(See sections 69 and 252)

To _____ of _____

WHEREAS complaint has been made before me that _____ 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 and the seal of the Court, this _____ day of _____
19____

(Seal)

(Signature)

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS

(See section 326)

To the District Magistrate of

WHEREAS a Criminal Session is appointed to be held in the Court-house at _____ on the _____ day of _____ next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of Jurors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(Here enter the names of Jurors)

Given under my hand and the seal of the Court, this _____ day of

19

(Seal)

(Signature)

XXXIII.—SUMMONS TO JUROR

(See section 328)

To (name) of (place),

PURSUANT to a precept directed to me by the Court of Session of _____ requiring your attendance as a Juror at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (place) at ten o'clock in the forenoon on the _____ day of _____ next.

Given under my hand and the seal of office, this _____ day of

19

(Seal)

(Signature)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH

(See section 374)

To the Superintendent (or Keeper) of the Jail at

WHEREAS at the Session held before me on the _____ day of _____ 19____, (name of prisoner), the (1st, 2nd, 3rd, 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 _____ of the Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the High Court;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (prisoner's name) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the High Court.

Given under my hand and the seal of the Court, this _____ day of

19

(Seal)

(Signature)

XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH

(See section 381)

To the Superintendent (or Keeper) of the Jail at

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. _____ of the Calendar at the Session, held before me on the _____ day of _____ 19____, has been by warrant of this Court, dated the _____ day of _____ 19____, committed to your custody under sentence of death; and whereas the order of the High Court confirming the said sentence has been received by this Court;

This is to authorize and require you, the said Superintendent (or Keeper) 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*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed,

Given under my hand and the seal of the Court, this _____ day of _____ 19____

(Seal)

(Signature)

XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE

(See sections 381 and 382)

To the Superintendent (or Keeper) of the Jail at

WHEREAS at a Session held on the _____ day of _____ 19____, (*name of prisoner*), (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. _____ of the Calendar at the said Session, was convicted of the offence of _____ punishable under section _____ of the Penal Code, and sentenced to _____, and was thereupon committed to your custody; and whereas by the order of the _____ Court of _____ (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or as the case may be*);

This is to authorize and require you, the said Superintendent (or Keeper), safely to keep the said (*prisoner's name*) in your custody in the said Jail as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order, (*or if the mitigated sentence is one of imprisonment, say after the words, "custody in the said Jail", "and there to carry into execution the punishment of imprisonment under the said order according to law."*)

Given under my hand and the seal of the Court, this _____ day of _____ 19____

(Seal)

(Signature)

XXXVII.—WARRANT TO LEVY A FINE BY ATTACHMENT AND SALE

[See section 386 (1) (a)]

To (name and designation of the Police-officer or other person or persons who is or are to execute the warrant).

WHEREAS (name and description of the offender) was on the day of
19 . 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 attach any moveable 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 attachment the said sum shall not be paid (or forthwith), to sell
the moveable property attached, 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 and the seal of the Court, this day of
19

(Seal)

(Signature)

XXXVIII.—BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALIZATION OF FINE

(See section 388)

WHEREAS I (name), inhabitant of (place), have been sentenced to pay a
fine of rupees and in default of payment thereof to undergo
imprisonment for ; and whereas the Court has been pleased to
order my release on condition of my executing a bond for my appearance on
the following date (or dates) namely :—

I hereby bind myself to appear before the Court of at
o'clock on the following date (or dates) namely:—
and in case of making default herein I bind myself to forfeit to the
State the sum of rupees .

Dated this day of 19

(Signature)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named
That he will appear before the Court of on the following date
(or dates) namely :—

and, in case of his making default therein, we bind ourselves jointly
and severally to forfeit to the State the sum of rupees

(Signature)

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN
A FINE IS IMPOSED

(See section 480)

To the Superintendent (or Keeper) of the Jail at

WHEREAS at a Court held 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, the Superintendent (or Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), unless the 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 and the seal of the Court, this day of
19

(Seal)

(Signature)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS
REFUSING TO ANSWER

(See section 485)

To (*name and description of officer of Court*),

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 to keep in your custody for the space of days unless in the meantime he shall consent to be examined and to answer the question 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 and the seal of the Court, this day of
19

(Seal)

(Signature)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

(See section 488)

To the Superintendent (or Keeper) of the Jail at

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [or his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (*or himself*)] and to have neglected (*or refused*) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or child*) for maintenance the monthly sum of rupees , and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or months*) of : And thereupon an order was made adjudging him to undergo simple (*or rigorous*) imprisonment in the said Jail for the period of ;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of

19 .

(Seal)

(Signature)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY ATTACHMENT AND SALE

(See section 488)

To (*name and designation of the Police-officer or other person to execute the warrant*),

WHEREAS an order has been duly made requiring (*name*) to allow to his wife (*or child*) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or months*) of ;

This is to authorize and require you to attach any moveable 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 attachment the said sum shall not be paid (*or forthwith*), to sell the moveable property attached, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant with an endorsement certifying what you have done under it immediately upon its execution.

Given under my hand and the seal of the Court, this day of

19

(Seal)

(Signature)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE

(See sections 496 and 499)

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 his Court and at the Court of Session, 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 by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to the State the sum of rupees _____

Dated this _____ day of _____ 19____
(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 Court of _____ on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, 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 the State the sum of rupees _____

Dated this _____ day of _____ 19____
(Signature)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See section 500)

To the Superintendent (*or Keeper*) of the Jail at _____ (*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 499 of the Code of Criminal Procedure; 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 and the seal of the Court, this _____ day of _____ 19____

(Seal.) (Signature)

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND

(See section 514)

To the Police-officer in charge of the Police-station at

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 the State 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 moveable 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 its 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 and the seal of the Court, this _____ day of

19

(Seal)

(Signature)

XLV.—NOTICE TO SURETY ON BREACH OF A BOND

(See section 514)

To _____ of

WHEREAS on the _____ day of _____ 19____, 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 the State; 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 and the seal of the Court, this _____ day of

19

(Seal)

(Signature)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR

(See section 514)

To _____ of

WHEREAS on the _____ day of _____ 19____, 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 the State; and whereas

the said (name) has been convicted of the offence of (*mention the offence concisely*) 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 and the seal of the Court, this _____ day of

19

(Seal)

(Signature)

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY

(See section 514)

To _____ of

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 the State the sum of rupees (*the penalty in the bond*) ;

This is to authorize and require you to attach any moveable 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 and the seal of the Court, this _____ day of

19

(Seal)

(Signature)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL

(See section 514)

To the Superintendent (*or* Keeper) of the Civil Jail at

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 mentioned in the said bond has been forfeited to the State ; 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 moveable property of his, and an order has been made for his imprisonment in the civil Jail for (*specify the period*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody with this warrant, and him safely to keep in the said Jail for the said (*term of imprisonment*) and

to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of

19

(Seal)

(Signature)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE

(See section 514)

To (name, description and address).

WHEREAS on the day of 19 , you entered into a bond not to commit, etc., (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

19

(Seal)

(Signature)

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE

(See section 514)

To (name and designation of Police-officer), at the Police-station of

WHEREAS (name and description) did on the day of 19 , enter into a bond for the sum of rupees binding himself not to commit a breach of the peace, etc., (as in 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 moveable 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 days, 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 and the seal of the Court, this

day of

19

(Seal)

(Signature)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE

(See section 514)

To the Superintendent (or Keeper) of the Civil Jail at

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

been given before me and duly recorded, whereby the said (name) has forfeited to the State 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 moveable property, and an order has been made for the imprisonment of the said (name) in the civil Jail for the period of (term of imprisonment) ;

This is to authorize and require you, the Superintendent (or Keeper), to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment), returning this warrant with, an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of

19

(Seal)

(Signature)

THE CODE OF CRIMINAL PROCEDURE (TEMPORARY PROVISIONS) ACT, 1954

[Act VII, 1954] (26th March, 1954)

It is hereby enacted as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Temporary Provisions) Act, 1954.

(2) It shall remain in force until the President of the Union by notification declares that it shall cease to be operative; and when it so ceases by virtue of any such notification, the provisions of section 5A of the Burma General Clauses Act shall not have any effect.

2. Section 497 of the Code of Criminal Procedure, hereinafter referred to as "the Code", shall have effect as if for sub-section (1) thereof the following were substituted, namely:—

"(1) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer-in-charge of a police station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or transportation for life, or of any of the offences mentioned below—

(i) (a) offences under Chapters VI, VII and XII of the Penal Code, punishable with imprisonment for a term which may extend to not less than seven years ;

(b) offences under sections 363 to 373, both inclusive, section 376, sections 392 to 402, both inclusive, section 409, sections 489A, 489B, 489C and 489D of the Penal Code ;

- (ii) offences under section 5 of the Control of Imports and Exports (Temporary) Act, 1947 ;
- (iii) offences under section 6 (1) of the Public Property Protection Act, 1947 ;
- (iv) offences under section 4 (2) of the Suppression of Corruption Act, 1948 ;
- (v) offences under section 2 of the Arms (Emergency Punishment) (Temporary) Act, 1949 ;
- (vi) offences under section 19A of the Arms Act ;
- (vii) offences under the Emergency Provisions Act, 1950 ;

Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail."

3. Section 498 of the Code shall have effect as if for sub-section (1) thereof the following were *substituted*, namely :—

"(1) The High Court or Court of Session may in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, unless there are reasonable grounds for believing that the accused has been guilty of an offence under section 122 of the Penal Code or of any of the offences mentioned in clauses (i) to (vii) of sub-section (1) of section 497, or direct that the bail required by a police-officer or Magistrate be reduced."

4. The Code of Criminal Procedure (Temporary Provisions) Act, 1953, is hereby repealed.

THE WHIPPING ACT

[INDIA ACT IV, 1909] (22nd March, 1909)

I. * * * *

Whipping added to punishments described in the Penal Code.

Offences punishable with whipping in lieu of other punishments.

2. In addition to the punishments described in section 53 of the Penal Code, offenders are also liable to the punishment of whipping.

3. Whoever commits any of the following offences, namely :—

- (a) theft, as defined in section 378 of the Penal Code other than theft by a clerk or servant of property in possession of his master ;
- (b) theft in a building, tent or vessel, as defined in section 380 of the said Code ;
- (c) theft after preparation for causing death or hurt, as defined in section 382 of the said Code ;
- (d) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to th

committing of any offence punishable with whipping under this section ;

- (e) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section ;

may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the said Code.

4. Whoever—

- (a) abets, commits or attempts to commit rape, as defined in section 375 of the Penal Code ;
 (b) compels, or induces any person by fear of bodily injury, to submit to an unnatural offence, as defined in section 377 of the said Code ;
 (c) voluntarily causes hurt in committing or attempting to commit robbery, as defined in section 390 of the said Code ;
 (d) commits dacoity, as defined in section 391 of the said Code ;
 (e) commits any offence under sections 324, 325, 326, 329, 331, 333, 365, 366, 366A, 367, 368, 369, 372, 392 or 393 of the said Code ;

Offences punishable with whipping in lieu of or in addition to other punishment.

may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence, abetment or attempt be liable under the said Code.

5. Any juvenile offender who abets, commits or attempts to commit—

- (a) any offence punishable under the Penal Code, except offences specified in Chapter VI and in sections 153A and 505 of that Code and offences punishable with death, or
 (b) any offence punishable under any law with imprisonment which the President of the Union may, by notification in the Gazette, specify in this behalf,

Juvenile offenders when punishable with whipping.

may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable.

Explanation—In this section the expression “juvenile offender” means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive.

6. Whenever the President of the Union has, by notification¹ in the Gazette, declared the provisions of this section to be in force in any frontier district or any wild tract of country within the Union of Burma, any person who in such district or tract of country, after such notification, as aforesaid, commits any offence punishable under the Penal Code with imprisonment for three years or upwards, may be punished with whipping in lieu of any other punishment to which he may be liable under the said Code.

Special provisions as to punishment with whipping in frontier districts.

¹ For such a Notification, see *Burma Gazette*, 1909, Part I, p. 572.

THE GAMBLING ACT

[BURMA ACT I, 1899] (22nd April, 1899]

1-2. • • • • *

Interpreta-
tion clause.

3. In this Act, unless there is anything repugnant in the subject or context,—

“Common
gaming-
house.”

- (1) “common gaming-house” means any house, enclosure, room, place, vessel or vehicle, whether public or private, in which—
- (a) any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room, place, vessel or vehicle, whether by way of charge for the use of the instruments of gaming as such, or of the house, enclosure, room, place, vessel or vehicle, or otherwise howsoever for gaming purposes ; or where
- (b) the game of *ti* or any other game or pretended game of a like nature is carried on ;

“Gaming”
and “play-
ing.”

- (2) the words “gaming” and “playing” with their grammatical variations and cognate expressions, include taking part in the game of *ti* or in any other game or pretended game of a like nature, but do not include the promoting of or the taking part in any game of mere human skill, wherever played ;

“Instru-
ments of
gaming.”

- (3) the expression “instruments of gaming” means and includes—
- (a) any cards, dice, counters, coins, gaming-tables, gaming-cloth, gaming-boards or other articles devised or actually used for the purpose of gaming ;
- (b) any boxes, receptacles, lists, papers, tickets or forms used for the purpose of the game of *ti* or any other game or pretended game of a like nature ;

“Betting
office.”

- (4) the expression “betting office” means any house, enclosure, room, place, vessel or vehicle, whether public or private, which is used for wagering or betting upon any race, fight, game, sport or exercise, or for settling any such wagers or bets, or for receiving monies as an agent for wagering or betting upon any race, fight, game, sport or exercise, or for settlement by such agent with his principals on the result of such wager or bets ;

Provided that, where a race-meeting is held on any course under recognized racing rules, any house, enclosure, room or place—

- (a) used on such course for the purpose of making or taking wagers or bets upon any race on the day on which it is run and set apart in that behalf by the stewards controlling such meeting, or

- (b) used for the purpose of settling wagers or bets so made or taken,
shall not merely on that account be deemed to be a betting office ;
- (5) " District Superintendent of Police " shall include any Assistant District Superintendent, Deputy Superintendent of Police or other person appointed by general or special order of the President of the Union to exercise the powers, and to perform the duties, of a District Superintendent of Police under this Act in any area. " District Superintendent of Police."

14

Arrest without Warrant, etc., for Offence in Public Places

5. A police-officer may arrest without warrant any person who in any street or thoroughfare or place to which the public have access, and within the view of such police-officer — Power to arrest without warrant.

- (a) solicits or collects stakes for the game of *ti* or any other game or pretended game of a like nature ; or
- (b) Plays for money or other valuable thing with any instrument of gaming ; or
- (c) sets birds or animals to fight ; or
- (d) being there present, aids and abets such public fighting of birds or animals, or
- (e) commits an offence punishable under clause (d) of section 10.

And such police-officer may seize all instruments of gaming or anything which under the provisions of section 6A may be seized in a betting office found in such place or on the persons of those whom he shall so arrest. Power to seize instruments of gaming.

Searches of, and Arrests in, Common Gaming-houses, etc.

6. (1) If the District Magistrate or any Sub-divisional Magistrate or Magistrate of the first class, or a Magistrate of the second class specially empowered by the President of the Union in this behalf, or the District Superintendent of Police, on credible information or on other sufficient grounds, has reason to believe that any house, enclosure, room, place, vessel or vehicle is used as a common gaming-house, he may, after recording in writing such information or grounds, either himself do any of the following acts, or by warrant authorize any officer of police not below the rank of sub-inspector or officer in charge of a police-station to— Power to enter and authorize police to enter and search suspected houses, etc.

- (a) enter, within seven days from the date thereof, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, enclosure, room, place, vessel or vehicle ; and

¹ Deleted by section 2 of R. C. Law XL, 1962.

- (b) take into custody all persons whom he finds therein, whether they are then actually gaming or not ; and
- (c) seize all instruments of gaming and all moneys and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein ; and
- (d) search all parts of the house, enclosure, room, place, vessel or vehicle which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody ; and seize and take possession of all instruments of gaming found upon such search.

(2) No Magistrate or District Superintendent of Police recording the substance of the information or grounds of belief under sub-section (1) shall be bound to specify therein the name of any informer.

(3) All searches under sub-section (1) shall be made in accordance with the provisions of sub-section (3) of section 102 and of section 103 of the Code of Criminal Procedure.

(4) When any house, enclosure, room, place, vessel or vehicle is entered under sub-section (1) by a police-officer, he shall immediately after the completion of the proceedings under the sub-section, submit a report of such proceedings together with the warrant (if any) to a Magistrate who has jurisdiction to take cognizance of any offence which appears to have been committed and take or send to such Magistrate the persons arrested and articles seized :

Provided that the police-officer may release the persons so arrested on bail or on their own recognizances conditioned to appear before such Magistrate, and, unless he produces such persons before a Magistrate within three hours from the arrest, he shall release them on such bail or recognizances as may be reasonably sufficient :

Provided also that, if no persons are arrested, the police-officer shall submit a report of his proceedings to the Magistrate who issued the warrant, if any.

Power to
enter and
search
betting
offices.

6A. (1) The District Magistrate or the District Superintendent of Police, or, when duly authorized by warrant issued by either of such officers, any police-officer not below the rank of officer in charge of a police-station, may, by day or by night, enter and search, with such assistance as may be necessary, any house, enclosure, room, place, vessel or vehicle which is reasonably believed to be used as a betting office, and seize any tickets, coupons, registers, books, or other documents found therein and used or intended to be used, or reasonably suspected to be used, as a record or evidence of any wager or bet upon any race, fight, game or exercise.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of sub-section (3) of section 102 and of section 103 of the Code of Criminal Procedure.

(3) No warrant issued under sub-section (1) shall be executed after the expiry of seven days from the date thereof.

(4) When any house, enclosure, room, place, vessel or vehicle is entered under sub-section (1) by a police-officer other than the District Superintendent of Police, he shall, immediately after the completion of the proceedings under that sub-section, submit a report to the District Magistrate or, if the warrant was issued by the District Superintendent of Police, to that officer.

Special Rules of Evidence, etc.

7. When any instrument of gaming are found in any house, enclosure, room, place, vessel or vehicle, entered under the provisions of section 6, or about the person of any of those who are found therein, it shall be presumed, until the contrary is proved, that such house, enclosure, room, place, vessel or vehicle is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or by any one aiding in the entry.

Presumption upon instruments of gaming being found in places entered under Act.

8. It shall be lawful for the Magistrate, before whom any persons are accused of an offence under section 10, 11, 12 or 13, to require any such persons to give evidence touching any unlawful gaming, or touching anything done with reference to, or in furtherance of, any unlawful gaming, or touching any act done for the purpose of preventing, obstructing or delaying the entry into any house, enclosure, room, place, vessel or vehicle, or any part thereof, of any Magistrate or officer authorized to make such entry.

Magistrate may require any person accused of offence under Act to give evidence.

9. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined (under section 8 or otherwise) as a witness before a Magistrate on the trial of any person for an offence under this Act, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall thereby be absolved from punishment for any offence under this Act committed by him during such gaming.

Witnesses to be absolved from punishment.

Penalties

10. Any person who in any street or thoroughfare, or place to which the public have access—

- (a) plays for money or other valuable thing with any instrument of gaming ; or
- (b) sets any birds or animals to fight ; or
- (c) being there present, aids and abets such public fighting of birds or animals ; or

Penalty for gaming, or setting birds or animals to fight, in public streets.

- (d) in any local area to which the President of the Union may, by notification,¹ apply this clause, in any manner invites or encourages any person to wager or bet on any race, fight, game, sport or exercise;

shall be liable to a fine not exceeding fifty rupees, or to imprisonment for any term not exceeding one month.

Penalty for playing or being in a gaming-house.

11. Whoever plays in any common gaming-house, or is there present for the purpose of gaming, whether or not actually playing, shall be liable for a first offence to a fine not exceeding one hundred rupees, or to imprisonment for any term not exceeding one month, and for a subsequent offence to a fine not exceeding two hundred rupees, or to imprisonment for any term not exceeding two months.

Penalty for owning or keeping or having charge of a gaming-house.

12. Whoever—

- (a) being the owner or occupier, or having the use, of any house, enclosure, room, place, vessel or vehicle, opens, keeps or uses the same as a common gaming-house; or
- (b) being the owner or occupier of any house, enclosure, room, place, vessel or vehicle, knowingly permits the same to be opened, used or kept as a common gaming-house; or
- (c) has the care or management of, or in any manner assists in conducting, the business of any common gaming-house; or
- (d) advances or furnishes money for the purpose of gaming with persons frequenting any common gaming-house;

shall be liable for a first offence to a fine not exceeding five hundred rupees, or to imprisonment for any term not exceeding three months, and for a subsequent offence to a fine not exceeding one thousand rupees, or to imprisonment for any term not exceeding six months.

Penalty for conducting game of *ti* and like games.

13. Whoever—

- (a) conducts or assists in conducting the game of *ti*, or any other game or pretended game of a like nature, as manager, stake-holder, or *daing*; or
- (b) is according to the rules of the game or pretended game entitled to receive the surplus proceeds, or any part of the surplus proceeds, of the stakes after deducting the amount payable to the successful player or players; or
- (c) promotes the game or pretended game by soliciting or collecting stakes or otherwise;

shall be punished with imprisonment for a term which may for a first offence extend to six months, and for a subsequent offence to two years, or with fine, or with both.

¹ The provisions of clause (d) of section 10 have been applied to Rangoon town; see *Burma Gazette*, 1920, Part 2, page 350.

13A. Any person who—

- (a) opens, keeps, manages or assists in the management of a betting office, or
- (b) being the owner or occupier or having the use of any house, enclosure, room, place, vessel or vehicle, knowingly permits the same to be opened, kept or used as a betting office,

Penalty for keeping, managing or owning a betting office.

shall be liable for a first offence to a fine not exceeding five hundred rupees, or to imprisonment for any term not exceeding three months, and for a subsequent offence to a fine not exceeding one thousand rupees, or to imprisonment for any term not exceeding six months.

*Bar to Prosecutions in certain Cases***14. No Court shall try an offence—**

- (a) under section 10 or section 11 unless a complaint or a report or information in respect thereof has been made or given to, or cognizance thereof has been taken by, a Magistrate within seven days of the date of the alleged commission of the offence, or
- (b) under section 12 or section 13 or section 13A unless a complaint or a report or information in respect thereof has been made or given to, or cognizance thereof has been taken by, a Magistrate within one month of the date of the alleged commission of the offence.

Bar to prosecutions in certain cases.

Destruction of Instruments of Gaming and Disposal of Valuables seized

15. (1) On the conviction of any person for an offence under section 11, 12 or 13 committed in any common gaming-house entered under the provisions of section 6, the convicting Magistrate may order any instruments of gaming found therein to be destroyed, and may also order any other articles seized to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any of such articles and the whole or any part of such moneys to be returned to the persons appearing to have been severally thereunto entitled.

Convicting Magistrate may order destruction of cards, etc., and forfeiture of valuables, etc., seized.

(2) On the conviction of any person for an offence under clause (a) of section 10 or under sections 11, 12 or 13, the convicting Magistrate may order all instruments of gaming seized under section 5 to be destroyed or forfeited.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 10, 11, 12, 13 and 13A, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to any person who has contributed in any way to the conviction.

Portion of fine may be paid as rewards.

Security for Good Behaviour

17. Whenever a District Magistrate, Sub-divisional Magistrate, or, when he is specially empowered in this behalf by the President of the Union, a Magistrate of the first class, receives information that any person within the

Power to demand security.

local limits of his jurisdiction earns his livelihood, wholly or in part, by unlawful gaming or by promoting or assisting in the promotion of unlawful gaming, he may deal with such person as nearly as may be as if the information received about him were of the description mentioned in section 110 of the Code of Criminal Procedure, and for the purposes of any proceeding under this section the fact that a person earns his livelihood as aforesaid may be proved by evidence of general repute or otherwise.

1. "THE SPECIAL JUDGES ACT, 1946. *

[BURMA ACT IX, 1946.] (17th April, 1946)

WHEREAS it is expedient to provide for the appointment of Special Judges for the trial of offences and to define their jurisdiction and powers ;

It hereby enacted as follows :—

Short title
and duration

1. (1) This Act may be called the Special Judges Act, 1946.

(2) It shall remain in force until the President of the Union, by notification, declares it to be no longer in force, and such notification may declare it to be no longer in force throughout the whole of the Union of Burma or throughout any local area or local areas specified in the notification.

Interpreta-
tion.

2. In this Act—

(a) "Code" means the Code of Criminal Procedure ;

(b) "High Court" means the [High Court]¹ ;

(c) the expression "Special Judge" includes "Special Judges" in areas where more than one Special Judge is appointed to exercise powers under this Act.

Appointment
of Special
Judges.

3. (1) All Sessions Judges and Additional Sessions Judges appointed under section 9 of the Code, shall, by virtue of their office, be Special Judges.

(2) The President of the Union may appoint any other person qualified under sub-section (5) to be a Special Judge and may define the territorial limits of the jurisdiction of such Special Judge.

(3) A Special Judge may be appointed for the trial of a particular accused person or persons, and the President of the Union may direct that for the trial of any person or persons two or more Special Judges shall sit together as a Bench.

(4) The place of sitting of a Special Judge appointed to a Sessions Division shall be decided by the Sessions Judge.

(5) Any person who has for at least two years exercised the powers of a Magistrate of the first class, or is an Advocate of the High Court or a Pleader of the Higher Grade of at least five years' standing, may be appointed a Special Judge.

* Published in Judicial Department Notification No. 203, dated 17th April 1946 (*Burma Gazette*, 1946, Part I, page 270).

¹ Substituted for the words "High Court of Judicature at Rangoon" by the Union of Burma (Adaptation of Laws) Order, 1948.

¹ ပြည်သူ့တရားသူကြီးအဖွဲ့ ဥပဒေပုဒ်မ ၇၃ အရ ရုပ်သိမ်းသည်။

4. (1) A Special Judge may try any offence punishable under any law for the time being in force, and may pass any sentence which is authorized by law. Powers of Special Judges.

(2) A Special Judge may take cognizance of an offence in any of the modes prescribed by sub-section (1) of section 190 of the Code, and the provisions of section 191 of the Code shall not be applicable to proceedings before a Special Judge.

5. (1) A Special Judge may take cognizance of offences without the accused being committed for trial, and in trying accused persons shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates: Procedure of Special Judges.

Provided that a Special Judge may refuse to summon any witness if satisfied that the evidence of such witness will not be material, and shall not be bound to adjourn a trial for any purpose whatsoever, unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) Sections 337, 339 and 339A of the code of Criminal procedure shall apply to trials before a Special Judge, with the following modifications:—

- (i) in sub-section (1) of section 337, *after* the words "any Magistrate of the first class" the words "or a Special Judge" shall be *inserted*;
- (ii) in sub-section (1A) of section 337, *after* the word "Magistrate", occurring in two places, the words "or Special Judge" shall be *inserted*;
- (iii) in sub-section (2) of section 337, *after* the word "Magistrate" the words "or Special Judge" shall be *inserted*;
- (iv) to sub-section (2A) of section 337, the following proviso shall be *added*, namely:—
"Provided that the Magistrate may, if he thinks fit, send the accused for trial before a Special Judge";
- (v) in clause (b) of sub-section (1) of section 339A, *after* the word "Magistrate" the words "or a Special Judge" shall be *inserted*;
- (vi) in sub-section (2) of section 339A, *after* the words "the Magistrate" the words "or the Special Judge" shall be *inserted*.

¹(3) * * *

²(4) A Special Judge shall have the powers of a Court of Session under Sections 503, 505, 507 and 508 of the Code of Criminal Procedure.

³5A. A Special Judges shall have power, where there is more than one accused, to dispense with at any time the attendance of another accused before him on the ground of ill health or otherwise.

Power to dispense with the attendance of accused where there is more than one accused.

¹ Deleted by Act XLIV, 1957.

² Inserted by Act LXXVII, 1947.

³ Inserted by Act XLIV, 1957.

Conviction
on evidence
partly
recorded
by one Spe-
cial Judge
and partly by
another.

***5B.** Whenever a Special Judge, having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction thereunder, and is succeeded by another Special Judge who has and who exercises such jurisdiction, the Special Judge so succeeding shall act on the evidence so recorded by his predecessor or partly recorded by his predecessor and partly recorded by himself."

Confirma-
tion, Appeal
and Revision.

6. (1) The provisions of Chapter XXVII of the Code shall apply to sentences of death passed by a Special Judge as if the sentence were a sentence passed by a Court of Session.

¹(2) * * * *

Provided that the provisions of sections 412 and 413 of the Code shall apply to such appeals as if the person had been convicted by a Court of Session.

(2A) Any person convicted on a trial held by a Special Judge, [* * *]¹ may appeal to the Court of Session:

Provided as follows:—

(a) The provisions of sections 412 and 413 of the Code shall apply to such appeals as if the person had been convicted by a District Magistrate or other Magistrate of the first class.

(b) When in any case a Special Judge, ~~[who is not a Sessions Judge or an Additional Sessions Judge]~~ passes any sentence of [* * *]¹ death, the appeal of all or any of the accused convicted at such trial shall lie to the High Court.

¹(c) * * * *

(3) The proceedings of Special Judges shall be subject to revision by the High Court or the Sessions Judge, and the provisions of sections 435 to 442, inclusive, of the Code shall apply to such revisions.

***6A (1)** A Sessions Judge may withdraw any case from or recall any case which has been made over to any Special Judge in his Sessions Division, and may try such case himself or transfer it for trial to any other Special Judge in his Sessions Division:

³Provided that where a Special Judge is appointed in any area, any Magistrate before whom a case for inquiry is pending at the time of the appointment of the Special Judge may submit it either to the district Magistrate for orders or to the Special Judge:

³Provided further that where a Special Judge is appointed in any area, the District Magistrate of that area may withdraw or cause to be withdrawn

* Inserted by Act XLIV, 1957.

¹ Deleted by Act III, 1973.

² Inserted by Act LXVII, 1947.

³ Inserted by Act XXIX, 1949.

any case for inquiry pending before any Magistrate subordinate to him and transfer it, or cause it to be transferred, to the Special Judge for trial.

(2) This section shall be deemed to have been in force as from the date on which the Special Judges Act, 1946, came into force.

7. Save as otherwise provided in this Act, the provisions of the Code and of any other law for the time being in force shall, to such extent as they may be applicable, apply to trials before a Special Judge and to all matters connected with or arising from such trials. Application of the Code and other laws.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. Bar to legal proceedings.

9. * * * *

THE SANCTION FOR PROSECUTION (WAR-TIMES OFFENCES) ACT, 1946 *

[BURMA ACT XXVI, 1946] (24th July, 1946)

WHEREAS it is expedient that prosecutions in respect of criminal offences alleged to have been committed during the war between Great Britain and Japan shall not now be instituted without sanction ;

It is hereby enacted as follows :—

1. This Act may be called the Sanction for Prosecution (War-Times Offences) Act, 1946. Short title.

2. Notwithstanding anything contained in the Code of Criminal Procedure or in any other law for the time being in force, no Court shall take cognizance, either on complaint or on a police report or otherwise, of any offence alleged to have been committed in the Union of Burma between the eighth day of December, 1941, and the fifth day of May, 1945, both days inclusive, without the prior sanction of the President of the Union in his discretion. Sanction for prosecutions.

3. Nothing in this Act shall apply to proceedings brought in a civil Court. Saving of civil proceedings.

* Published in Judicial Department Notification No. 358, dated 24th July 1946 (*Burma Gazette*, 1946, Part I, page 424).

¹ Deleted by Act III, 1947.

² Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

THE WAR-TIME CRIMES (EXEMPTION) ACT, 1946 *

[BURMA ACT XLVII, 1946] (18th December, 1946)

WHEREAS it is expedient to indemnify certain persons in respect of acts and things done or purported to have been done in the course of their duty and in certain other circumstances.

• • • • •
It is hereby enacted as follows :—

1. (1) This Act may be called the War-Time Crimes (Exemption) Act, 1946.

(2) It shall come into force at once.

2. In this Act—

“period intervening” means either the period commencing with the cessation of the British Administration and ending with the establishment of the new administration under the Japanese Military Authority in the area concerned, or the period commencing with the cessation of the Burmese Administration set up during the Japanese military occupation of Burma and ending with the establishment of the British Military Administration in the area concerned, as the case may be.

3. No suit, prosecution or other legal proceedings whatsoever, whether civil or criminal, shall be instituted in, or entertained or heard by, any Court or Tribunal for or in respect of any act or thing done during the period intervening if done in good faith, and done or purported to have been done—

- (i) in the defence of person or property,
- (ii) under the order of any organization or committee which was formed or constituted in any place in the Union of Burma during the period intervening for the purpose of preserving peace or maintaining law and order in the locality in which it was formed or constituted, or
- (iii) under the authority of, or the powers invested by, such organization or committee.

4. No suit, prosecution or other legal proceedings whatsoever, whether civil or criminal, shall be instituted in, or entertained or heard by, any Court or Tribunal for or in respect of any act or thing if done in good faith, and done or purported to have been done by a person who was a member of, or attached to the Burma Independent Army, Burma Defence Army, Burmese Army, or Patriotic Burmese Forces—

- (i) in the course of his duty as a member of or a follower of such Army or Force.

* Published in Judicial Department Notification No. 541, dated 18th December 1946 (*Burma Gazette*, 1946, Part I, page 854).

- (ii) under the order or direction of a superior officer of such Army or Forces, or
- (iii) for the purpose of maintaining law and order, or securing the public safety or safety of such Army or Forces, or maintaining supplies and services essential to the life of the community,—where such act or thing was done,
 - (a) between the 8th day of December, 1941, and the 5th day of May, 1945, in the Union of Burma other than in the areas comprised in the Tenasserim Division, or
 - (b) between the 8th day of December, 1941, and the 1st day of January, 1946, in the areas comprised in the Tenasserim Division.

5. (1) Where any person has been sentenced for any act or thing done or purported to be done in the circumstances specified in section 3 or section 4, the remaining portion of the sentence passed upon him, if unexpired, shall be remitted, and he shall be set free.

(2) For the purpose of this section, the decision of the President of the Union on the question whether any person was a member of or attached to the Burma Independent Army, Burma Defence Army, Burmese Army or Patriotic Burmese Forces, or whether he was sentenced for or in respect of any act or thing done in the circumstances specified in section 3 or section 4, shall be conclusive.

6. No criminal proceeding whatsoever shall be instituted, entertained or heard by any Court or Tribunal against any person in respect of any offence committed by him under section 143, section 144, section 145, section 147, section 148, section 150 or section 153, or under any other section of the Penal Code when it is read with section 149 of the Penal Code, where such offence was committed during the intervening period in the Union of Burma.

† "THE SPECIAL CRIMES (TRIBUNAL) ACT, 1947 *.

[BURMA ACT LIII 1947] (30th August, 1947)

It is hereby enacted as follows :—

1. This Act shall remain in force until such date as the President of the Union, by notification, directs that it shall no longer be in force.

2. In this Act, unless there is anything repugnant in the subject or context, "the Code" means the Code of Criminal Procedure.

3. The President of the Union may constitute a Special Tribunal, and it shall consist of three persons who shall be appointed by the President of the Union. The President of the Special Tribunal shall be a Judge [or a retired Judge]¹ of the High Court, and the remaining two members shall be appointed from

* Published in Judicial Department Notification No. 338, dated 30th August 1947 (*Burma Gazette*, 1947, Part I, page 549.)

† ပြည်သူ့တရားသူကြီးအဖွဲ့ ဥပဒေပုဒ်မ ၇၃ အရ ရုပ်သိမ်းသည်။

¹ Substituted by Act XVI, 1960.

among persons who have acted for a period of not less than two years in the exercise of the powers of a Sessions Judge under the Code or acted as Advocates of the High Court of over ten years' standing.

4. (1) The Special Tribunal shall try such offences as the President of the Union may, by general or special order in writing, direct.

(2) If any question arises as to whether an offence falls within the general or special orders of the President of the Union made under subsection (1), the decision of the Special Tribunal before whom the case is sent up for trial shall be final, and such decision shall not be questioned in any Court whatsoever.

5. (1) The Special Tribunal may take cognizance of offences without the accused being committed to it for trial and, in trying accused persons, shall follow the procedure prescribed by the Code for the trying of warrant cases by Magistrates:

Provided that—

(i) the Special Tribunal shall not be bound to adjourn any trial for any purpose whatsoever unless such adjournment is, in its opinion, necessary in the interests of justice ;

(ii) the Special Tribunal may refuse to summon any witness if satisfied that the evidence of such witness will not be material.

(2) In the event of any difference of opinion among the members of the Special Tribunal the opinion of the majority shall prevail.

(3) The Special Tribunal may pass any sentence authorized by law.

6. (1) The Special Tribunal shall sit at such places and times as the President may appoint.

(2) If any member of the Special Tribunal is unable to continue to attend the trial of any case, the President of the Union may, subject to the provisions of section 3, appoint another person in the place of such member ; and the proceeding shall be continued as if such person had been appointed from the commencement of the trial.

7. The Special Tribunal shall have power, where there is more than one accused, to dispense with at any time the attendance of any accused before it on the ground of ill-health or otherwise.

8. Save as otherwise provided in this Act, the provisions of the Code and of any other law for the time being in force shall, to such extent as may be applicable, apply to trials before the Tribunal constituted under this Act, and to appeals from and confirmations of sentences of such Tribunal, and all other matters connected with or arising from such trials, as if the Tribunal was a Court of Session exercising original jurisdiction :

Provided that—

(i) the provisions of section 526 of the Code shall not apply to the proceeding held before the Special Tribunal ;

(ii) no appeal shall lie in any case tried by the Special Tribunal unless the Special Tribunal passes a sentence of death or a sentence of transportation or imprisonment exceeding five years."

အဂတိလိုက်စားမှုတားမြစ်ရေးအက်ဥပဒေ*

[၁၉၄၇ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၆၇။] (၁၉၄၇ ခု၊ နိုဝင်ဘာလ ၈ ရက်။)

တံစိုးလက်ဆောင် ပေးယူခြင်းနှင့် အဂတိ လိုက်စားခြင်းများကို တားမြစ်ရန်အတွက် ပိုမိုထိရောက်သော ပြဋ္ဌာန်းချက်များ ပြုလုပ်ရန် လိုအပ်သည်ဖြစ်၍—
အောက်ပါအတိုင်း ပြဋ္ဌာန်းလိုက်သည်။

၁။ ။ ဤအက်ဥပဒေကို ၁၉၄၇ ခုနှစ်၊ အဂတိလိုက်စားမှု တားမြစ်ရေး အက်ဥပဒေဟု ခေါ်တွင် အမည်။
ရေးမည်။

၂။ ။ ဤအက်ဥပဒေဆိုင်ရာ ကိစ္စများ အလို့ငှါ—

“ပြည်သူ့ဝန်ထမ်း” ဆိုသည်မှာ၊ ဘုရားသတ်ကြီးပုဒ်မ ၂၁ တွင် အကျုံးဝင်သည့် ပြည်သူ့ ဝန်ထမ်းကို ဆိုလိုသည့်အပြင်၊ ပြည်နယ်အစိုးရအဖွဲ့ဝင် ဝန်ကြီးများလည်း ပါဝင်သည်။

၃။ ။ ဘုရားသတ်ကြီးပုဒ်မ ၁၆၁၊ ၁၆၂၊ ၁၆၃၊ ၁၆၄၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၆၅ အရ ပြစ်ဒဏ် ထိုက်သင့်သည့် ပြစ်မှုစစ်ဆေးရာ၌ တရားခံသည်၊ တရားဥပဒေနှင့်အညီ၊ ရယူခံစားထိုက်သည့် အခကြေးငွေမှ တပါး အခြားမည်သည့် လာဘ်လာဘကိုဖြစ်စေ၊ သို့တည်းမဟုတ် အဖိုးတန်ပစ္စည်းကိုဖြစ်စေ၊ မိမိအတွက် သော်၎င်း၊ သူတပါးအတွက် သော်၎င်း လက်ခံကြောင်း၊ သို့တည်းမဟုတ် ရယူကြောင်း၊ သို့တည်းမဟုတ် လက်ခံရန် သဘောတူကြောင်း၊ သို့တည်းမဟုတ် ရယူရန် အားထုတ်ကြောင်း ထင်ရှားလျှင်၊ ထိုတရားခံ ပုဒ်မ ၁၆၁၊ ၁၆၂၊ ၁၆၃ နှင့် ၁၆၄ တွင်ဖော်ပြသော ရည်ရွယ်ချက်၊ အကျိုးမြော်လင့်ချက် မိမိမရှိကြောင်း၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၆၅ တွင် ဖော်ပြသည့်အတိုင်း၊ အဖိုးစားနား မပေးဘဲ၊ သို့တည်းမဟုတ် ထိုက်တန် သော အဖိုးမပေးဘဲ၊ ယင်းသို့ပြုလုပ်ခြင်း မဟုတ်ကြောင်းကို ထင်ရှားအောင် မပြသနိုင်ပါက၊ ထိုတရားခံ သည်၊ ထိုလာဘ်လာဘကို ယင်းသို့သော ရည်ရွယ်ချက်၊ အကျိုးမြော်လင့်ချက်နှင့်၊ သို့တည်းမဟုတ် အဖိုးတန် ပစ္စည်းကို ယင်းသို့ အဖိုးစားနား မပေးဘဲ၊ သို့တည်းမဟုတ် ထိုက်တန်သော အဖိုးမပေးဘဲ လက်ခံသည်၊ သို့တည်းမဟုတ် ရယူသည်၊ သို့တည်းမဟုတ် လက်ခံရန် သဘောတူသည်၊ သို့တည်းမဟုတ် ရယူရန် အားထုတ်သည်ဟု မှတ်ယူရမည်။

သို့ရာတွင် အထက်ဆိုခဲ့သည့် လာဘ်လာဘ၊ သို့တည်းမဟုတ် ပစ္စည်းမှာ သေးနပ်လှသည့်အတွက် အဂတိလိုက်စားသည်ဟု အထောက်အထား မဖြစ်သင့်ကြောင်း တရားရုံးတော်က ထင်မြင်လျှင်၊ ထိုသို့ မှတ်ယူခြင်းမပြုဘဲ နေနိုင်သည်။

၄။ ။ (၁) ပြည်သူ့ဝန်ထမ်း တဦးတယောက်သည် “မရှိမမြောင့်သော သဘောဖြင့်ဖြစ်စေ၊ လိမ် လည်လှည့်ဖြားလိုသော သဘောဖြင့်ဖြစ်စေ” အောက်ပါတရားရုံးကို ပြုလုပ်လျှင်၊ မိမိ၏အလုပ်ဝတ်တရားများ ဆောင်ရွက်ရာတွင်၊ ဘုရားသတ်ကြီးပုဒ်မ ၁၆၁ တွင် ထိုက်တန်သော အကျင့်ဖောက်ပြန်မှုကို ကျူးလွန်သည်မည်၏။

ရာထူး အလျောက် အ လုပ် ဝတ်တရား ဆောင် ရွက် ရာ တွင် ဘုရားသတ်ကြီးပုဒ်မ ၁၆၁ တွင် ထိုက် တန်သော အကျင့် ဖောက်ပြန်မှု။

(က) မည်သူ့ထံမှမဆို တရားဥပဒေနှင့်အညီ ရယူခံစားထိုက်သည့် အခကြေးငွေမှ တပါး၊ အခြားမည်သည့် လာဘ်လာဘကိုမဆို ဘုရားသတ်ကြီးပုဒ်မ ၁၆၁ တွင် ဖော်ပြထားသော ရည်ရွယ်ချက်နှင့်၊ သို့တည်းမဟုတ် အကျိုး မြော်လင့်ချက်နှင့် မိမိအတွက်သော်၎င်း၊ သူတပါးအတွက် သော်၎င်း၊ အမြဲတစေလက်ခံလျှင်၊ သို့တည်းမဟုတ် ရယူလျှင် ဖြစ်စေ၊ လက်ခံရန် သဘောတူလျှင်ဖြစ်စေ၊ ရယူရန် အားထုတ်လျှင်ဖြစ်စေ၊ သို့တည်းမဟုတ်

* ဤအက်ဥပဒေကို မြန်မာနိုင်ငံပြန်တမ်း ၁၉၄၇ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၁၂၉၇ တွင် ထုတ်ပြန်ကြေညာသည်။
* ၁၉၅၉ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၁၆ အရထည့်သွင်းသည်။

- (ခ) မိမိဆောင်ရွက် လုပ်ကိုင်ပြီး မှုခင်း အလုပ်အကိုင်နှင့်ဖြစ်စေ၊ ဆောင်ရွက် လုပ်ကိုင်မည့် ဆဲဆဲဖြစ်သည့် မှုခင်း အလုပ်အကိုင်နှင့်ဖြစ်စေ၊ စပ်လျဉ်း သက်ဆိုင်မှုဖြစ်ကြောင်း၊ သို့တည်းမဟုတ် စပ်လျဉ်း သက်ဆိုင်နေသူဖြစ်ကြောင်း၊ သို့တည်းမဟုတ် စပ်လျဉ်း သက်ဆိုင်ရန်အကြောင်း လက္ခဏာ ရှိသူဖြစ်ကြောင်း၊ မိမိသိရှိရသူ တဦးတယောက် ထံမှ သော်၎င်း၊ မိမိရာထူးနှင့် သက်ဆိုင်သည့် အလုပ် ဝတ်တရားများနှင့် ဖြစ်စေ၊ မိမိအထက် ပြည်သူ့ ဝန်ထမ်း တဦးဦး၏ ရာထူးနှင့်ဆိုင်သည့် အလုပ်ဝတ်တရားများနှင့် ဖြစ်စေ၊ စပ်ရှက်ဆက်ဆံသူ တဦးတယောက်ထံမှ သော်၎င်း၊ သို့စပ်ရှက် ဆက်ဆံသူနှင့် အကျိုးသက်ဆိုင် အမျိုးတော်စပ်သူ ဖြစ်ကြောင်း၊ မိမိသိရှိရသူ တဦးတယောက်ထံမှ သော်၎င်း၊ အဖိုးတန်ပစ္စည်းကို အဖိုးစားနား တစုံတရာ မရှိဘဲဖြစ်စေ၊ ထိုက်တန် သော အဖိုးမပေးဘဲဖြစ်စေ၊ မိမိအတွက် သော်၎င်း၊ သူတပါးအတွက် သော်၎င်း၊ အမြဲတစေ လက်ခံလျှင်၊ သို့တည်းမဟုတ် ရယူလျှင်ဖြစ်စေ၊ လက်ခံရန် သဘောတူလျှင် ဖြစ်စေ၊ ရယူရန် အားထုတ်လျှင်ဖြစ်စေ၊ သို့တည်းမဟုတ်
- (ဂ) အဖိုးတန်ပစ္စည်း၊ သို့တည်းမဟုတ် ငွေကြေး အကျိုးအမြတ် တစုံတရာကို မရိုးမသား အဂတိ လိုက်စားသော နည်းဖြင့်ဖြစ်စေ၊ တရားဥပဒေနှင့် ဆန့်ကျင်သော နည်းဖြင့် ဖြစ်စေ၊ ပြည်သူ့ ဝန်ထမ်းအဖြစ် မိမိ၏ အခြေအနေကို အလွဲအသုံးပြု၍ဖြစ်စေ၊ မိမိ အတွက် သော်၎င်း၊ သူတပါးအတွက် သော်၎င်း ရယူလျှင်၊
- (ဃ) ထိုသူသည် အများပြည်သူတို့၏ အကျိုးကို ထိခိုက်အောင် လိမ်လည်လျှင်၊ သို့တည်း မဟုတ် ယုံမှတ်အပ်နှံသည့် ပြည်သူပိုင်ပစ္စည်းကို အလွဲအသုံးစား [* * *] ပြုလျှင်။

(၂) မည်သည့် ပြည်သူ့ ဝန်ထမ်းမဆို၊ မိမိ၏ အလုပ်ဝတ်တရားကို ဆောင်ရွက်ရာတွင် ရာဇဝတ်အဖြစ် ဖြစ် ထိုက်သင့်အောင် အကျင့် ဖောက်ပြန်မှုကို ကျူးလွန်လျှင်၊ ခုနှစ်နှစ်ထိ ထောင်ဒဏ် စီရင်ခြင်း ခံထိုက် စေမည်ပြင်၊ ထိုပြစ်မှုကို ကျူးလွန်ခြင်းအားဖြင့် တရားခံ ခံစားရရှိကြောင်း တွေ့ရှိရသည့် အကျိုးအမြတ် အားလုံးကို အစိုးရ ဘဏ္ဍာတော်အဖြစ် သိမ်းယူခြင်း ခံစေရမည်။

(၃) တဆက်တည်း အထက်ပုဒ်မငယ် (၂)အရ သော်၎င်း၊ ရာဇသတ်ကြီးပုဒ်မ ၁၆၁၊ ၁၆၂၊ ၁၆၃ သို့တည်းမဟုတ် ၁၆၅ အရသော်၎င်း၊ ပြစ်ဒဏ် စီရင်ထိုက်သည့် ပြစ်မှုကို စစ်ဆေး စီရင်ရာတွင် တရားခံ ဖြစ်စေ၊ ၎င်း၏ကိုယ်စား အခြားသူတဦး တယောက်၌ဖြစ်စေ၊ တရားခံ၏ ထင်ရှားသိရသော ဝင်ငွေရလမ်း များနှင့် အဆမတန်သည့် ငွေကြေးအင်အား၊ သို့တည်းမဟုတ် ပစ္စည်းများကို ပိုင်ဆိုင်ကြောင်း၊ သို့တည်း မဟုတ် ပိုင်ဆိုင်ခဲ့ဘူးကြောင်း ထင်ရှားသောအခါ၊ တရားခံက ထိုကြေးငွေအင်အား၊ သို့တည်းမဟုတ် ပစ္စည်းများကို တရားသဖြင့် ရရှိသည်ဟု သက်သေခံ ထင်ရှားအောင် မပြနိုင်လျှင်၊ တရားရုံးတော်က၊ တရားခံသည် ရာဇသတ်ကြီးပုဒ်မ ၁၆၁၊ ၁၆၂၊ ၁၆၃၊ သို့တည်းမဟုတ် ၁၆၅ အရ၊ ပြစ်မှုကိုသော်၎င်း၊ မိမိ၏ အလုပ်ဝတ်တရားများ ဆောင်ရွက်ရာတွင် ရာဇဝတ်ဖြစ်ဒဏ် ထိုက်သင့်အောင် အကျင့်ဖောက်ပြန်မှုကို သော်၎င်း၊ ကျူးလွန်သည်ဟု မှတ်ယူရမည်ပြင်၊ ထိုပြစ်မှုအတွက် တရားခံအား ပြစ်မှုထင်ရှား စီရင်ခြင်းမှာ၊ အဆိုပါ မှတ်ယူချက်ကိုသာလျှင် အခြေပြုသည့် အကြောင်းမျှကြောင့် ပျက်ပြယ်ခြင်း မရှိစေရ။

^၁ ၁၉၅၉ ခုနှစ်၊ အင်္ဂါညဒေအမှတ် ၁၆ အရပယ်ဖျက်သည်။ ထို့ပြင် ရှင်းလင်းချက် ၁ နှင့် ၂ တို့ကိုပယ်ဖျက်သည်။

၁၄-က။ * * * * *

“၁။ (၁) အခြားတည်ဆဲ တရားဥပဒေတစ်ခုခုတွင် မည်သို့ပင် ပါရှိစေကာမူ၊ ရဲအရာရှိ တဦးဦး ဖမ်းဆီးသော က ဖြစ်စေ၊ တရားဥပဒေအရ ရဲအရာရှိ အာဏာများ အပ်နှင်းခြင်း ခံရသော အခြားအရာရှိ တဦးဦးက အရာရှိက ဖြစ်စေ၊ ဤအက်ဥပဒေအရ၊ မည်သူ့ကိုမဆို ဖမ်းဆီးခဲ့သော အဆိုပါအရာရှိသည်၊ မိမိသင့်သည်ဟု ထင် စာအုပ်၊ စာမှတ် မြင်လျှင်— စာတမ်းများ၊ စစ်ဆေးကြည့်ရှု နိုင်သည့် အား ၁။

(က) ထိုဖမ်းဆီးခြင်း ခံရသူနှင့်၊ သို့တည်းမဟုတ် ထိုသူအပေါ်တွင် မှီခိုနေသူများနှင့်၊ သို့ တည်းမဟုတ် ထိုသူနှစ်မျိုးတို့နှင့် သက်ဆိုင်သော ဘဏ်တစ်ခု ပိုင်ဆိုင်သည့်၊ သို့တည်း မဟုတ် ကြီးကြပ်သည့် မည်သည့်စာအုပ်၊ စာမှတ် စာတမ်းကိုမဆို စစ်ဆေး ကြည့်ရှု နိုင်သည်၊ သို့တည်းမဟုတ်

(ခ) ဘဏ်၏ စာရင်းစာအုပ်များ၊ လိုအပ်သော ကောက်နုတ်ချက်များ၏ မိတ္တူမှန်ကို ပေးရန် သော်ငြား၊ ထိုဖမ်းဆီးခြင်း ခံရသူ၏၊ သို့တည်းမဟုတ် ထိုသူအပေါ် မှီခိုနေထိုင် သူများ၏၊ သို့တည်းမဟုတ် ထိုသူနှစ်မျိုးတို့၏ ငွေစာရင်း၊ ပစ္စည်းစာရင်းများနှင့် စပ်လျဉ်း၍ သိရှိသမျှ အကြောင်းအရာများကို ပေးရန်သော်ငြား၊ ဘဏ်၏မန်နေဂျာ အား၊ သို့တည်းမဟုတ် ကိုယ်စားလှယ်အား ညွှန်ကြားနိုင်သည်၊ သို့တည်းမဟုတ်

(ဂ) ထိုဖမ်းဆီးခြင်း ခံရသူ၏ အမည်နှင့် ထားရှိသော ငွေများကို၊ သို့တည်းမဟုတ် ပစ္စည်း များကို၊ သို့တည်းမဟုတ် ထိုသူအပေါ်တွင် မှီခိုနေသူများ၏ အမည်နှင့် ထားရှိသော ငွေများကို၊ သို့တည်းမဟုတ် ပစ္စည်းများကို အမိန့်မရဘဲ၊ ထုတ်ပေးခြင်း၊ အမည်လွှဲ ပြောင်းခြင်း မပြုရန် ဘဏ်၏မန်နေဂျာအား၊ သို့တည်းမဟုတ် ကိုယ်စားလှယ်အား တားမြစ်နိုင်သည်။

ရှင်းလင်းချက်။ “ဘဏ်” ဆိုသည့်စကားနှင့် “မိတ္တူမှန်” (certified copy) ဆိုသည့် စကားရပ်၏ အဓိပ္ပာယ်သည် ဘဏ်နှင့်ဆိုင်သော စာအုပ်များ၊ သက်သေခံချက် အက်ဥပဒေ (The Bankers' Books Evidence Act) တွင် အဓိပ္ပာယ် ရှင်းလင်း ဖော်ပြထားသည့်အတိုင်း ဖြစ်ရမည်။

(၂) ဘဏ်၏ မန်နေဂျာသည်၊ သို့တည်းမဟုတ် ကိုယ်စားလှယ်သည် ဘဏ်ပိုင်ဆိုင်သည့်၊ သို့တည်း မဟုတ် ကြီးကြပ်သည့် စာရင်းစာအုပ်၊ စာမှတ် စာတမ်းများကို စစ်ဆေး ကြည့်ရှုခွင့်ပြုရန်ဖြစ်စေ၊ ဤပုဒ်မ အရ ထုတ်သော ညွှန်ကြားချက်ကို လိုက်နာရန်ဖြစ်စေ ပျက်ကွက်သျှင်၊ သို့တည်းမဟုတ် ငြင်းဆိုလျှင် သော်ငြား၊ ဤပုဒ်မအရ တားမြစ်ချက်ကို မနာခံလျှင်သော်ငြား၊ သုံးနှစ်ထိ ထောင်ဒဏ်ဖြစ်စေ၊ ငွေဒဏ် ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ စီရင်ခြင်း ခံထိုက်စေရမည်။”

၅။ (၁) နိုင်ငံတော် သမတသည်၊ အမိန့်ကြော်ငြာစာ ထုတ်ပြန်ကြေညာ၍ ဤအက်ဥပဒေအရ၊ ဤအက်ဥပဒေ ပြစ်မှုများနှင့် ရာဇသတ်ကြီးပုဒ်မ ၁၆၁၊ ၁၆၂၊ ၁၆၃၊ ၁၆၄ နှင့် ၁၆၅ အရ၊ ပြစ်မှုများကို စစ်ဆေးစီရင်ရန် အထူးတရားသူကြီးများခန့်ထားနိုင်သည့်ပြင်၊ ထိုအထူးတရားသူကြီးများ ရုံးထိုင်ရမည့်နေရာကို သတ်မှတ်နိုင် သည်။ သို့ရာတွင် နိုင်ငံတော် သမတက ရုံးထိုင်ရန်နေရာ သတ်မှတ်သည့်အမိန့် ထုတ်ဆင့်ခြင်း မရှိလျှင်၊ အထူးတရားသူကြီးသည်၊ မိမိကိုယ်တိုင် သတ်မှတ်သည့်နေရာတွင် ရုံးထိုင်နိုင်သည်။

(၂) နိုင်ငံတော် သမတသည်၊ ပြည်ထောင်စု နိုင်ငံတော် အတွင်းရှိ မည်သည့် တရားရုံးတွင်မဆို ရာဇသတ်ကြီးပုဒ်မ ၁၆၁၊ ၁၆၂၊ ၁၆၃၊ ၁၆၄ နှင့် ၁၆၅ အရ၊ မပြီးမပြတ်ရှိနေသော အမှုအားလုံးကို မိမိ

ဖမ်းဆီးသော အရာရှိက စာအုပ်၊ စာမှတ် စာတမ်းများ၊ စစ်ဆေးကြည့်ရှု နိုင်သည့် အား ၁။
ဤအက်ဥပဒေ အရ၊ ပြစ်မှုများ၊ နှင့် ရာဇသတ် ကြီးပုဒ်မ ၁၆၁၊ ၁၆၂၊ ၁၆၃၊ ၁၆၄ နှင့် ၁၆၅ အရ၊ ပြစ်မှုများ ကို စစ်ဆေးစီရင် ပိုင်ခွင့်ရှိသည့် တရားရုံး တော် များ။

၁ ၁၉၅၉ ခုနှစ်၊ အက်ဥပဒေ ၁၆ အရ ပယ်ဖျက်သည်။
၂ ၁၉၅၉ ခုနှစ်၊ အက်ဥပဒေ ၁၆ အရ ထည့်သွင်းသည်။

သတ်မှတ်သည့် အထူးတရားသူကြီးရုံးသို့ လွှဲပြောင်းရမည်ဟု အထူးအမိန့်၊ သို့တည်းမဟုတ် သာမန်အမိန့်ဖြင့် ဆင့်ဆိုနိုင်သည်။

(၃) ထိုအထူးတရားသူကြီးများ၊ စက်ရှင် တရားသူကြီးအဖြစ် အမှုထမ်းရွက်၍၊ စက်ရှင်တရားသူကြီး၏ အာဏာများကို အနည်းဆုံး တနှစ်မျှ ဆောင်ရွက်ခဲ့ဘူးသူသော်၎င်း၊ ရာဇဝတ်ကျင့်ထုံး ဥပဒေပုဒ်မ ၃၀ အရ အထူးအာဏာ အပ်နှင်းခြင်း ခံရသော ပထမတန်းအာဏာရ ရာဇဝတ် တရားသူကြီး၊ သို့တည်းမဟုတ်၊ ခရိုင်ရာဇဝတ် တရားသူကြီး၏ အာဏာများကို အနည်းဆုံး တနှစ်ဆောင်ရွက် ခဲ့ဘူးသူသော်၎င်း ဖြစ်ရမည်။

သို့ရာတွင် နိုင်ငံတော် သမတက အမိန့်စာဖြင့် သီးခြားဖော်ပြသည့် နယ်များတွင် ပထမတန်းအာဏာရ ရာဇဝတ် တရားသူကြီး၏ အာဏာများကို အနည်းဆုံးတနှစ် ဆောင်ရွက် ခဲ့ဘူးသူအား အထူးတရားသူကြီး အဖြစ် ခန့်ထားနိုင်သည်။

(၄) ဤကိစ္စအလို့ငှါ၊ နိုင်ငံတော် သမတ၏ ညွှန်ကြားချက်မရှိလျှင်၊ ဤအက်ဥပဒေတွင် ဖော်ပြ ထားသည့် ပြစ်မှုအသီးသီးကို ကျူးလွန်ရာနယ်နိမိတ်အတွင်း စီရင်ပိုင်ခွင့်အာဏာအရ တရားရုံးက စစ်ကြော စီရင်ရမည်။

(၅) ရာဇဝတ်ကျင့်ထုံး ဥပဒေပုဒ်မ ၅၂၆ အရ၊ တရားလွှတ်တော်သို့ လျှောက်ထားရာတွင် ဤ အက်ဥပဒေအရ ခန့်ထားသည့် အထူးတရားသူကြီးရုံးတွင် စစ်ဆေးလျက်ရှိသော ရာဇဝတ်မှုကို ထိုအထူး တရားသူကြီးထံမှ လွှဲပြောင်းသင့်သည်ဟု တရားလွှတ်တော်က ထင်မြင်သဘောရှိလျှင်၊ တရားလွှတ်တော်က ထိုသို့လွှဲပြောင်းရန်ကိစ္စ အလို့ငှါ၊ နိုင်ငံတော် သမတထံ အစီရင်ခံရမည်။ ထိုအခါ နိုင်ငံတော် သမတသည်၊ အခြားအထူးတရားသူကြီး တဦးကိုခန့်၍ ထိုတရားသူကြီးထံသို့ ထိုအမှုကို လွှဲပြောင်းပေးရမည်။

(၆) ဤအက်ဥပဒေအရ၊ ခန့်ထားသော အထူးတရားသူကြီး၏ စီရင်သော အမိန့်ကို ပြစ်မှုထင်ရှား စီရင်ခြင်း ခံရသောသူသည် တရားလွှတ်တော်သို့ အယူခံဝင်နိုင်သည်။

(၇) ဤအက်ဥပဒေအရ၊ ခန့်ထားသည့် အထူးတရားသူကြီး၏ စစ်ဆေးမှု အရပ်ရပ်ကို တရားလွှတ် တော်က ပြန်လည်စစ်ကြောနိုင်သည်။ ရာဇဝတ်ကျင့်ထုံး ဥပဒေပုဒ်မ ၄၃၅ မှ ၄၄၂ ထိပါရှိသော ပြဌာန်းချက် များသည် ဤပြန်လည် စစ်ကြောမှုများနှင့် သက်ဆိုင်စေရမည်။

အစိုးရအဖွဲ့၏ အမိန့်ဖြင့် အမှုထမ်းအဖွဲ့၏ အမိန့်ဖြင့် အမှုထမ်းအဖွဲ့၏ အမိန့်ဖြင့်

၆။ ။ ဤအက်ဥပဒေပုဒ်မ ၄၊ ပုဒ်မငယ် (၂)အရ၊ ပြစ်ဒဏ်ထိုက်သင့်သည့် ပြစ်မှုတစ်ခုခုကို ကျူး လွန်သည်ဟု စွပ်စွဲခြင်းခံရသော ပြည်သူ့ဝန်ထမ်း တဦးတယောက်ကို အောက်ပါအခွင့်အမိန့် ကြိုတင်မရရှိဘဲ အရေးယူပိုင်ခွင့် မရှိစေရ။

- (က) ပြည်ထောင်စု အဖွဲ့ဝင် ဝန်ကြီးများ၊ သို့တည်းမဟုတ် ပြည်နယ် အစိုးရအဖွဲ့ဝင် ဝန်ကြီးများနှင့် သက်ဆိုင်လျှင်၊ နိုင်ငံတော် သမတ၏ အခွင့်အမိန့်၊ သို့တည်းမဟုတ်
- (ခ) အခြားမည်သည့် ပြည်သူ့ဝန်ထမ်းနှင့်မဆို သက်ဆိုင်လျှင်၊ ထိုပြည်သူ့ဝန်ထမ်းအား၊ ၎င်း၏ ရာထူး၌ ခန့်ထားပိုင်ခွင့်၊ သို့တည်းမဟုတ် ရာထူးမှ ထုတ်ပယ်နိုင်ခွင့်ရှိသည့် အာဏာပိုင်၏ အခွင့်အမိန့်။

ပုဒ်မခွဲအရ အမိန့်ချမှတ်မီ မည်သည့် အချိန်တွင်မဆို အထက်ဆိုခဲ့သည့်အတိုင်း ခရိုင်ဝန်ထံ ကန့်ကွက်နိုင်သည်။

၅။ ။(၁) သတ်မှတ်ထားသည့် နေ့ရက်တွင်ဖြစ်စေ၊ ထိုနေ့ရက် မတိုင်မီဖြစ်စေ၊ ပုဒ်မ ၄ အရ အကြောင်းလည်းမပြ၊ ကန့်ကွက်ခြင်းလည်း မပြုလျှင်၊ ခရိုင်ဝန်သည်၊ ဝါရမ်းကပ်သည့် ကြားဖြတ်အမိန့်ကို အတည်ပြုရန် ချက်ချင်း အမိန့်ချမှတ်ရမည်။

(၂) အထက် ဆိုခဲ့သည့်အတိုင်း အကြောင်းပြုလျှင်၊ သို့တည်းမဟုတ် ကန့်ကွက်လျှင်၊ ခရိုင်ဝန်သည်၊ ထိုအကြောင်းပြချက်၊ သို့တည်းမဟုတ် ကန့်ကွက်ချက်များကို စုံစမ်းစစ်ဆေးရမည်။ ထိုသို့စုံစမ်း စစ်ဆေးရာ၌ အမှုသည်များ စစ်ဆေးခြင်းနှင့် ပတ်သက်၍၎င်း၊ အခြားကိစ္စ အရပ်ရပ်နှင့် ပတ်သက်၍၎င်း၊ ခရိုင်ဝန်သည်၊ ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့် မဆန့်ကျင်စေဘဲ၊ တရားမကျင့်ထုံး ဥပဒေအရ၊ တရားမမှုကြားနာ စစ်ဆေးရာတွင် တရားရုံးကလိုက်နာသည့် နည်းလမ်းအတိုင်း လိုက်နာ၍၊ တရားရုံးကသုံးစွဲသော အာဏာအားလုံးကို သုံးစွဲရမည်။ ပုဒ်မ ၄ အရ၊ ကန့်ကွက်သူ တဦးဦးအား ဝါရမ်းကပ်သည့် ပစ္စည်းတွင် ဝါရမ်းကပ်သည့် နေ့ရက်၌ မိမိအကျိုး သက်ဆိုင်ခွင့်ရှိကြောင်း သက်သေခံတင်ပြရန် ဆင့်ဆိုရမည်။

(၃) ပုဒ်မခွဲ (၂)အရ စုံစမ်း စစ်ဆေးပြီးနောက်၊ ခရိုင်ဝန်သည် ဝါရမ်းကပ်သည့် ကြားဖြတ်အမိန့်ကို အတည်ပြုသည့် အမိန့်ကိုဖြစ်စေ၊ ပစ္စည်း၏ တစိတ်တဒေသကို ဝါရမ်းခွဲ၍ ကြားဖြတ်အမိန့်ကို ပြောင်းလဲသည့် အမိန့်ကိုဖြစ်စေ၊ ထိုကြားဖြတ်အမိန့်ကို ရုပ်သိမ်းသည့် အမိန့်ကိုဖြစ်စေ ချမှတ်ရမည်။

- (က) ဝါရမ်းကပ်ထားသည့် ထိုသူ၏ ပစ္စည်းတန်ဖိုးသည်၊ ထိုသူဇယားဝင် ပြစ်မှုကျူးလွန်၍ ရရှိသည်ဟု ယုံကြည်ရသော ပစ္စည်း၏ တန်ဖိုးထက်မနည်းဟု မယူဆလျှင်၊ ထိုပြစ်မှု ကျူးလွန်သည်ဟု ယုံကြည်ရသူ ပိုင်ဆိုင်ခွင့်ရှိသည်ဟု မိမိယူဆသော မည်သည့် ပစ္စည်းကိုမဆို ဝါရမ်းမခွဲရ။
- (ခ) ထိုသူက အဆိုပါပြစ်မှု ကျူးလွန်၍၊ ငွေ၊ သို့တည်းမဟုတ် အခြားပစ္စည်းကို ရရှိသည် မဟုတ်ဟု မိမိမယူဆလျှင်၊ ဝါရမ်းကပ်သည့် အမိန့်ကို မရုပ်သိမ်းရ။

၆။ ။(၁) ဇယားဝင် ပြစ်မှုကို ကျူးလွန်သည်ဟု ယုံကြည်ရသူနှင့်ပတ်သက်၍ ဝါရမ်းကပ်ရန် ရရှိသည့် ထိုသူပိုင် ပစ္စည်းများသည် အဆိုပါပြစ်မှုကို ကျူးလွန်၍ ထိုသူရရှိသည်ဟု ယုံကြည်ရသည့်ပစ္စည်း အရေအတွက်ထက်၊ သို့တည်းမဟုတ် တန်ဖိုးထက် နည်းသည်ကို ဖွဲ့စည်းလျှင်၎င်း၊ ထိုသူသည် ထိုပြစ်မှုကို ကျူးလွန်သည်ဟု စွပ်စွဲသည့် နေ့ရက်နောက်၊ ရိုးဖြောင့်သော သဘောဖြင့်လည်းမဟုတ်၊ အဖိုးစားနား အတွက်လည်း မဟုတ်ဘဲ မိမိပိုင်ပစ္စည်းကို (ဤအက်ဥပဒေအရ အာဏာ တည်ပြီးနောက်ဖြစ်စေ၊ အာဏာ မတည်မီဖြစ်စေ) လွှဲပြောင်းထားကြောင်းဖြင့် ယုံကြည်လောက်သောအကြောင်းရှိသည်ဟု ခရိုင်ဝန်က ကျမ်းကျိန်လွှာအရဖြစ်စေ၊ အခြားနည်းအရဖြစ်စေ ယူဆလျှင်၎င်း၊ ခရိုင်ဝန်သည် ထိုပစ္စည်း လွှဲပြောင်းခံရသူ အား၊ (ထိုသူသည် အဆိုပါပြစ်မှု ကျူးလွန်သူထံမှ ထိုပစ္စည်းကို တိုက်ရိုက်ရသည်ဖြစ်စေ၊ မရသည်ဖြစ်စေ) နို့တစ်စာ ချအပ်လျက် ထိုနို့တစ်စာတွင် သတ်မှတ်ထားသော ပစ္စည်း၏ [ထိုက်သင့်သည့်] တန်ဖိုးနှင့်ညီမျှသော လွှဲပြောင်း ခံရသူ၏ ပစ္စည်းကို မည်သည့်အတွက် ဝါရမ်းမကပ်သင့်ကြောင်း အကြောင်းပြရန် ဆင့်ဆိုနိုင်သည်။

(၂) အဆိုပါလွှဲပြောင်း ခံရသူသည် သတ်မှတ်ထားသည့် နေ့ရက်တွင် အကြောင်းပြရန် မလာမရောက်လျှင်၎င်း၊ ပုဒ်မ ၅၊ ပုဒ်မခွဲ (၂)တွင် ပြဋ္ဌာန်းထားသည့် နည်းလမ်းအတိုင်း စုံစမ်းစစ်ဆေးပြီးနောက် ခရိုင်ဝန်ကပစ္စည်းကို ရိုးဖြောင့်သော သဘောဖြင့်လည်းမဟုတ်၊ အဖိုးစားနား အတွက်လည်း မဟုတ်ဘဲ၊

ထိုသူထံသို့ လွှဲပြောင်းသည်ဟု ယူဆလျှင်၎င်း၊ ခရိုင်ဝန်သည်၊ လွှဲပြောင်းထားသော ပစ္စည်း၏ ထိုက်သင့်သည့် တန်ဖိုးနှင့် ညီမျှသည်ဟု မိမိသဘောရသည့် အဆိုပါ လွှဲပြောင်းခံရသူပိုင် ပစ္စည်းကို ဝါရမ်းကပ်ရန် အမိန့် ချမှတ်ရမည်။

၇။ ။ ဤအက်ဥပဒေအရ ချမှတ်သော ပစ္စည်းဝါရမ်းကပ်သည့် အမိန့်ကို တရားမကျင့်ထုံး ဥပဒေတွင် ဒီကရီ အတည်ပြုသည့်အခါ၊ ပစ္စည်းဝါရမ်းကပ်ရန်အတွက် ပြဋ္ဌာန်းထားသည့် နည်းလမ်းအတိုင်း လိုက်နာ နိုင်သမျှ လိုက်နာ၍ အတည်ပြုရမည်။

၈။ ။ ဤအက်ဥပဒေအရ ပစ္စည်းဝါရမ်း ကပ်ခံရသူ၊ သို့တည်းမဟုတ် ပစ္စည်းဝါရမ်း ကပ်ခံရမည့်ဆဲဆဲ ဖြစ်သူသည်၊ ထိုသို့ဝါရမ်းကပ်မည့်အစား၊ အာမခံပေးခွင့်ပြုရန်၊ ခရိုင်ဝန်ထံ မည်သည့်အချိန်တွင်မဆိုလျှောက် ထားနိုင်သည်။ ထိုသို့ပေးသည့် အာမခံပစ္စည်းသည် ပြည့်စုံလုံလောက်သည်ဟု ခရိုင်ဝန်က ထင်မြင်လျှင်၊ ဝါရမ်းကပ်သည့်အမိန့်ကို ရုပ်သိမ်းနိုင်သည်။ သို့တည်းမဟုတ် ဝါရမ်းကပ်သည့် အမိန့်ကို မချမှတ်ဘဲနေနိုင် သည်။

၉။ ။ ခရိုင်ဝန်သည်၊ ဖြောင့်မှန်သင့်လျော်သည်ဟု ထင်မြင်လျှင် ဤအက်ဥပဒေအရ ဝါရမ်းကပ် ထားသည့် ပစ္စည်းကို မိမိက အခါအားလျော်စွာ ထုတ်ဆင့်သည့် ညွှန်ကြားချက်များနှင့်အညီ၊ ထိန်းသိမ်း စောင့်ရှောက်ရန် ပစ္စည်းထိန်း ခန့်ထားနိုင်သည်။ ဤကဲ့သို့ ပစ္စည်းထိန်း ခန့်ထားသည့်အခါ၊ တရားမကျင့်ထုံး ဥပဒေ၏ ပထမဇယားရှိ အမိန့်အမှတ် ၄၀ ပါ နည်းဥပဒေ ၂၊ ၃၊ ၄ နှင့် ၅ ၏ ပြဋ္ဌာန်းချက်များနှင့် သက်ဆိုင် ရမည်။

၁၀။ ။ ပုဒ်မ ၁၁ ပါ ပြဋ္ဌာန်းချက်များနှင့် မဆန့်ကျင်စေဘဲ၊ ဤအက်ဥပဒေအရ ပစ္စည်းကို ဝါရမ်း ကပ်ရန် ချမှတ်သည့်အမိန့်သည် ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့်အညီ၊ စောစောက ရုပ်သိမ်းခြင်း မရှိခဲ့သော်—

- (က) အဆိုပါ အမိန့်ချမှတ်ရန် လျှောက်ထားသည့် အချိန်အခါက စွပ်စွဲသည့် ဇယားဝင် ပြစ်မှုကို မည်သည့်ရာဇဝတ် တရားရုံးကမျှ အရေးမယူရသေးလျှင်၊ ပုဒ်မ ၄၊ ပုဒ်မခွဲ (၁) အရ အမိန့်ချမှတ်သည့်နေ့မှ သုံးလကာလမျှ ဆက်လက်အတည်ဖြစ်ရမည်။ သို့ရာတွင် ထိုပြစ်မှုကို ထိုအတောအတွင်း အရေးမယူမှသာလျှင်၊ သို့တည်းမဟုတ် ထိုကာလ အပိုင်းအခြားကို တိုးမြှင့်ရန် အစိုးရ၏ ကိုယ်စားလှယ်က လျှောက်ထား၍၊ ခရိုင်ဝန်က ယင်းသို့ တိုးမြှင့်ရန် သင့်လျော်ဖြောင့်မှန်သည်ဟု ထင်မြင်သည့်အတိုင်း အမိန့်ချမှတ် ခြင်း မရှိမှသာလျှင် ဆိုခဲ့သည့်အတိုင်း သုံးလဆက်လက် အတည်ဖြစ်ရမည်။
- (ခ) စွပ်စွဲသည့် ဇယားဝင်ပြစ်မှုကို အဆိုပါအမိန့် ချမှတ်ရန် လျှောက်ထားသည့်အချိန် မတိုင်မီဖြစ်စေ၊ လျှောက်ထားပြီးနောက်ဖြစ်စေ၊ တရားရုံးက အရေးယူလျှင်၊ ရာဇဝတ် မှုခင်းများ ပြီးဆုံးသည့်နောက်၊ ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့်အညီ၊ ခရိုင်ဝန် က အမိန့်ချမှတ်သည့် အချိန်တိုင်အောင် ဆက်လက် အတည်ဖြစ်ရမည်။

၁၁။ ။ (၁) ပုဒ်မ ၄၊ သို့တည်းမဟုတ် ပုဒ်မ ၆ အရ အကြောင်းပြသည့်၊ သို့တည်းမဟုတ် ပုဒ်မ ၄ အရကန့်ကွက်သည့်၊ သို့တည်းမဟုတ် ပုဒ်မ ၈ အရ လျှောက်လွှာတင်သွင်းသည့် အစိုးရ၊ သို့တည်းမဟုတ် တဦးတယောက်သောသူသည် ဤအက်ဥပဒေပါ အထက်ဆိုခဲ့သည့် ပြဋ္ဌာန်းချက် ကခုန်အရ ခရိုင်ဝန်

ချမှတ်သည့်အမိန့်ကြောင့် နစ်နာလျှင်၊ ယင်းသို့ နစ်နာစေသည့် အမိန့်ကို ချမှတ်သည့်နေ့မှ ရက်ပေါင်း သုံးဆယ်အတွင်း စီရင်ပိုင်ခွင့် အာဏာရှိသည့် တရားရုံးသို့ ထိပ်တန်းတွင် ပိုင်ဆိုင်ခွင့်ရှိရန် တရားမမှု စွဲဆိုနိုင်သည်။ သို့ရာတွင် တရားမမှု စွဲဆိုလျှင် ထိုတရားမမှု၏ စီရင်ချက်ကိုထောက်၍၊ ခရိုင်ဝန်ချမှတ်သော ဝါရမ်းကပ်သည့် အမိန့်မှ အပြီးသတ်ဖြစ်ရမည်။

(၂) ထိုတရားမမှုကို အပြီးသတ်စီရင်ဆုံးဖြတ်ခြင်းမပြုရသေးမီ၊ ပုဒ်မ ၈၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၃ ပါ ပြဋ္ဌာန်းချက်များနှင့် အညီမဟုတ်ပါ။ မည်သည့် တရားရုံးကမျှ၊ ထိုတရားမမှုနှင့် ပတ်သက်သော ဝါရမ်းကပ် သည့်အမိန့်ကို ရုပ်သိမ်းရန်၊ သို့တည်းမဟုတ် ရုပ်ဆိုင်ရန် အမိန့်မချမှတ်ရ။

(၃) ထိုတရားမမှုကို အပြီးသတ် စီရင်ဆုံးဖြတ်ပြီးသောအခါ၊ ခရိုင်ဝန်မှ၊ ထိုတရားမမှုတွင်ချမှတ်သည့် အမိန့်အဘဦး လိုက်နာရမည်။

၁၂။ ။ (၁) ဇယားဝင် ပြစ်မှုကို ရာဇဝတ်ကြောင်းဖြင့် စစ်ဆေးစီရင်သည့် တရားရုံးသို့ စီရင်ချက် မချမှတ်မီ အဆိုပါပြစ်မှုနှင့်စပ်လျဉ်း၍ ဤအက်ဥပဒေအရ ပစ္စည်းကို ဝါရမ်းကပ်သည့်အမိန့် ချမှတ်ထားသည့် အချက်ကို အကြောင်းကြားလျှင်၊ အဆိုပါတရားရုံးသည် တရားခံကို ပြစ်မှုထင်ရှားစီရင်ခဲ့သော်၊ ထိုပြစ်မှုကို ကျူးလွန်ခြင်းဖြင့် တရားခံရှိသည့်ငွေမည်မျှ၊ သို့တည်းမဟုတ် အခြားပစ္စည်း၏ တန်ဖိုးမည်မျှဖြစ်ကြောင်း ဆုံးဖြတ်ချက် ချမှတ်ရမည်။

(၂) [ယင်းသို့ ပြစ်မှုထင်ရှား စီရင်ခြင်းနှင့် စပ်လျဉ်းသည့် အယူခံမှုတွင်၊ သို့တည်းမဟုတ် ပြင်ဆင်မှု တွင်၊] အယူခံတရားရုံး၊ သို့တည်းမဟုတ် [ပြင်ဆင်မှုကြားနာသည့် တရားရုံးသည်] ပြစ်မှုထင်ရှား စီရင်ခြင်း ကိုယ်ဖျက်သည် မဟုတ်လျှင်၊ မိမိသင့်သည် ထင်မြင်သည့်အတိုင်း အဆိုပါ ဆုံးဖြတ်ချက်ကို အတည်ပြုလျှင် လည်း အတည်ပြုရမည်။ သို့တည်းမဟုတ် ပြုပြင်လျှင်လည်း ပြုပြင်ရမည်။

(၃) ပုဒ်မခွဲ(၁)တွင် ရည်ညွှန်းသည့် ရာဇဝတ်ကြောင်း စစ်ဆေး စီရင်မှုတွင် ချမှတ်သည့် [တရားသေ လွှတ်သော အမိန့်နှင့် စပ်လျဉ်းသည့်အယူခံမှု၊ သို့တည်းမဟုတ် ပြင်ဆင်မှု] အယူခံတရားရုံး၊ သို့တည်း မဟုတ် [ပြင်ဆင်မှု ကြားနာသည့် တရားရုံးသည်] တရားခံကို ပြစ်မှုထင်ရှား စီရင်လျှင်၊ အဆိုပါပုဒ်မခွဲတွင် ရည်ညွှန်းသည့် ဆုံးဖြတ်ချက်မျိုး ချမှတ်ရမည်။

၁၃။ ။ (၁) ဤအက်ဥပဒေအရ ပစ္စည်းကို ဝါရမ်းကပ်သည့် အမိန့်ထုတ်သည်၊ သို့တည်းမဟုတ် ယင်းသို့ ဝါရမ်းကပ်သည့်အစား အာမခံ ပေးထားသည့် ဇယားဝင် ပြစ်မှုအတွက် ရာဇဝတ်ကြောင်းဖြင့် စစ်ဆေးစီရင်မှု ပြီးဆုံးခြင်းသို့ရောက်သောအခါ၊ အစိုးရ၏ ကိုယ်စားလှယ်သည် နှောင့်နှေးခြင်းမရှိဘဲ၊ ခရိုင် ဝန်အား ယင်းသို့ပြီးဆုံးကြောင်းကို အကြောင်းကြားရမည်။ ထို့ပြင် ရာဇဝတ်ကြောင်းဖြင့် တရားရုံးက စစ်ဆေးစီရင်လျှင်၊ မူလစစ်ဆေးစီရင်သည့် ထိုတရားရုံးက ချမှတ်သော စီရင်ချက်၏ သို့တည်းမဟုတ် အမိန့်၏ မိတ္တူနှင့်အယူခံတရားရုံး၊ သို့တည်းမဟုတ် [ပြင်ဆင်မှုကြားနာသည့် တရားရုံးက] ချမှတ်သော စီရင်ချက် များ၊ သို့တည်းမဟုတ် အမိန့်များရှိလျှင် အဆိုပါ စီရင်ချက်များ၏ သို့တည်းမဟုတ် အမိန့်များ၏ မိတ္တူ များကို ခရိုင်ဝန်ထံ တင်ပြရမည်။

၁၉၅၁ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၃၄ အရ ပြင်ဆင်သည်။

(၂) စွပ်စွဲသည့် ဇယားဝင် ပြစ်မှုကို ရာဇဝတ်ကြောင်းဖြင့် အရေးယူကြောင်းကို ပုဒ်မခွဲ (၁)အရ၊ ခရိုင်ဝန်ထံ အစီရင်ခံသည့် အခါတွင်ဖြစ်စေ၊ ယင်းသို့ အရေးယူလျက် ရာဇဝတ်ရုံးများ၏ အပြီးသတ် စီရင်ချက်အရ၊ သို့တည်းမဟုတ် အမိန့်အရ တရားခံကို တရားသေလွှတ်သည့် အခါတွင် ဖြစ်စေ၊ ခရိုင်ဝန် သည်၊ အဆိုပါ ပြစ်မှုနှင့်စပ်လျဉ်း၍ ပစ္စည်းကို ဝါရမ်းကပ်ရန် မိမိထုတ်ဆင့်သည့် အမိန့်ကို အမြန်ရုပ်သိမ်း ရမည်။ အကယ်၍ ဝါရမ်းကပ်မည့်အစား အာမခံပစ္စည်း လက်ခံထားလျှင် ထိုအာမခံပစ္စည်းကို ပြန်ပေးရန် အမြန်အမိန့်ထုတ်ရမည်။

(၃) ရာဇဝတ်ရုံးများ၏ အပြီးသတ် စီရင်ချက်အရ၊ သို့တည်းမဟုတ် အမိန့်အရ တရားခံကို ပြစ်မှု ထင်ရှား စီရင်သည့်အခါ၊ ဤအက်ဥပဒေအရ ဝါရမ်းကပ်ထားသည့် တရားခံ၏ ပစ္စည်းများထဲမှ၊ သို့တည်း မဟုတ် ဝါရမ်းကပ်မည့်အစား လက်ခံထားသော အာမခံ ပစ္စည်းများထဲမှ ပုဒ်မ ၁၂ အရ ရာဇဝတ်ရုံးများက ချမှတ်သော အပြီးသတ် စီရင်ချက်တွင် သို့တည်းမဟုတ် အမိန့်တွင်၊ ထိုပြစ်မှု ကျူးလွန်ခြင်းဖြင့် တရားခံ ရရှိသည်ဟု သတ်မှတ်ထားသည့်ငွေကို၊ သို့တည်းမဟုတ် တန်ဖိုးကို အစိုးရ ဘဏ္ဍာတော်အဖြစ် သိမ်းယူရ မည်။ ထို့ပြင် ပစ္စည်းကို ဝါရမ်းကပ်သည့်အတွက် ကုန်ကျသည်ဟု ခရိုင်ဝန်က ဆုံးဖြတ်သည့် အမိန့်ကိုလည်း နုတ်ယူရမည်ဟု ခရိုင်ဝန်က အမိန့်ချမှတ်ရမည်။ ထို့ပြင် ရာဇဝတ်ရုံးများက အပြီးသတ်စီရင်ချက်၊ သို့တည်း မဟုတ် အမိန့်အရ တရားခံကို အခြားပြစ်ဒဏ်နှင့် တွဲ၍ဖြစ်စေ၊ မကွဲဘဲဖြစ်စေ၊ ငွေဒဏ်စီရင်ထားလျှင်၊ သို့တည်းမဟုတ် ငွေဒဏ် စီရင်ခြင်းကို အတည်ပြုထားလျှင်၊ အခြားနည်းအားဖြင့် ဒဏ်ငွေကို အရတောင်း နိုင်သည့် အာဏာကို မထိခိုက်စေဘဲ၊ အဆိုပါဒဏ်ငွေကို ဝါရမ်းကပ်ထားသည့် ကျန်ပစ္စည်းများထဲမှ၊ သို့တည်းမဟုတ် ဝါရမ်းကပ်မည့်အစား လက်ခံထားသော အာမခံ ပစ္စည်းများထဲမှ နုတ်ယူရမည်ဟုလည်း ခရိုင်ဝန်က အမိန့်ချမှတ်နိုင်သည်။

(၄) ပုဒ်မခွဲ (၃)အရ သိမ်းယူရန်၊ သို့တည်းမဟုတ်နုတ်ယူရန် အမိန့်ချမှတ်ထားသည့် ငွေများသည် ဝါရမ်းကပ်ထားသော တရားခံ၏ ပစ္စည်းတန်ဖိုးထက် ပိုနေသည့်အခါ၊ ထို့ပြင် ပုဒ်မ ၆ အရ တရားခံက ပစ္စည်းလွှဲပြောင်း ခံရသူ၏ ပစ္စည်းကို ဝါရမ်းကပ်ထားလျှင်၊ ပုဒ်မခွဲ (၃)အရ ဘဏ္ဍာတော်အဖြစ် သိမ်းယူ ရမည်ဟု အမိန့်ချမှတ်သည့် ငွေအနက် မပြေကျန်ငွေကို ဝါရမ်းကပ်ထားသည့် ထိုပစ္စည်း လွှဲပြောင်းခံရသူ၏ ပစ္စည်းများထဲမှ၊ သို့တည်းမဟုတ် ဝါရမ်းကပ်မည့်အစား၊ လက်ခံထားသော အာမခံ ပစ္စည်းများထဲမှ နုတ်ယူရမည်။ ထို့ပြင်ပစ္စည်းကို ဝါရမ်းကပ်သည့်အတွက် ကုန်ကျသည်ဟု ခရိုင်ဝန် ဆုံးဖြတ်သည့် စရိတ်ကို လည်း နုတ်ယူရမည်ဟု ခရိုင်ဝန်က အမိန့်ချမှတ်ရမည်။ ထို့ပြင် အခြားနည်းအားဖြင့် ဒဏ်ငွေကို အရ တောင်းနိုင်သည့် အာဏာကို မထိခိုက်စေဘဲ၊ ပုဒ်မခွဲ (၃)တွင် ရည်ညွှန်းသည့် ဒဏ်ငွေကိုဖြစ်စေ၊ ထိုဒဏ်ငွေ အနက် မပြေကျန်ငွေကိုဖြစ်စေ၊ ဝါရမ်းကပ်ထားသည့်ပစ္စည်း လွှဲပြောင်း ခံရသူ၏ ပစ္စည်းထဲမှ၊ သို့တည်းမဟုတ် ဝါရမ်းကပ်မည့်အစား လက်ခံထားသော အာမခံ ပစ္စည်းထဲမှ နုတ်ယူရမည်ဟုလည်း ခရိုင်ဝန်က အမိန့်ချမှတ် နိုင်သည်။

(၅) ပုဒ်မခွဲ (၃)နှင့် (၄)အရ၊ ထုတ်ဆင့်သည့် အမိန့်များအတိုင်း ဆောင်ရွက်ပြီးနောက် ဇယားဝင် ပြစ်မှုနှင့် စပ်လျဉ်း၍ ဝါရမ်းကပ်ထားသည့်ပစ္စည်း ခရိုင်ဝန်ထံ ကျန်သေးလျှင်၊ သို့တည်းမဟုတ် ဝါရမ်း ကပ်မည့်အစား၊ လက်ခံထားသော အာမခံပစ္စည်း ခရိုင်ဝန်ထံ ကျန်သေးလျှင်၊ ထိုပစ္စည်းများကို ဝါရမ်း ကပ်ရန် မိမိထုတ်ဆင့်သည့် အမိန့်ကို အမြန်ရုပ်သိမ်းရမည်။ အကယ်၍ ဝါရမ်းကပ်မည့်အစား အာမခံပစ္စည်း လက်ခံထားလျှင်၊ ထိုအာမခံပစ္စည်းကို ပြန်ပေးရန် အမြန်အမိန့်ထုတ်ရမည်။

၁၄။ ။ပုဒ်မ ၁၁ တွင် ပြဋ္ဌာန်းထားသည့် အတိုင်းမှတစ်ပါး တည်ဆဲ အခြားတရားဥပဒေတွင် မည်သို့ပင် ပါရှိစေကာမူ—

- (က) ပုဒ်မ ၄ အရ၊ သို့တည်းမဟုတ် ပုဒ်မ ၆ အရ နို့တစ်စာချအပ် ခံရသူ မည်သူမျှ၊ သို့တည်းမဟုတ် ပုဒ်မ ၄၊ ပုဒ်မခွဲ (၄)အရ၊ ကန့်ကွက်သူ မည်သူမျှ၊
- (ခ) ပုဒ်မ ၁၃ အရ၊ ဘဏ္ဍာတော်ဖြစ် သိမ်းယူရန် အမိန့်ချမှတ်ထားသည့် ပစ္စည်းနှင့် ပတ်သက်၍၊ သို့တည်းမဟုတ် ထိုပုဒ်မအရ ချမှတ်သော အမိန့်နှင့်အညီ၊ ဒဏ်ငွေ အရတောင်းခံရန် သိမ်းယူသည့် ပစ္စည်းနှင့် ပတ်သက်၍၊ သို့တည်းမဟုတ်
- (ဂ) ဤအက်ဥပဒေအရ ဝါရမ်း ကပ်ထားသည့် အခြားပစ္စည်းနှင့် ပတ်သက်၍ တရားမမှု၊ သို့တည်းမဟုတ် အခြားမူခင်းများကို တရားရုံးတွင် မစွဲဆိုရ။
- (ခ) မည်သည့် တရားရုံးကမျှ၊ မူခင်းများတွင်ဖြစ်စေ၊ အခြားနည်းဖြင့်ဖြစ်စေ၊ အပိုဒ်(က) တွင် ရည်ညွှန်းသူ မဟုတ်သည့် ပုဂ္ဂိုလ်က စွဲဆိုသော တရားမမှုတွင် အပြီးသတ် ဒီကရီမှ တစ်ပါး ဤအက်ဥပဒေအရ ပစ္စည်း ဝါရမ်းကပ်သည့် တည်ဆဲအမိန့်ကို ပျက်ပြယ်စေသည့်၊ သို့တည်းမဟုတ် တနည်းနည်းဖြင့် ထိခိုက်သည့် ဒီကရီ၊ သို့တည်းမဟုတ် အမိန့်ကို ဖြစ်စေ၊ ဝါရမ်းကပ်မည့်အစား အာမခံပစ္စည်းကို လက်ရှိထားနိုင်သည့် ခရိုင်ဝန်၏ အခွင့်အရေးကို ပျက်ပြယ်စေသည့်၊ သို့တည်းမဟုတ် တနည်းနည်းဖြင့် ထိခိုက်သည့် ဒီကရီ၊ သို့တည်းမဟုတ် အမိန့်ကိုဖြစ်စေ မချမှတ်ရ။

၁၅။ ။နိုင်ငံတော် သမတသည်၊ အစိုးရအမိန့် ပြန်တမ်းတွင် ထုတ်ပြန်ကြေငြာ၍၊ ဇယားဝင် ပြစ်မှုများကို ပယ်ဖျက်ခြင်း၊ သို့တည်းမဟုတ် ပြောင်းလဲခြင်း၊ သို့တည်းမဟုတ် ၎င်းဇယားတွင် နောက်ထပ် ပြစ်မှုများ ထည့်သွင်းခြင်း ပြုလုပ်နိုင်စေရမည်။

၁၆။ ။ဤအက်ဥပဒေနှင့်အညီ သဘောရိုးနှင့် ပြုလုပ်သည့်၊ သို့တည်းမဟုတ် ပြုလုပ်ရန် ကြံရွယ်သည့် အပြုအမူ တခုခုအတွက် မည်သူ့ အပေါ်တွင်မျှ၊ တရားမမှု၊ ရာဇဝတ်မှု၊ သို့တည်းမဟုတ် အခြားအမှုအခင်း စွဲဆိုခြင်းမပြုရ။

ပြစ်မှုများဇယား

ပုဒ်မ ၂ (၁) —

- (က) ပြည်သူပိုင် ပစ္စည်းနှင့် ပတ်သက်၍၊ ရာဇသတ်ကြီး ဥပဒေပုဒ်မ ၃၇၉၊ ၃၈၀၊ ၃၈၁၊ ၄၀၆ ၄၀၈၊ ၄၀၉၊ ၄၁၁၊ ၄၁၂၊ ၄၁၃၊ ၄၁၄၊ ၄၁၇၊ ၄၂၀ နှင့် ၄၂၆ အရပြစ်မှုများ။
- (ခ) ၁၉၄၇ ခုနှစ်၊ ပြည်သူ့ပစ္စည်း ကာကွယ်ရေး (Public Property Protection Act, 1947) အက်ဥပဒေပုဒ်မ ၆ (၁)အရ ပြစ်မှုများ။
- (ဂ) ၁၉၄၈ ခုနှစ်၊ အကတိလိုက်စားမှု တားမြစ်ရေး အက်ဥပဒေပုဒ်မ ၄ (၂)အရ ပြစ်မှုများ။
- (ဃ) ၁၉၄၇ ခုနှစ်၊ နိုင်ငံခြားငွေ လဲလှယ်မှု စည်းမျဉ်းသတ်မှတ်ရေး အက်ဥပဒေ (Foreign Exchange Regulation Act, 1947) ပုဒ်မ ၂၄ အရပြစ်မှုများ။
- (င) ၁၉၄၇ ခုနှစ်၊ အရေးကြီးသော ကုန်ပစ္စည်းများနှင့် ဆောင်ရွက်မှုများဆိုင်ရာ အက်ဥပဒေ (Essential Supplies and Services Act, 1947) ပုဒ်မ ၈ အရ ပြစ်မှုများ။
- (စ) ၁၉၄၇ ခုနှစ်၊ ဝင်ကုန်ထွက်ကုန် ကြီးကြပ်ရေး (ယာယီ) အက်ဥပဒေ [Control of Imports and Exports (Temporary) Act, 1947] ပုဒ်မ ၅ အရပြစ်မှုများ။

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