

ACT No. X OF 1886.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.  
(Received the assent of the Governor General on the 12th March, 1886.)

An Act to amend the Code of Criminal Procedure, 1882, and certain other Acts.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and certain other Acts; X of 1882. It is hereby enacted as follows:—

*Code of Criminal Procedure, 1882.*

Amendment of section 31 of the Code of Criminal Procedure.

1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words “any X of 1882. sentence of imprisonment for a term exceeding three years” the words “any sentence of imprisonment for a term exceeding four years, and any sentence of transportation,” shall be substituted.

Substitution of new section for section 34. Higher powers of certain District Magistrates.

2. For section 34 of the same Code the following shall be substituted, namely:—

“34. The Court of a District 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 of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding four years, and any sentence of transportation, shall be subject to confirmation by the Sessions Judge.”

Addition to section 55 and section 56.

3. After section 55 of the same Code, and after section 56 thereof, the following shall be added, namely:—

“This section applies to the police in the towns of Calcutta and Bombay.”

4. In

(Sections 4-10.)

4. In sections 88 and 514 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted. Amendment of sections 88 and 514.

5. In section 110 of the same Code, for the words "Sub-Divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government" the words "or Sub-Divisional Magistrate, or a Magistrate of the first class specially empowered in this behalf by the Local Government" shall be substituted. Amendment of section 110.

6. In section 162 of the same Code the word "shall" shall be inserted before the words "be used". Amendment of section 162.

7. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:— Amendment of section 173.

"Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government 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."

8. In section 266 of the same Code, for the word and figures "section 307" the words and figures "sections 276 and 307" shall be substituted. Amendment of section 266.

9. For the second paragraph of section 269 of the same Code the following shall be substituted, namely:— Amendment of section 269.

"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, with the aid of the jurors as assessors, for such of them as are not triable by jury."

10. For section 398 of the same Code the following shall be substituted, namely:— Substitution of new section for section 398.

"398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the Provisions supplemental to sections 35, 396 and 397.



92 *Criminal Procedure Code, &c., Amendment.* [ACT X  
(Sections 11-12.)

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 or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, 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.”

Amendment  
of section  
401.

11. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely :—

“If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension or remission, and thereupon 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.”

(2) After the third paragraph of the same section the following shall be inserted, namely :—

“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.”

New sections  
to follow  
section 475.

12. After section 475 of the same Code the following sections shall be inserted, namely :—

Power of  
Governor  
General in

“475A. The Governor General in Council may direct

direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India.

Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.

“475B. The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or section 471 to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474.”

Power of Local Government to relieve Inspector General of certain functions.

13. (1) For the first sentence of section 495 of the same Code the following shall be substituted, namely :—

Amendment of section 495.

“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 a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council.”

(2) After the last sentence of the same section the following shall be added, namely :—

“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.”

14. In section 510 of the same Code, for the word “the” before the words “Chemical Examiner” where those words first occur, the word “any” shall be substituted.

Amendment of section 510.

15. After section 541 of the same Code the following shall be inserted, namely :—

New section to follow section 541.

“541A. (1) If any person liable to be imprisoned or

Removal to criminal jail



94 *Criminal Procedure Code, &c., Amendment.* [ACT X  
(Sections 16-17.)

of accused  
or convicted  
persons who  
are in con-  
finement in  
civil jail,  
and their  
return to the  
civil jail.

or committed to custody under this Code is in confine-  
ment in a civil jail, the Court or Magistrate ordering  
the imprisonment or committal may direct that the  
person be removed to a criminal jail.

“(2) When a person is removed to a criminal jail  
under sub-section (1), he shall, on being released  
therefrom, be sent back to the civil jail, unless  
either—

“(a) three years have elapsed since he was re-  
moved to the criminal jail, in which case  
he shall be deemed to have been dis-  
charged from the civil jail under section  
342 of the Code of Civil Procedure; or

XIV of 18

“(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 341  
of the Code of Civil Procedure.”

XIV of 18

Addition of  
new section  
after section  
558.  
Officers con-  
cerned in  
sales not to  
purchase or  
bid for pro-  
perty.  
Correction  
of omission  
in Schedule  
II.

16. After section 558 of the same Code the fol-  
lowing section shall be added, namely:—

“559. A public servant having any duty to per-  
form in connection with the sale of any property  
under this Code shall not purchase or bid for the  
property.”

17. In Schedule II of the same Code, between  
the two lines of entries against section 211 of the  
Indian Penal Code the following shall be inserted,  
namely:—

XLV of  
1860.

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
“If offence charged be punishable with im- prisonment for seven years.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either de- scription for seven years and fine.	Court of Ses- sion, Presi- dency Magis- trate or Mag- istrate of the first class.”

18. In

18. In the same Schedule, for section 225A and the line of entries against that section the following shall be substituted, namely:—

Further  
amendme  
of Schedu  
II.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
" 225A	Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for— (a) in case of intentional omission or sufferance;  (b) in case of negligent omission or sufferance.	Shall not arrest without warrant.  Ditto .	Ditto .  Summons.	Bailable  Ditto .	Ditto .  Ditto .	Imprisonment of either description for three years, or fine, or both.  Simple imprisonment for two years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.  Presidency Magistrate or 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.	Warrant	Ditto .	Ditto .	Imprisonment of either description for six months, or fine, or both.	Ditto."

19. In the part of Schedule III of the same Code entitled "*IV.—Ordinary Powers of a Sub-divisional Magistrate*", the following shall be inserted after the second article, namely:—

Correction of omission in Schedule III.

"(2A) Power to require security for good behaviour, section 110."

Bombay



96 *Criminal Procedure Code, &c., Amendment.* [ACT X  
(Sections 20-24.)

*Bombay District Police Act, 1867.*

Amendment  
of Bombay  
District  
Police Act.

20. The last nine words of section 23 of the Bombay District Police Act, 1867, are hereby repealed.

Bom. V  
1867.

*Indian Penal Code.*

Amendment  
of sections  
40 and 64 of  
the Indian  
Penal Code.

21. (1) In the second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted.

XLV of

(2) In the second clause of section 64 of the same Code, after the word "punishable" the words "with imprisonment or fine, or" shall be inserted.

Amendment  
of section 75  
of the Indian  
Penal Code.

22. In section 75 of the same Code, for the words "or to double the amount of punishment" to the end of the section, the following shall be substituted, namely:—

"or to imprisonment of either description for a term which may extend to ten years."

Addition to  
section 216  
of the Indian  
Penal Code.

23. After the first paragraph of section 216 of the same Code the following shall be inserted, namely:—

"'Offence' in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; 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 British India."

44 & 45  
cap. 69.

Substitution  
of new sections  
for section 225A of  
the Indian  
Penal Code,  
and repeal of  
section 651 of  
the Code of  
Civil Procedure.

24. (1) For section 225A of the same Code the following sections shall be substituted, namely:—

Omission to  
apprehend,

"225A. Whoever, being a public servant legally bound

(Section 25.)

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—

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

“(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

“(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.

XIV of 1882. (2) Section 651 of the Code of Civil Procedure is hereby repealed.

*Prisoners' Act, 1871.*

V of 1871. 25. For sections 30, 31 and 32 of the Prisoners' Act, 1871, the following shall be substituted, namely:—

Substitution of new sections for sections 30, 31 and 32 of the Prisoners' Act. Removal from one jail to another in territories under same Local Government.

X of 1882. “30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector

General



General of Prisons, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

Removal of  
lunatic  
prisoners.

“31. (1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that Government, by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

“(2) When it appears to the Local Government that the prisoner has become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which he was removed or to another prison within the territories subject to the same Local Government, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

“(3) The provisions of section 9 of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall

1886.] *Criminal Procedure Code, &c., Amendment.* 99  
(Section 25.)

shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

“(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, the Governor General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

X of 1882. “32. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor General in Council may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India.”

Removal of prisoners from territories under one Local Government to territories under another.