

ACT No. XVIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.

of 1898.
VII of 1870. **W**HEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870; It is hereby enacted as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1923. Short title.

V of 1898. 2. In section 10 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),— Amendment of section 10, Code of Criminal Procedure, 1898.

(i) in sub-section (2), the words “for a period not exceeding six months” shall be omitted, and after the words “under this Code” the words “or under any other law for the time being in force,” shall be inserted; and

(ii) after sub-section (2) the following sub-section shall be added, namely:—

“(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.”

3. After sub-section (2) of section 18 of the said Code the following sub-sections shall be added, namely:— Amendment of section 18, Code of Criminal Procedure, 1898.

“(3) A Presidency Magistrate may be appointed under this section for such term as the Local Government may, by general or special order, direct.

(4) The

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[Price fifteen annas.]

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(4) The Local Government may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the Local Government may direct."

Amendment of section 21, Code of Criminal Procedure, 1898.

4. In sub-section (2) of section 21 of the said Code, after the words "Presidency Magistrates" the words "including Additional Chief Presidency Magistrates" shall be inserted.

Amendment of section 29, Code of Criminal Procedure, 1898.

5. In sub-section (2) of section 29 of the said Code, after the words "High Court or" the words "subject as aforesaid" shall be inserted.

Insertion of new section 29B in the Code of Criminal Procedure, 1898.

6. Before section 30 of the said Code the following section shall be inserted, namely:—

Jurisdiction in the case of juveniles.

"29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the Local Government to exercise the powers conferred by section 8, sub-section (1), of the Reformatory Schools Act, 1897, or, ^{VIII of 1897,} in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby."

Amendment of section 35, Code of Criminal Procedure, 1898.

7. (1) In section 35 of the said Code,—

(i) in sub-section (1), for the words "When a person is convicted at one trial of two or more distinct offences, the Court may," the following shall be substituted, namely:—

"When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions

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XLV of 1860. provisions of section 71 of the Indian Penal Code ”;
and

(ii) in sub-section (3), for the word “ aggregate ”
the words “ the aggregate of consecutive ” shall be
substituted.

(2) The *Explanation* and *Illustration* to this sec-
tion are hereby repealed.

8. In section 40 of the said Code, for the word “ transferred ”, in both places where it occurs, the word “ appointed ” shall be substituted, and the words “ continue to ” shall be omitted, and for the words “ to which ” the words “ in which ” shall be substituted.

Amendment
of section
40, Code of
Criminal
Procedure,
1898.

9. In section 45 of the said Code,—

(1) in sub-section (1),—

(a) after the word “ occupier ”, where it occurs
for the second time, the words “ in charge of the
management of that land ” shall be inserted, and for
the word “ obtain ” the word “ possess ” shall be
substituted;

Amendment
of section
45, Code of
Criminal
Procedure,
1898.

(b) to clause (d), after the words “ suspicious
circumstances,” the following words shall be added,
namely :—

“ or the discovery in or near such village of any
corpse or part of a corpse, in circum-
stances which lead to a reasonable sus-
picion 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-bail-
able offence has been committed in respect
of such person; ” and

(c) in clause (e), after the word “ namely,” the
figures “ 231, 232, 233, 234, 235, 236, 237, 238,” shall
be inserted, and for the word and figures “ and 460 ”
the figures, letters and word “ 460, 489A, 489B, 489C
and 489D ” shall be substituted; and

(ii) in sub-section (3), after the words “ District
Magistrate,” the words “ or Sub-divisional Magis-
trate ” shall be inserted; after the word “ persons ”

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the words "with his or their consent" shall be inserted; and for the words "to be village-headman for the purposes of this section in any village for which there is no such headman appointed under any other law" the following shall be substituted, namely:—

"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."

Amendment
of section
54, Code of
Criminal
Procedure,
1898.

10. In sub-section (1) of section 54 of the said Code, in clause *fourthly*, for the word "or" the word "and" shall be substituted, and to the same sub-section the following clause shall be added, namely:—

"*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."

Amendment
of section
59 Code of
Criminal
Procedure,
1898.

11. In sub-section (1) of section 56 of the said Code, after the words "police-station" the words "or any police-officer making an investigation under Chapter XIV" shall be inserted, and to the same sub-section the following shall be added, namely:—

"The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order."

Amendment
of section
59, Code of
Criminal
Procedure,
1898

12. For sub-section (1) of section 59 of the said Code the following sub-section shall be substituted, namely:—

"(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,

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police-officer, take such person or cause him to be taken in custody to the nearest police-station."

13. (1) After sub-section (6) of section 88 of the said Code the following sub-sections shall be inserted, namely :—

Amendment
of section
88, Code of
Criminal
Procedure,
1898.

"(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 or Chief Presidency 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 or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, 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

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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."

(2) In sub-section (7) of the same section, after the words "date of the attachment" the words "and until any claim preferred or objection made under sub-section (6A) has been disposed of under that sub-section" shall be inserted.

Amendment
of section
103, Code of
Criminal
Procedure,
1898.

14. (1) To sub-section (1) of section 103 of the said Code, after the words "witness the search," the following shall be added, namely:—

"and may issue an order in writing to them or any of them so to do."

(2) After sub-section (4) of the same section the following sub-section shall be added, namely:—

"(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 Indian Penal Code."

XLV of 1860.

Amendment
of section
106, Code of
Criminal
Procedure,
1898.

15. In section 106 of the said Code,—

(i) in sub-section (1), for the word "rioting" the following words shall be substituted, namely:—"any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of" and the words "or of assembling armed men or taking other unlawful measures with the evident intention of committing the same," shall be omitted; and

XLV of 1860.

(ii) in sub-section (3), after the words "Appellate Court" the words "including a Court hearing appeals under section 407" shall be inserted.

Amendment
of section
107, Code of
Criminal

16. (1) In sub-section (1) of section 107 of the said Code, after the words "the Magistrate," where they first occur, the words "if in his opinion there

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is sufficient ground for proceeding" shall be inserted.
ed. Procedure. 1898.

(2) In sub-section (4) of the same section, for the words "this section" the word, figure and brackets "sub-section (3)" shall be substituted, and for the words "until the completion of the inquiry hereinafter prescribed" the words "pending further action by himself under this Chapter." shall be substituted.

17. In section 108 of the said Code, after the words "in writing" the words "or in any other manner intentionally" shall be inserted; after the words "such Magistrate" the words "if in his opinion there is sufficient ground for proceeding" shall be inserted; for the words "or printed or published" the words "and edited, printed and published" shall be substituted; and after the figures "1867," the words "with reference to any matter contained in such publication" shall be inserted. Amendment of section 108, Code of Criminal Procedure, 1898.

18. In section 110 of the said Code,—

(i) in clause (a), the word "or", where it first occurs, shall be omitted, and after the word "thief" the words "or forger," shall be inserted; and Amendment of section 110, Code of Criminal Procedure, 1898.

(ii) for clause (d) the following clause shall be substituted, namely:—

"(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 XLV of 1860. Indian Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or".

19. In section 117 of the said Code,—

(i) after sub-section (2) the following sub-section shall be inserted, namely:— Amendment of section 117, Code of Criminal Procedure, 1898.

"(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

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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”;

(ii) sub-section (3) shall be re-numbered (4), and after the words “habitual offender” in the said sub-section, the words “or is so desperate and dangerous as to render his being at large without security hazardous to the community” shall be inserted; and

(iii) sub-section (4) shall be re-numbered (5).

20. For section 122 of the said Code the following section shall be substituted, namely :—

Substitution
of new
section for
section 122,
Code of
Criminal
Procedure,
1898.

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 the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in
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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."

21. (1) After sub-section (3) of section 123 of the said Code the following sub-sections shall be inserted, namely :—

Amendment
of section
123, Code of
Criminal
Procedure,
1898.

" (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 or the High Court 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."

(2) In

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(2) In sub-section (6) of the same section, for the word "may" the following words shall be substituted, namely:—

"shall, where the proceedings have been taken under section 108 or section 109, be simple and, where the proceedings have been taken under section 110".

Amendment
of section
124, Code of
Criminal
Procedure,
1898.

22. In section 124 of the said Code,—

(i) in sub-section (1), the words "whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate," shall be omitted;

(ii) for sub-section (3) the following sub-section shall be substituted, namely:—

"(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"; and

(iii) after sub-section (3) the following sub-sections shall be inserted, namely:—

"(4) The Local Government 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 or Chief Presidency 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 or Chief Presidency 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

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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 or Chief Presidency 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."

23. Sub-section (3) of section 126 of the said Code shall be re-numbered section 126A, and in that section, as re-numbered, for the words "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond" the following shall be substituted, namely :—

Amendment of section 126, Code of Criminal Procedure, 1898.

"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."

24. For section 133 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 133, Code of Criminal Procedure, 1898.

"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

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to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or 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

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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."

25. In section 135 of the said Code, in clause (a), after the words "within the time" the words "and in the manner" shall be inserted.

Amendment of section 135, Code of Criminal Procedure, 1898.

26. After section 139 of the said Code the following section shall be inserted, namely:—

Insertion of new section 139A in the Code of Criminal Procedure, 1898.

"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 or place, and, if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter.

Procedure where existence of public right is denied.

(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

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no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(3) A person who has, on being questioned by the Magistrate under sub-section (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, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138."

Amendment
of section
144, Code of
Criminal
Procedure,
1898.

27. In section 144 of the said Code,—

(i) in sub-section (1), after the words "or of any other Magistrate" the words and brackets "(not being a Magistrate of the third class)" shall be inserted, and after the words "under this section" the words "there is sufficient ground for proceeding under this section and" shall be inserted;

(ii) in sub-section (4), after the word "may" the words "either on his own motion or on the application of any person aggrieved" shall be inserted; and

(iii) sub-section (5) shall be re-numbered as sub-section (6), and the following shall be inserted as sub-section (5), namely:—

"(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 shewing 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."

Amendment
of section
145, Code of
Criminal
Procedure,
1898.

28. In section 145 of the said Code,—

(i) in sub-section (4), for the words "receive the evidence" the words "receive all such evidence as may be" shall be substituted;

(ii) in sub-section (6), after the word "was" the words "or should under the first proviso to sub-section (4) be treated as being" shall be inserted, and
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the following shall be added after the words "such eviction," namely:—

"and when he proceeds under the first proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed";

(iii) for sub-section (7) the following sub-section shall be substituted, namely:—

"(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."; and

(iv) after sub-section (7) the following sub-sections shall be added, namely:—

"(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."

29. (1) To sub-section (1) of section 146 of the said Code the following proviso shall be added, namely:—

"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

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146, Code of
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satisfied

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satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.”

(2) In sub-section (2) of the same section, after the words “thinks fit” the words “and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court” shall be inserted, and to the same sub-section the following proviso shall be added, namely :—

“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.”

Substitution
of new
section
for section
147, Code of
Criminal
Procedure,
1898.

Disputes
concerning
rights of use
of immove-
able pro-
perty, etc.

30. For section 147 of the said Code the following section shall be substituted, namely :—

“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 145, sub-section (2) (whether such right be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may 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 may 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
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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 may 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."

31. In sub-section (3) of section 148 of the said Code, the words "for witnesses, or pleaders' fees, or both," shall be omitted, and for the words "All costs so directed to be paid may be recovered as if they were fines" the words "Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable" shall be substituted.

Amendment
of section
148, Code of
Criminal
Procedure,
1898.

32. In section 157 of the said Code,—

(i) in sub-section (1), after the words "one of his subordinate officers" the words "not being below such rank as the Local Government may, by general or special order, prescribe in this behalf" shall be inserted, and for the words "and to take such measures as may be necessary," the words "and, if necessary, to take measures" shall be substituted; and

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of section
157, Code of
Criminal
Procedure,
1898.

(ii) to sub-section (2), after the words "that sub-section" the words "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 Local Government, the fact that he will not investigate the case or cause it to be investigated" shall be added.

33. In sub-section (1) of section 161 of the said Code, after the word "Chapter" the words "or any police-officer not below such rank as the Local Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer" shall be inserted.

Amendment
of section
161, Code of
Criminal
Procedure,
1898.

34. For

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
162, Code of
Criminal
Procedure,
1898.

Statements
to police not
to be signed;
use of such
statements in
evidence.

34. For sub-section (1) of section 162 of the said Code the following sub-section shall be substituted, namely:—

“(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 for any purpose (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 is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination:

Provided, further, that, if the Court is of opinion that any part of any 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 interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.”

Amendment
of section
164, Code of
Criminal
Procedure,
1898.

35. In section 164 of the said Code,—

(2) in sub-section (1), for the words “Every Magistrate not being a police-officer may” the words “Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Local Government

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Government may, if he is not a police-officer " shall be substituted; and

(ii) in sub-section (3),—

(a) for the words " No Magistrate " the following words shall be substituted, namely:—

" 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 "; and

(b) for the words " I believe " the following words shall be substituted, namely:—

" 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 ".

36. In section 165 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely:—

Amendment
of section
165, Code of
Criminal
Procedure,
1898.

" (1) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised 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 that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person ";

(ii) in

Code of Criminal Procedure [ACT XVIII
(Amendment)].

(ii) in sub-section (3), after the words "he may" the words "after recording in writing his reasons for so doing" shall be inserted, and for the words "specifying the document or thing for which search is to be made and the place to be searched" the words "specifying the place to be searched and, so far as possible, the thing for which search is to be made" shall be substituted;

(iii) in sub-section (4), after the words "search warrants" the words "and the general provisions as to searches contained in section 102 and section 103" shall be inserted; and

(iv) after sub-section (4) the following sub-section shall be added, namely:—

"(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

Amendment
of section
166, Code of
Criminal
Procedure,
1898.

37. (1) In sub-section (1) of section 166 of the said Code, after the words "An officer in charge of a police-station" the words "or a police-officer not being below the rank of sub-inspector making an investigation" shall be inserted.

(2) After sub-section (2) of the same section the following sub-sections shall be added, namely:—

"(3) Whenever there is reason to believe that the delay 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 of 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 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

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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, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (1) and (3).

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4):

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

38. In section 167 of the said Code,—

(i) in sub-section (1),—

(a) for the words " it appears that any " the words " any person is arrested and detained in custody, and it appears that the " shall be substituted, and the words " under this Chapter " shall be omitted;

(b) after the words " officer in charge of the police-station " the words " or the police-officer making the investigation if he is not below the rank of sub-inspector " shall be inserted; and

(c) the words and brackets " (if any) " shall be omitted; and

(ii) to sub-section (2), after the words " such jurisdiction ", the following proviso shall be added, namely:—

" Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Local Government shall authorise detention in the custody of the police."

39. In

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
169, Code of
Criminal
Procedure,
1898.

39. In section 169 of the said Code, after the words "officer in charge of the police-station" the words "or to the police-officer making the investigation" shall be inserted.

Amendment
of section
173, Code of
Criminal
Procedure,
1898.

40. (1) For sub-section (1) of section 173 of the said Code, the following sub-section shall be substituted, namely:—

"(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—

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Local Government, 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 Local Government, 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) After sub-section (3) of the same section the following sub-section shall be inserted, namely:—

"(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost."

Amendment
of section
174, Code of

41. In sub-section (5) of section 174 of the said Code, for the words "or Sub-divisional Magistrate,"

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Magistrate," the words " Sub-divisional Magistrate or Magistrate of the first class," shall be substituted.

Criminal Procedure, 1898.

42. For sub-section (3) of section 181 of the said Code the following sub-section shall be substituted, namely :—

Amendment of section 181, Code of Criminal Procedure, 1898.

" (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."

Theft.

43. For section 185 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 185, Code of Criminal Procedure, 1898.

" 185. (1) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

(2) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court, within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced, may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides, all other proceedings against such person in respect of such offence shall be discontinued. If such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court, within the local limits of whose appellate criminal jurisdiction such proceedings are pending, may give a like direction, and upon its so doing all other such proceedings shall be discontinued."

44. In the first proviso to section 188 of the said Code, after the words " Provided that " the words " notwithstanding anything in any of the preceding sections of this Chapter " shall be inserted.

Amendment of section 188, Code of Criminal Procedure, 1898.

45. For

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(Amendment).

Amendment
of section
190, Code of
Criminal
Procedure,
1898.

45. For clause (b) of sub-section (1) of section 190 of the said Code the following clause shall be substituted, namely :—

“ (b) upon a report in writing of such facts made by any police-officer; ”

Amendment
of section
193, Code of
Criminal
Procedure,
1898.

46. In sub-section (2) of section 193 of the said Code, the words “ in the case of Assistant Sessions Judges ” shall be omitted.

Amendment
of section
195, Code of
Criminal
Procedure,
1898.

47. (1) For sub-section (1) of section 195 of the said Code the following sub-section shall be substituted, namely :—

“ (1) No Court shall take cognizance—

Prosecution
for contempt
of lawful
authority of
public
servants.

(a) of any offence punishable under sections 172 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate; XLV of 1860.

Prosecution
for certain
offences
against public
justice.

(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

Prosecution
for certain
offences
relating to
documents
given in
evidence.

(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 sub-section (2) of the same section, for the word “ means ” the word “ includes ” shall be substituted.

(3) Sub-sections (4), (5) and (6) of the same section shall be omitted.

(4) Sub-sections

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(4) Sub-sections (7) and (3) of the same section shall be re-numbered (3) and (4), respectively, and for sub-section (3), as re-numbered, the following sub-section shall be substituted, namely :—

“(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.”

(5) After sub-section (4) of the same section, as re-numbered, the following sub-section shall be inserted, namely :—

“(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.”

48. In the proviso to section 196A of the said Code, for the figure and brackets “(3)” the figure and brackets “(4)” shall be substituted.

49. After section 196A of the said Code the following section shall be inserted, namely :—

“ 196B.

Amendment of section 196A, Code of Criminal Procedure, 1898.
Insertion of new section 196B in the Code of Criminal Procedure, 1898.

Code of Criminal Procedure [ACT XVIII
(Amendment).

Preliminary inquiry in certain cases.

“ 196B. In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency 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).”

Amendment of section 197, Code of Criminal Procedure, 1898.

50. In section 197 of the said Code,—

(i) for sub-section (1) the following sub-section shall be substituted, namely :—

“(1) When any person who is a Judge within the meaning of section 19 of the Indian 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 a Local Government or some higher authority, 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 Local Government;” and

(ii) in sub-section (2), after the word “ Judge ” the word “ Magistrate ” shall be inserted.

Amendment of section 198, Code of Criminal Procedure, 1898.

51. To section 198 of the said Code the following proviso shall be added, namely :—

“ 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.”

Amendment of section 199, Code of Criminal Procedure, 1898.

52. In section 199 of the said Code, after the word “ absence ” the words “ made with the leave of the Court ” shall be inserted, and to the same section the following proviso shall be added, namely :—

“ Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic,
or

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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."

53. In Chapter XV of the said Code, after section 199 the following section shall be inserted, namely :—

Insertion of new section 199A in the Code of Criminal Procedure, 1898.

" 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."

Objection by lawful guardian to complaint by person other than person aggrieved.

54. In section 200 of the said Code, the words and figures " Subject to the provisions of section 476 " shall be omitted, and after proviso (a) the following proviso shall be inserted, namely :—

Amendment of section 200, Code of Criminal Procedure, 1898.

" (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."

55. In section 202 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

Amendment of section 202, Code of Criminal Procedure, 1898.

" (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised 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

Postponement for issue of process.

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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 :

Provided that no such direction shall be made—

(a) unless the complainant has been examined on oath under the provisions of section 200, or

(b) where the complaint has been made by a Court under the provisions of this Code.

(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 ”; and

(ii) after sub-section (2) the following sub-section shall be added, namely :—

“ (2A) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.”

Amendment
of section
203, Code of
Criminal
Procedure,
1898.

56. In section 203 of the said Code, for the words “ after examining the complainant and considering the result of the investigation (if any) made under section 202 ” the words “ after considering the statement on oath (if any) of the complainant and the result of any investigation or inquiry under section 202 ” shall be substituted.

Amendment
of section
206, Code of
Criminal
Procedure,
1898.

57. In sub-section (1) of section 206 of the said Code, after the words “ or any Magistrate ” the words and brackets “ (not being a Magistrate of the third class) ” shall be inserted.

Amendment
of section
210, Code of
Criminal
Procedure,
1898.

58. In sub-section (2) of section 210 of the said Code, for the words “ the charge ” the words “ such charge ” shall be substituted.

Amendment
of section
215, Code of
Criminal
Procedure,
1898.

59. In section 215 of the said Code, the words and figures “ or by a Court of Session under section 477 ” shall be omitted.

60. (1) In

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60. (1) In sub-section (1) of section 219 of the said Code, for the words "The Magistrate" the words "The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206" shall be substituted.

Amendment of section 219, Code of Criminal Procedure, 1898.

(2) In sub-section (2) of the same section, for the words "if the accused so require, be given to him free of cost" the words "be given to the accused free of cost" shall be substituted.

61. In sub-section (7) of section 221 of the said Code,—

Amendment of section 221, Code of Criminal Procedure, 1898.

(i) for the words "has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award," the following shall be substituted, namely :—

"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," and

(ii) for the words "is omitted" the words "has been omitted" shall be substituted.

62. In section 234 of the said Code,—

Amendment of section 234, Code of Criminal Procedure, 1898.

(i) in sub-section (1), after the words "such offences" the words "whether in respect of the same person or not" shall be inserted; and

(ii) to sub-section (2) the following proviso shall be added, namely :—

"Provided that, for the purpose of this section, an offence punishable under section 379 of the Indian 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 Indian Penal Code, or of any special or local law, shall be deemed to be an offence

XLV of 1860.

XLV of 1860.

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(Amendment).

of the same kind as an attempt to commit such offence, when such an attempt is an offence.”

Amendment
of section
237, Code of
Criminal
Procedure,
1898.

63. Sub-section (2) of section 237 of the said Code shall be omitted.

Amendment
of section
238, Code of
Criminal
Procedure,
1898.

64. After sub-section (2) of section 238 of the said Code the following sub-section shall be inserted, namely:—

“(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.”

Substitution
of new section
for section
239, Code of
Criminal Pro-
cedure, 1898.

65. For section 239 of the said Code the following section shall be substituted, namely:—

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, 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

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committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

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(f) persons accused of offences under sections 411 and 414 of the Indian Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence; and

XLV of 1860.

(g) persons accused of any offence under Chapter XII of the Indian 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."

66. In section 243 of the said Code, for the words "shall convict" the words "may convict" shall be substituted.

Amendment of section 243, Code of Criminal Procedure, 1898.

67. In section 244 of the said Code,—

(i) in sub-section (1), before the words "If the accused" the words "If the Magistrate does not convict the accused under the preceding section or" shall be inserted, and to the same sub-section the following proviso shall be added, namely:—

Amendment of section 244, Code of Criminal Procedure, 1898.

"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"; and

(ii) in sub-section (2), for the words "process to compel the attendance of any witness or the production of" the words "a summons to any witness directing him to attend or to produce" shall be substituted.

68. For
31

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(Amendment).

Amendment
of section
245, Code of
Criminal
Procedure,
1898.

68. For sub-section (2) of section 245 of the said Code the following shall be substituted, namely:—

“(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.”

Amendment
of section
250, Code of
Criminal
Procedure,
1898.

69. In section 250 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely:—

False, fri-
volous or
vexatious
accusations.

“(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

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section (2), further order that, in default of payment, the person 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 XLV of 1860. 69 of the Indian 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 ” ;

(ii) in sub-section (3), for the word and figure “ sub-section (1) ” the word and figure “ sub-section (2) ” shall be substituted, and for the words “ to an accused person ” the following shall be substituted, namely :—

“ or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees ” ;

(iii) to sub-section (4) after the words “ appeal has been decided ” the following shall be added, namely :—

“ 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 ” ; and

(iv) sub-section (5) shall be omitted.

70. To sub-section (1) of section 252 of the said Code the following proviso shall be added, namely :—

“ Provided that the Magistrate shall not be bound to hear any person as complainant in any

case

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case in which the complaint has been made by a Court.”

Insertion of new section 255A in the Code of Criminal Procedure, 1898.

71. After section 255 of the said Code the following section shall be inserted, namely:—

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.”

Amendment of section 256, Code of Criminal Procedure, 1898.

72. In sub-section (1) of section 256 of the said Code, after the words “ to state ” the words “ at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith ” shall be inserted.

Amendment of section 258, Code of Criminal Procedure, 1898.

73. For sub-section (2) of section 258 of the said Code the following sub-section shall be substituted, namely:—

“(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.”

Amendment of section 259, Code of Criminal Procedure, 1898.

74. In section 259 of the said Code, after the words “ and the offence may be lawfully compounded ” the words “ or is not a cognizable offence ” shall be inserted.

Amendment of section 261, Code of Criminal Procedure, 1898.

75. In section 261 of the said Code,—

(i) in clause (a), for the word and figures “ and 447,” the figures and word “ 447 and 504 ” shall be substituted; and

(ii) to clause (b), after the words “ one month,” the words “ with or without fine ” shall be added.

76. To

OF 1923.] *Code of Criminal Procedure*
(Amendment).

76. To section 266 of the said Code, after the words "for the purposes of this Chapter," the words "and of Chapter XVIII" shall be added.

Amendment of section 266, Code of Criminal Procedure, 1898.

77. In the third proviso to section 276 of the said Code, for the words "in the presidency-towns" the words "in a trial before any High Court in the town which is the usual place of sitting of such High Court" shall be substituted.

Amendment of section 276, Code of Criminal Procedure, 1898.

78. In section 288 of the said Code,—

(i) for the words "duly taken in the presence of the accused before the committing Magistrate" the words "duly recorded in the presence of the accused under Chapter XVIII" shall be substituted; and

Amendment of section 288, Code of Criminal Procedure, 1898.

(ii) after the words "as evidence in the case," the words "for all purposes subject to the provisions of the Indian Evidence Act, 1872," shall be added.

I of 1872.

79. For section 292 of the said Code the following section shall be substituted, namely:—

Substitution of new section for section 292, Code of Criminal Procedure, 1898.

"292. The prosecutor shall be entitled to reply—

Prosecutor's right of reply.

(a) if the accused or any of the accused adduces any oral evidence; 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:

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."

80. In sub-section (2) of section 306 of the said Code, after the word "shall" where it occurs for the second time, the words "unless he proceeds in accordance

Amendment of section 306, Code of Criminal

accordance

Code of Criminal Procedure [ACT XVIII
(Amendment).

Procedure,
1898.

accordance with the provisions of section 562 ” shall be inserted.

Amendment
of section
307, Code of
Criminal
Procedure,
1898.

81. In section 307 of the said Code,—

(1) in sub-section (1)—

(i) for the words “ the accused ” the words
“ any accused person ” shall be substituted;

(ii) after the words “ to submit the case ” the words “ in respect of such accused person ” shall be inserted; and

(iii) after the words “ considers to have been committed,” the following shall be added, namely:—

“ 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 ”; and

(2) in sub-sections (2) and (3), for the words “ the accused ” wherever they occur, the words “ such accused ” shall be substituted.

Amendment
of section
309, Code of
Criminal
Procedure,
1898.

82. In section 309 of the said Code,—

(i) in sub-section (1), after the word “ orally ” the following shall be inserted, namely:—

“ on all the charges on which the accused has been tried,” and after the words “ such opinion ” the following shall be inserted, namely:—

“ and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are. All such questions and the answers to them shall be recorded ”; and

(ii) in sub-section (3), after the word “ shall ” the words “ unless he proceeds in accordance with the provisions of section 562 ” shall be inserted.

Substitution
of new section
for section
310, Code of
Criminal Pro-
cedure, 1898.

83. For section 310 of the said Code the following section shall be substituted, namely:—

Procedure in
case of
previous
conviction.

“ 310. In the case of a trial by a jury or with the aid of assessors when the accused is charged with

an

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(Amendment).

an offence and 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, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely :—

(a) 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,

(i) he has been convicted of the subsequent offence, or

(ii) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence.

(b) In the case of a trial held with the aid of assessors, the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction."

84. In sub-section (1) of section 315 of the said Code, for the words "in each presidency-town" the words "in the town which is the usual place of sitting of each High Court" shall be substituted, and for the words "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries," the words "as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary" shall be substituted.

Amendment
of section
315, Code of
Criminal
Procedure,
1898

85. In section 316 of the said Code, for the words "presidency-towns" the words "town which is the usual place of sitting of such High Court" shall be substituted.

Amendment
of section
316, Code of
Criminal
Procedure,
1898.

86. In

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
337, Code of
Criminal
Procedure,
1898.

86. In section 337 of the said Code,—

(i) for sub-section (1) the following sub-sections shall be substituted, namely:—

“(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 Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency 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: XLV of 1860. XLV of 1860.

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, and shall, on application made by the accused, furnish him with a copy of such record:

Provided

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(Amendment).

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost ”;

(ii) in sub-section (2), for the words “ the case ” the words “ the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any, ” shall be substituted;

(iii) after sub-section (2) the following sub-section shall be inserted, namely :—

“(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 ”;

(iv) in sub-section (3), for the words “ if not on bail ” the words “ unless he is already on bail ” shall be substituted, and the words “ by the Court of Session or High Court, as the case may be, ” shall be omitted; and

(v) sub-section (4) shall be omitted.

87. (1) In sub-section (1) of section 339 of the said Code, after the words and figures “ section 338, and ” the words “ the Public Prosecutor certifies that in his opinion ” shall be inserted; for the words “ he may be ” the words “ such person may be ” shall be substituted; and to the said sub-section the following proviso shall be added, namely :—

Amendment
of section
339, Code of
Criminal
Procedure,
1898.

“ 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) In sub-section (2) of the same section, for the words “ when the pardon has been forfeited under this section ” the words “ at such trial ” shall be substituted.

88. After

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Insertion of
new section
339A in the
Code of
Criminal
Procedure,
1898.

Procedure in
trial of person
under section
339.

88. After section 339 of the said Code the following section shall be inserted, namely:—

“ 339A. (1) The Court trying under section 339 a person who has accepted a tender of pardon shall—

(a) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (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 with the aid of the assessors, 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.”

Substitution
of new sec-
tion for sec-
tion 340, Code
of Criminal
Procedure,
1898.

89. For section 340 of the said Code the following section shall be substituted, namely:—

Right of per-
son against
whom pro-
ceedings are
instituted to
be defended
and his com-
petency to be
a witness.

31322

“ 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.

(2) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter

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Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings."

90. In section 345 of the said Code,—

(i) in sub-section (1), for the word "described" the word "specified" shall be substituted, and to the table in that sub-section, after the entry relating to criminal intimidation, the following entry shall be added, namely:—

Amendment of section 345, Code of Criminal Procedure, 1898.

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.
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(ii) for sub-section (2) the following sub-section shall be substituted, namely:—

(2) The offences punishable under the sections of the Indian 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 that table:—

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt.	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	348	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.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	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

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Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	Ditto.
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.

(iii) in sub-section (4), for the words " a minor " the words " under the age of eighteen years or is " shall be substituted, and after the word " may " the words " with the permission of the Court " shall be inserted;

(iv) after sub-section (5) the following sub-section shall be inserted, namely:—

" (5A) A 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 "; and

(v) to sub-section (6), after the word " accused " the words "with whom the offence has been compounded " shall be added.

Amendment of section 347, Code of Criminal Procedure, 1898.

91. In sub-section (1) of section 347 of the said Code, the words " stop further proceedings and " shall be omitted.

Amendment of section 348, Code of Criminal Procedure, 1898.

92. (1) Section 348 of the said Code shall be re-numbered 348 (1), and in the said section, as re-numbered, after the word " shall " the words " if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused " shall be inserted, and for the words " before whom the proceedings are pending " the

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the words " is competent to try the case and " shall be substituted.

(2) In the proviso to the same section, as re-numbered, for the words " the District Magistrate " the words " any Magistrate in the district " shall be substituted.

(3) To the same section, as re-numbered, the following sub-section shall be added, namely :—

" (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."

93. After sub-section (1) of section 349 the following sub-section shall be inserted, namely :—

" (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."

Amendment of section 349, Code of Criminal Procedure, 1898.

94. To sub-section (2) of section 350 of the said Code, after the figures " 346 ", the words " or in which proceedings have been submitted to a superior Magistrate under section 349 " shall be added, and after the same sub-section the following sub-section shall be added, namely :—

Amendment of section 350, Code of Criminal Procedure, 1898.

" (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 sub-section (1)."

95. After section 350 of the said Code the following section shall be inserted, namely :—

Insertion of new section 350A in the Code of Criminal Procedure, 1898.

" 350A. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change

Changes in constitution of Benches.

Code of Criminal Procedure [ACT XVIII
(Amendment).

change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings.

Amendment
of section
356, Code of
Criminal
Procedure,
1898.

96. In section 356 of the said Code, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.”

Amendment
of section
362, Code of
Criminal
Procedure,
1898.

97. In section 362 of the said Code,—

(i) in sub-section (1), for the words “in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he” the words “tried by a Presidency Magistrate in which an appeal lies, such Magistrate” shall be substituted;

(ia) after sub-section (2) the following sub-section shall be inserted:—

“(2A) In every case referred to in sub-section (1), the Magistrate shall make a memorandum of the substance of the examination of the accused. Such memorandum shall be signed by the Magistrate with his own hand, and shall form part of the record”;

(ii) to sub-section (3), after the word “sentence” the words “unless they are sentences of imprisonment ordered to run concurrently” shall be added; and

(iii) after

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(Amendment).

(iii) after sub-section (3) the following sub-section shall be added, namely :—

“(4) In cases other than those specified in sub-section (1), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge.”

98. In sub-section (4) of section 364 of the said Code, after the figures “263” the words and figures “or section 362, sub-section (2A),” shall be inserted. Amendment of section 364, Code of Criminal Procedure, 1898.

99. In section 365 of the said Code, for the word “may” the word “shall” shall be substituted, and for the words “and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed” the words “and the evidence shall be taken down in accordance with such rule” shall be substituted. Amendment of section 365, Code of Criminal Procedure, 1898.

100. In section 367 of the said Code,—

(i) in sub-section (1), after the words “presiding officer of the Court” the words “or from the dictation of such presiding officer” shall be inserted; Amendment of section 367, Code of Criminal Procedure, 1898.

(ii) to the same sub-section the following words shall be added, namely :—

“and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him”; and

(iii) after sub-section (5) the following sub-section shall be added, namely :—

“(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.”

101. In section 369 of the said Code, for the words “No Court other than a High Court” the words “Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court, no Court” shall be substituted; and the words Amendment of section 369, Code of Criminal Procedure, 1898.

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words and figures " as provided in sections 395 and 484 or " shall be omitted.

Substitution
of new
section for
section 386,
Code of
Criminal
Procedure,
1898.
Warrant for
levy of fine.

102. For section 386 of the said Code the following section shall be substituted, namely :—

" 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—

(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 authorising him to realise the amount by execution according to civil process against the moveable or immoveable property, or both, of the defaulter :

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 it necessary to do so.

(2) The Local Government 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, 1908, 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

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passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly :

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender."

103. In section 387 of the said Code, for the words "Such warrant" the words "A warrant issued under section 386, sub-section (1), clause (a), by any Court" shall be substituted, and for the word "distress" the word "attachment" shall be substituted.

Amendment of section 387, Code of Criminal Procedure, 1898.

104. In sub-section (1) of section 388 of the said Code,—

Amendment of section 388, Code of Criminal Procedure, 1898.

(i) for the words "and the Court issues a warrant under section 386, it" the words "the Court" shall be substituted; and

(ii) for the words "on the day appointed for the return to such warrant, such day not being" the words "on a date not" shall be substituted.

105. In section 395 of the said Code,—

Amendment of section 395, Code of Criminal Procedure, 1898.

(i) in sub-section (1), after the words "twelve months" the words "or to a fine not exceeding five hundred rupees" shall be inserted; and

(ii) in sub-section (2), after the words "for a term" the words "or a fine of an amount" shall be inserted.

106. In section 397 of the said Code,—

Amendment of section 397, Code of Criminal Procedure, 1898.

(i) after the words "to which he has been previously sentenced" the words "unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence" shall be inserted; and

(ii) after the proviso the following further proviso shall be added, namely :—

"Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately."

107. In

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
401, Code of
Criminal
Procedure,
1898.

107. In section 401 of the said Code,—

(i) to sub-section (2), after the words “ together with his reasons for such opinion ” the following words shall be added, namely :—

“ 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 ”;

(ii) after sub-section (4) the following sub-section shall be inserted, namely :—

“ (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 ”;

(iii) in sub-section (5), for the words “ Her Majesty ” the words “ His Majesty or of the Governor General when such right is delegated to him ” shall be substituted; and

(iv) after sub-section (5) the following sub-section shall be inserted, namely :—

“ (5A) Where a conditional pardon is granted by His Majesty or, in virtue of any powers delegated to him, by the Governor General, 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 ”.

Amendment
of section
402, Code of
Criminal
Procedure,
1898.

108. Section 402 of the said Code shall be re-numbered section 402 (1), and, to the said section, as re-numbered, the following sub-section shall be added, namely :—

“ (2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian Penal Code.”

Substitution
of new section
for section
406, Code of
Criminal
Procedure,
1898.

109. For section 406 of the said Code, the following section shall be substituted, namely :—

Appeal from
order
requiring
security for

“ 406. Any person who has been ordered under section 118 to give security for keeping the peace
or

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or for good behaviour may appeal against such order—

keeping the peace or for good behaviour.

- (a) if made by a Presidency Magistrate, to the High Court;
- (b) if made by any other Magistrate, to the Court of Session :

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency 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."

110. After section 406 of the said Code the following section shall be inserted, namely :—

Insertion of new section 406A in the Code of Criminal Procedure, 1898.

" 406A. Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,—

Appeal from order refusing to accept or rejecting a surety.

- (a) if made by a Presidency Magistrate, to the High Court;
- (b) if made by the District Magistrate, to the Court of Session; or
- (c) if made by a Magistrate other than the District Magistrate, to the District Magistrate."

111. In sub-section (1) of section 407 of the said Code, after the figures " 349," the words and figures " or in respect of whom an order has been made or a sentence has been passed under section 380 " shall be inserted.

Amendment of section 407, Code of Criminal Procedure, 1898.

112. In

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
408, Code of
Criminal
Procedure,
1898.

112. In section 408 of the said Code,—

(i) after the figures “ 349 ” the words and figures “ or in respect of whom an order has been made or a sentence has been passed under section 380 ” shall be inserted; and

(ii) in clause (b) of the proviso, after the word “ appeal ” the following words shall be inserted, namely:—

“ of all or any of the accused convicted at such trial.”

Amendment
of section
409, Code of
Criminal
Procedure,
1898.

113. To section 409 of the said Code the following proviso shall be added, namely:—

“Provided that an Additional Sessions Judge shall hear only such appeals as the Local Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him.”

Insertion of
new section
415A in the
Code of
Criminal
Procedure,
1898.

114. After section 415 of the said Code the following section shall be inserted, namely:—

Special right
of appeal in
certain cases.

“ 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.”

Amendment
of section
418, Code of
Criminal
Procedure,
1898.

115. Section 418 of the said Code shall be re-numbered section 418 (1), and, to the said section as re-numbered, the following sub-section shall be added, namely:—

“ (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.”

116. In

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(Amendment).

116. In section 435 of the said Code,—

(i) to sub-section (1), after the words “ proceedings of such inferior Court,” the following words shall be added, namely:—

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of section
435, Code of
Criminal
Procedure,
1898.

“ 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 ”;

(ii) after the same sub-section the following *Explanation* shall be added, namely:—

“ *Explanation.*—All Magistrates, 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;” and

(iii) sub-section (3) shall be omitted.

117. Sections 436 and 437 of the said Code shall be re-numbered 437 and 436, respectively, and, in the latter section, as re-numbered,—

Transposition
of sections
436 and 437
and amend-
ment of sec-
tion 437, Code
of Criminal
Procedure,
1898.

(a) for the words “ accused person ” the words “ person accused of an offence ” shall be substituted; and

(b) after the word “ discharged ” the following proviso shall be added, namely:—

“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 shewing cause why such direction should not be made.”

118. In sub-section (2) of section 438 of the said Code, for the words “ by the Sessions Judge ” the words “ by or under any general or special order of the Sessions Judge ” shall be substituted.

Amendment
of section
438, Code of
Criminal
Procedure,
1898.

119. In sub-section (1) of section 439 of the said Code, the figures “ 195 ” shall be omitted, and after sub-section (5) of the same section the following sub-section shall be added, namely:—

Amendment
of section
439, Code of
Criminal
Procedure,
1898.

“ (6) Notwithstanding anything contained in this section, any convicted person to whom

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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."

Amendment of section 464, Code of Criminal Procedure, 1898.

120. In section 464 of the said Code,—

(i) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1A) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466"; and

(ii) in sub-section (2), after the word "he" the words "shall record a finding to that effect and" shall be inserted.

Amendment of section 465, Code of Criminal Procedure, 1898.

121. In sub-section (1) of section 465 of the said Code, for the words "and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed." the following words shall be substituted, namely:—

"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."

Amendment of section 466, Code of Criminal Procedure, 1898.

122. In section 466 of the said Code,—

(i) in sub-section (1), for the words "if the case is one in which bail may be taken." the words "whether the case is one in which bail may be taken or not" shall be substituted; and

(ii) for sub-section (2) the following sub-section shall be substituted, namely:—

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 Local Government:

Provided

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IV of 1912. 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 Local Government may have made under the Indian Lunacy Act, 1912."

123. In sub-section (2) of section 468 of the said Code, the word "person" shall be omitted, and the following words shall be added after the words "as the case may be," namely:—

Amendment of section 468, Code of Criminal Procedure, 1898.

"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."

124. (1) In sub-section (1) of section 471 of the said Code,—

Amendment of section 471, Code of Criminal Procedure, 1898.

(i) for the words "such judgment" the words "the finding" shall be substituted;

(ii) for the word "kept" the word "detained" shall be substituted; and

(iii) after the words "Court thinks fit," the words "and shall report the action taken to the Local Government" shall be inserted.

(2) After sub-section (1) of the same section the following proviso shall be inserted, namely:—

IV of 1912. "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 Local Government may have made under the Indian Lunacy Act, 1912."

(3) Sub-section (4) of the same section shall be re-numbered (2).

125. In section 473 of the said Code, for the word "confined" the word "detained" shall be substituted, and for the words "such Inspector-General or visitors" the words "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 be substituted.

Amendment of section 473, Code of Criminal Procedure, 1898.

126. In

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Amendment
of section
474, Code of
Criminal
Procedure,
1898.

126. In section 474 of the said Code, for the word " confined " the word " detained " shall be substituted, and for the words " discharged " (wherever it occurs) and " discharge " the words " released " and " release ", respectively, shall be substituted.

Substitution
of new sec-
tion for sec-
tion 475,
Code of
Criminal
Procedure,
1898.

127. For section 475 of the said Code the follow-
ing section shall be substituted, namely :—

Delivery of
lunatic to
care of rela-
tive or
friend.

" 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 Local Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such Local Government that the person delivered shall—

- (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 Local Government may direct, and
- (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

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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."

128. For section 476 of the said Code the following sections shall be substituted, namely:—

Substitution of new sections for section 476, Code of Criminal Procedure, 1898.

"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.

Procedure in cases mentioned in section 195.

For the purposes of this sub-section, a Chief Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(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

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adjourn the hearing of the case until such appeal is decided.

Superior Court may complain, where subordinate Court has omitted to do so.

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.

Appeals.

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."

Repeal of section 477, Code of Criminal Procedure, 1898.

129. Section 477 of the said Code shall be omitted.

Amendment of section 487, Code of Criminal Procedure, 1898.

130. In section 487 of the said Code, the figures " 477 " shall be omitted.

Amendment of section 488, Code of Criminal Procedure, 1898.

131. In section 488 of the said Code,—

(i) in sub-section (1), for the word " fifty " the words " one hundred " shall be substituted;

(ii) in sub-section (3), for the words " wilfully neglects " the words " fails without sufficient cause " shall be substituted;

(iii) to

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(iii) to the same sub-section the following proviso shall be added, namely :—

“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”;

(iv) sub-section (7) shall be omitted; and

(v) sub-sections (8) and (9) shall be re-numbered (7) and (8), respectively, and, in the last-named sub-section, for the words “ The accused may be proceeded against ” the words “ Proceedings under this section may be taken against any person ” shall be substituted.

132. (1) Section 489 of the said Code shall be re-numbered as sub-section (1) of section 489 and, in that sub-section, as re-numbered, for the word “ fifty ” the words “ one hundred ” shall be substituted. Amendment of section 489, Code of Criminal Procedure, 1898.

(2) To the same section the following sub-section shall be added, namely :—

“(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.”

133. (1) In sub-section (2) of section 492 of the said Code, the words “ In any case committed for trial to the Court of Session ” shall be omitted, and for the words “ such case ” the words “ any case ” shall be substituted. Amendment of section 492, Code of Criminal Procedure, 1898.

(2) In the same sub-section, for the words “ the rank of Assistant District Superintendent ” the words “ such rank as the Local Government may prescribe in this behalf ” shall be substituted.

134. In section 494 of the said Code,—

(1) the words “ appointed by the Governor General in Council or the Local Government ” shall be omitted; Amendment of section 494, Code of Criminal Procedure, 1898.

(ii) after

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(ii) after the words "prosecution of any person" the words "either generally or in respect of any one or more of the offences for which he is tried" shall be inserted;

(iii) after the word "discharged" in clause (a), the words "in respect of such offence or offences" shall be inserted; and

(iv) after the word "acquitted" in clause (b), the words "in respect of such offence or offences" shall be added.

Amendment
of section
496, Code of
Criminal
Procedure,
1898.

135. To section 496 of the said Code the following proviso shall be added, namely:—

"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)."

Amendment
of section
497, Code of
Criminal
Procedure,
1898.

136. In section 497 of the said Code,—

(i) in sub-section (1), for the words "the offence of which he is accused" the words "an offence punishable with death or transportation for life" shall be substituted; and to the same sub-section the following proviso shall be added, namely:—

"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";

(ii) in sub-section (2), for the words "such offence" the words "a non-bailable offence" shall be substituted;

(iii) after sub-section (2) the following sub-sections shall be inserted, namely:—

"(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 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

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sureties for his appearance to hear judgment delivered.”; and

(iv) for sub-section (3) the following sub-section shall be substituted, namely :—

“(5) A 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.”

137. (1) In sub-section (1) of section 504 of the said Code, for the words “the said Presidency Magistrate” the words “such Presidency Magistrate” shall be substituted. Amendment of section 504, Code of Criminal Procedure, 1898.

(2) After the same sub-section the following sub-section shall be inserted, namely :—

“(1A) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his powers and duties under the commission to any Presidency Magistrate subordinate to him.”

138. In sub-section (1) of section 505 of the said Code, after the word “directed” the words “or to whom the duty of executing such commission has been delegated” shall be inserted. Amendment of section 505, Code of Criminal Procedure, 1898.

139. In section 514 of the said Code,—

(i) in sub-section (3), for the word “distress” the word “attachment” shall be substituted; and Amendment of section 514, Code of Criminal Procedure, 1898.

(ii) in sub-section (6), the words “but the party who gave the bond may be required to find a new surety” shall be omitted, and, after the said sub-section, the following sub-section shall be inserted, namely :—

“(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

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copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved."

Insertion of new sections 514A and 514B in the Code of Criminal Procedure, 1898.

Procedure in case of insolvency or death of surety or when a bond is forfeited.

140. After section 514 of the said Code the following sections shall be inserted, namely :—

" 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 Presidency Magistrate or 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.

Bond required from a minor.

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."

Insertion of new section 516A in the Code of Criminal Procedure, 1898.

Order for custody and disposal of property pending trial in certain cases.

141. In Chapter XLIII of the said Code, before section 517 the following section shall be inserted, namely :—

" 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."

Amendment of section 517, Code of Criminal Procedure, 1898.

142. In section 517 of the said Code,—
(i) in sub-section (1), after the word "disposal" the words "by destruction, confiscation, or delivery to

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to any person claiming to be entitled to possession thereof or otherwise" shall be inserted;

(ii) for sub-section (3) the following sub-section shall be substituted, namely:—

"(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"; and

(iii) after sub-section (3) the following sub-section shall be inserted, namely:—

"(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."

143. In section 522 of the said Code,—

(i) in sub-section (1), after the word "force" where it first occurs, the words "or show of force or by criminal intimidation" shall be inserted, and after the word "force," where it occurs for the second time, the words "or show of force or criminal intimidation" shall be inserted, and for the words "such person" the words "the person dispossessed" shall be substituted;

(ii) in the same sub-section, after the words "thinks fit" the words "when convicting such person or at any time within one month from the date of the conviction" shall be inserted; and

(iii) after sub-section (2) the following sub-section shall be added, namely:—

"(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision."

144. In section 525 of the said Code, for the words "or the Magistrate" the words "or if the Magistrate" shall be substituted, and after the

word

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of section
522, Code of
Criminal
Procedure,
1898.

Amendment
of section
525, Code of
Criminal

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word "owner" the words "or that the value of such property is less than ten rupees" shall be inserted.

Amendment
of section
526, Code of
Criminal
Procedure,
1898.

145. In section 526 of the said Code,—

(i) in sub-clauses (ii) and (iii) of sub-section (1), the word "criminal" before the word "case," and in sub-clause (ii), the word "such" before the word "cases," shall be omitted;

(ii) in sub-section (5), for the word "convicted" the words "so ordered" shall be substituted, and for the words "the costs of the prosecutor" the words "any amount which the High Court has power under this section to award by way of costs to the person opposing the application" shall be substituted;

(iii) after sub-section (6) the following sub-section shall be inserted, namely:—

"(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 costs to any person who has opposed the application any expenses reasonably incurred by such person in consequence of the application"; and

(iv) for sub-section (8) the following sub-sections shall be substituted, namely:—

"(8) If, in the course of any inquiry or trial, or before the commencement of the hearing of any appeal, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal, the Court shall adjourn the case or postpone the appeal for such a period as will afford a reasonable time for the application to be made and an order to be obtained thereon.

(9) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such

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such an application and has failed without sufficient cause to take advantage of it."

146. In sub-section (1) of section 527 of the said Code, the word "criminal," where it occurs before the word "case", shall be omitted.

Amendment of section 527, Code of Criminal Procedure, 1898.

147. In section 528 of the said Code,—

(i) sub-sections (1), (2), (3) and (4) shall be re-numbered (2), (3), (5) and (6), respectively, and the following shall be inserted as sub-section (1), namely:—

Amendment of section 528, Code of Criminal Procedure, 1898.

"(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.

(ii) after sub-section (3), as re-numbered, the following sub-section shall be inserted, namely:—

"(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"; and

(iii) for sub-section (6), as re-numbered, the following sub-section shall be substituted, namely:—

"(6) The head of a village under the Madras Village-police Regulation, 1816, or the Madras Village-police Regulation, 1821, is a Magistrate for the purposes of this section."

XI of 1816.
IV of 1821.

148. In section 537 of the said Code,—

(i) clause (b) shall be omitted;

(ii) the word "want", where it occurs for the second time, shall be omitted; and

(iii) the *Illustration* shall be omitted.

Amendment of section 537, Code of Criminal Procedure, 1898.

149. In section 538 of the said Code, for the word "distress", wherever it occurs, the word "attachment" shall be substituted.

Amendment of section 538, Code of Criminal Procedure, 1898.

150. After section 539 of the said Code the following sections shall be inserted, namely:—

Insertion of new sections 539A and 539B in the Code of Criminal Procedure, 1898.

"539A. (1) When any application is made to any Court in the course of any inquiry, trial or other proceeding

Affidavit in proof of

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conduct of
public
servant.

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 a 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 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.

Local
inspection.

539B. (1) Any Judge or Magistrate may, at any state 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.

(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 or with the aid of assessors, the Judge shall not act under this section, unless such jury or assessors are also allowed a view under section 293."

151. After section 540 of the said Code the following section shall be inserted, namely:—

Insertion of
new section
540A, in the
Code of
Criminal Pro-
cedure, 1898.
Provision for
inquiries and
trial being
held in

“ 540A. (1) At any stage of an inquiry or trial under this Code, where two or more accused are before

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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.

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."

152. In section 545 of the said Code,—

(i) for clause (b) of sub-section (1) the following clause shall be substituted, namely:—

Amendment
of section
545, Code of
Criminal
Procedure,
1898.

"(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;" and

(ii) to sub-section (1) the following clause shall be added, namely:—

"(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 *bonâ fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto."

153. After section 546 of the said Code the following section shall be inserted, namely:—

Insertion of
new section
546A in the
Code of
Criminal Pro-
cedure, 1898.
Order of
payment of
certain fees

" 546A. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it

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paid by complainant in non-cognizable cases. it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant—

- (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."

Amendment of section 547, Code of Criminal Procedure, 1898.

Substitution of new section for section 559, Code of Criminal Procedure, 1898.

Provision for powers of Judges and Magistrates being exercised by their successors in office.

154. In section 547 of the said Code, after the word " Code " the words " and the method of recovery of which is not otherwise expressly provided for " shall be inserted.

155. For section 559 of the said Code the following section shall be substituted, namely :—

" 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.

(2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, 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

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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."

156. After section 561 of the said Code the following section shall be inserted, namely:—

Insertion of new section 561A in the Code of Criminal Procedure, 1898.

" 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 otherwise to secure the ends of justice."

Saving of inherent power of High Court.

157. For section 562 of the said Code the following section shall be substituted, namely:—

Substitution of new section for section 562. Code of Criminal Procedure, 1898.

" 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 or 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:

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate

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(Amendment)].

Magistrate of the second class not specially empowered by the Local Government 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 section 380.

(2) An order under this section may be made by any Appellate Court or by the High Court when exercising its power 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:

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, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section."

Substitution
of new sec-
tion for sec-
tion 565,
Code of
Criminal
Procedure,
1898.
Order for
notifying
address of
previously
convicted
offender.

158. For section 565 of the said Code the following section shall be substituted, namely:—

" 565. (1) When any person having been convicted—

(a) by a Court in British India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code, XLV of 1860. or of any offence punishable under Chapter XII or Chapter XVII of that Code,

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Code, with imprisonment of either description for a term of three years, or upwards, or

(b) by a Court or Tribunal in the territories of any Prince or State in India acting under the general or special authority of the Governor General in Council, or of any Local Government, of any offence which would, if committed in British India, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term,

XLV of 1860.

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 a High Court, Court of Session, Presidency Magistrate, 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 Local Government 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 Indian Penal Code, to have omitted to give a notice

XLV of 1860.

Code of Criminal Procedure [ACT XVIII
(Amendment).

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."

Amendment
of Schedule
II. Code of
Criminal
Procedure,
1898.

159. In Schedule II to the said Code,—

(1) in column 1, the figures "405" occurring between the figures "404" and "406" shall be omitted;

(2) for the first entry in column 3, against section 213, the words "may arrest without warrant" shall be substituted;

(3) for the entry in column 3, against section 214, the words "shall not arrest without warrant" shall be substituted;

(4) for the entry in column 3, against section 215, the words "May arrest without warrant" shall be substituted;

(5) for the entry in column 3, against section 374, the words "Shall not arrest without warrant" shall be substituted;

(6) for each of the entries in column 5, against sections 118, 119 and 120 occurring opposite the entries "If the offence be not committed" in column 2, the word "Bailable" shall be substituted; and for the entry in column 5 opposite the entry "120 Concealing a design to commit an offence punishable with imprisonment, if the offence be committed" the words "According as the offence concealed is bailable or not" shall be substituted;

(7) for the entry in column 5, against section 363, the word "Bailable" shall be substituted; and, for the entry in the same column, against section 364, the words "Not bailable" shall be substituted;

(8) for the entry in column 5, against section 477A, the word "Bailable" shall be substituted;

(9) for the entry in column 5, against section 495, the word "Bailable" shall be substituted;

(10) for

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(*Amendment*).

(10) for each of the entries in column 6, against sections 343, 346 and 357, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for each of the entries in the same column, against sections 344 and 347, the words "Not compoundable" shall be substituted;

(11) for the entry in column 6, against section 403, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(12) for each of the entries in column 6, against sections 417, 418, 419 and 420, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(13) for the entry in column 6, against section 430, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and for the entry in the same column, against section 431, the words "Not compoundable" shall be substituted;

(14) for the first entry in column 6, against section 451, the following shall be substituted, namely:—"Compoundable when permission is given by the Court before which the prosecution is pending"; and, for the second entry in that column, against the same section, the words "Not compoundable" shall be substituted;

(15) for the entry in column 6, against section 482, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 484, the words "Not compoundable" shall be substituted;

(16) for the entry in column 6, against section 486, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 487, the words "Not compoundable" shall be substituted;

(17) for

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(17) for the entry in column 6, against section 494, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 495, the words "Not compoundable" shall be substituted;

(18) for the entry in column 6, against section 508, the word "Compoundable" shall be substituted;

(19) for the entry in column 6, against section 509, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 510, the words "Not compoundable" shall be substituted;

(20) in the entry in column 7, against section 121, for the words "forfeiture of property" the word "fine" shall be substituted;

(21) in the entry in column 7, against section 121A, after the word "years" the words "and fine" shall be inserted;

(22) in the entry in column 7, against section 122, for the words "forfeiture of property" the word "fine" shall be substituted;

(23) for the entry in column 7, against section 477A, the words "Imprisonment of either description for seven years, or fine, or both" shall be substituted;

(24) for the entry in column 8, against section 294, the words "Any Magistrate" shall be substituted;

(25) for the entry in column 8, against section 317, the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted;

(26) in the entry in column 8, against section 318, the words "or second" shall be omitted;

(27) for the entry in column 8, against section 327, the words "Court of Session, Presidency
Magistrate

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Magistrate, or Magistrate of the first class " shall be substituted; and, for the entry in the same column, against section 328, the words " Court of Session " shall be substituted;

(28) for the entry in column 8, against section 368, the words " Court of Session, Presidency Magistrate or Magistrate of the first class " shall be substituted;

(29) for the entry in column 8, against section 477A, the words " Court of Session, Presidency Magistrate or Magistrate of the first class " shall be substituted;

(30) for the entry in column 8, against section 494, the words " Court of Session, Presidency Magistrate or Magistrate of the first class " shall be substituted; and, for the entry in the same column, against section 495, the words " Court of Session " shall be substituted.

160. In Schedule III to the said Code,—

(i) under Head I (*Ordinary Powers of a Magistrate of the Third Class*)—

(1) in item (5), after the word " property " the words " and to dispose of claims to attached property " shall be inserted;

(2) item (13) shall be omitted:

(3) in item (14), after the word " detention " the words, " not being detention in the custody of the police " shall be inserted;

(4) the following item shall be inserted between items (14) and (15), namely:—

" (14a) Power to postpone issue of process and inquire into case himself, section 202; "

(5) to item (18), the words, figures and letter " and to require fresh security, section 514A " shall be added;

(6) after item (18) the following item shall be inserted, namely:—

" (18a) power to make order as to custody and disposal of property pending inquiry or trial, section 516A; "

(7) in

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(Amendment).

(7) in item (20), the word "perishable" shall be omitted;

(8) after item (20) the following items shall be added, namely:—

"(21) Power to require affidavit in support of application, section 539A;

(22) Power to make local inspection, section 539B; "

(ii) under Head II (*Ordinary Powers of a Magistrate of the Second Class*)—

(1) for item (3) the following item shall be substituted, namely:—

"(3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202; "

(2) item (4) shall be omitted;

(iii) under Head III (*Ordinary Powers of a Magistrate of the First Class*)—

(1) in item (6), for the figures "126" the figures and letter "126A" shall be substituted;

(2) between items (6) and (7) the following item shall be inserted, namely:—

"(6a) Power to make orders as to local nuisances, section 133; "

(3) between items (7) and (8), the following items shall be inserted, namely:—

"(7a) Power to record statements and confessions during a police investigation, section 164;

(7aa) Power to authorise detention of a person in the custody of the police during a police investigation, section 167;

(7b) Power to hold inquests, section 174; "

(4) After item (9) the following item shall be inserted, namely:—

"(9a) Power to tender pardon to accomplice during inquiry into case by himself, section 337; "

(5) after

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(5) after item (12) the following items shall be inserted, namely:—

“(12a) Power to require fresh security, section 514A;

(12b) Power to re-call case made over by him to another Magistrate, section 528 (4);”

(6) after item (13) the following item shall be added, namely:—

“(14) Power to order released convicts to notify residence, section 565;”

(iv) in Head IV (*Ordinary Powers of a Sub-divisional Magistrate*)—

(1) in the head note, after the words “Sub-divisional Magistrate,” the words “appointed under section 13” shall be inserted;

(2) the following items shall be omitted, namely:—

“(4) Power to make orders as to local nuisances, section 133;”

“(10) Power to hold inquest, section 174;”

“(20) Power to order released convicts to notify residence, section 565;”

(v) in Head V (*Ordinary Powers of a District Magistrate*)—

(1) after item (1) the following item shall be inserted, namely:—

“(1a) Power to try juvenile offenders, section 29A;”

(2) after item (6) the following item shall be inserted, namely:—

“(6a) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B;”

(3) after

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(3) after item (7) the following item shall be inserted, namely :—

“ (7a) Power to tender pardon to accomplice at any stage of a case, section 337; ”

(4) in item (9), after the word “ for ” the words “ keeping the peace or ” shall be inserted;

(5) after item (9) the following item shall be inserted, namely :—

“ (9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A; ”

(6) in item (12), for the figures “ 436 ” the figures “ 437, ” and, in item (13), for the figures “ 437 ” the figures “ 436 ” shall be substituted, and items (12) and (13) shall be re-numbered (13) and (12), respectively.

Amendment
of Schedule
IV, Code of
Criminal
Procedure,
1898.

161. In Schedule IV to the said Code,—

(i) from the list of powers with which a Magistrate of the first class may be invested by the Local Government, the following shall be omitted, namely :—

“ (3) Power to make orders as to local nuisances, section 133; ”

“ (6) Power to hold inquests, section 174; ”

“ (14) Power to order released convicts to notify residence, section 565; ”

(ii) from the list of powers with which a Magistrate of the first class may be invested by the District Magistrate, item (3), namely, “ Power to hold inquests, section 174, ” shall be omitted;

(iii) in the list of powers with which a Magistrate of the second class may be invested by the Local Government—

between items (3) and (4) the following items shall be inserted, namely :—

“ (3a) Power to record statements and confessions during a police investigation, section 164;

(3b) Power

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(3b) Power to authorise detention of a person in the custody of the police during a police investigation, section 167; ”

(iv) from the list of powers with which a Magistrate of the third class may be invested by the Local Government, the following shall be omitted, namely :—

“ (2) Power to make orders under section 144; ”

“ (6) Power to commit for trial, section 206; ”

and from the list of powers with which such Magistrates may be invested by the District Magistrate, the following shall be omitted, namely :—

“ (2) Power to make orders under section 144.”

162. In Schedule V to the said Code,—

(i) in Form VI—

(a) in the ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted, and the words “ and he has failed to appear ” shall be omitted;

(b) in the ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted;

(c) in the ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted, and the words “ but he has not appeared ” shall be omitted;

(ii) in

Amendment
of Schedule
V, Code of
Criminal
Procedure,
1898.

Code of Criminal Procedure [ACT XVIII
(Amendment).

(ii) in Forms X and XI, after the words " for the term of _____," wherever they occur, the words " or until the completion of the inquiry in the matter of _____ now pending in the Court of _____ ;" and after the words " said term," wherever they occur, the words " or until the completion of the said inquiry " shall be inserted;

(iii) in Form XXX—

(a) in the heading for the word " DISTRESS " the words " ATTACHMENT AND SALE " shall be substituted;

(b) after the words " dismissed as " the words " false and " shall be inserted; and

(c) the words " and cannot be recovered by distress of the moveable property of the said (name of complainant) " shall be omitted;

(iv) in Form XXXVII, after the figures " 386 " the figure, letter and brackets " (1) (a) " shall be inserted;

(v) in each of Forms XXXVII and XLI, the following amendments shall be made, namely:—

(a) in the heading, for the word " DISTRESS " the word " ATTACHMENT " shall be substituted;

(b) for the words " make distress by seizure of any " the words " attach any " shall be substituted;

(c) for the words " such distress " the words " such attachment " shall be substituted; and

(d) for the words " property distrained " the words " property attached " shall be substituted;

(vi) after

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(Amendment).

(vi) after Form XXXVII the following Form shall be inserted, namely:—

“ XXXVIA.—BOND FOR APPEARANCE OF OFFENDER
RELEASED PENDING REALISATION 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 until the day of on condition of my executing a bond for my appearance on that day;

I hereby bind myself to appear before the Court of at o'clock on the said day of next, and, in case of making default herein, I bind myself to forfeit to His Majesty the King, Emperor of India, 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 day of next; and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Majesty the King, Emperor of India, the sum of Rupees

(Signature.)”

VII of 1870.

163. Section 31 of the Court-fees Act, 1870, is hereby repealed.

Repeal of section 31, Court-fees Act, 1870.

164. This Act shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Commencement.